TABLE OF CONTENTS

TITLE 42
JUDICIARY AND JUDICIAL PROCEDURE

PART I. PRELIMINARY PROVISIONS

Chapter 1. General Provisions

§ 101. Short title of title.
§ 102. Definitions.
§ 103. Principles of construction.

PART II. ORGANIZATION

SUBPART A. COURTS AND MAGISTERIAL DISTRICT JUDGES

ARTICLE A. PRELIMINARY PROVISIONS

Chapter 3. General Structure and Powers

Subchapter A. Unified Judicial System

§ 301. Unified judicial system.

Subchapter B. General Provisions Relating to Courts

§ 321. Court of record.
§ 322. Seal.
§ 323. Powers.
§ 324. Sessions and terms of court.
§ 325. Chief Justice and president judges.
§ 326. Quorum.
§ 327. Oaths and acknowledgments.

ARTICLE B. APPELLATE COURTS

Chapter 5. Organization of Appellate Courts

Subchapter A. Supreme Court of Pennsylvania

§ 501. Supreme Court.
§ 502. General powers of Supreme Court.
§ 503. Reassignment of matters.
§ 504. Seat of court.

Subchapter B. Superior Court of Pennsylvania

§ 541. Superior Court.
§ 542. Powers of Superior Court.
§ 543. Seat of court.
§ 544. Additional judges.

Subchapter C. Commonwealth Court of Pennsylvania

§ 561. Commonwealth Court.
§ 562. Powers of Commonwealth Court.
§ 563. Seat of court.
§ 564. Evidentiary hearings.

Chapter 7. Jurisdiction of Appellate Courts

Subchapter A. General Provisions

§ 701. Scope of subchapter.
§ 702. Interlocutory orders.
§ 702.1. Expedited appeals in eminent domain proceedings.
§ 703. Place and form of filing appeals.
§ 704. Waiver of objections to jurisdiction.
§ 705. Transfers between intermediate appellate courts.
§ 706. Disposition of appeals.
§ 707. Lien of judgments for money.
§ 708. Improvident administrative appeals and other matters.

Subchapter B. Jurisdiction of Supreme Court

§ 721. Original jurisdiction.
§ 722. Direct appeals from courts of common pleas.
§ 723. Appeals from Commonwealth Court.
§ 724. Allowance of appeals from Superior and Commonwealth Courts.
§ 725. Direct appeals from constitutional and judicial agencies.
§ 726. Extraordinary jurisdiction.
§ 727. Special tribunal.

Subchapter C. Jurisdiction of Superior Court

§ 741. Original jurisdiction.
§ 742. Appeals from courts of common pleas.
§ 743. Commerce court program.

Subchapter D. Jurisdiction of Commonwealth Court

§ 761. Original jurisdiction.
§ 762. Appeals from courts of common pleas.
§ 763. Direct appeals from government agencies.
§ 764. Election contests and other matters.

ARTICLE C. COURTS OF COMMON PLEAS

Chapter 9. Organization and Jurisdiction of Courts of Common Pleas

Subchapter A. Judicial Districts

§ 901. Judicial districts.

Subchapter B. Organization of Courts of Common Pleas

§ 911. Courts of common pleas.
§ 912. Powers of courts of common pleas.
§ 913. Seats of courts.
§ 914. Reimbursement for common pleas court costs.
§ 915. Proportional reduction.
§ 916. Problem-solving courts.
§ 916.1. Commerce courts.
§ 917. Housing courts.

Subchapter C. Jurisdiction of Courts of Common Pleas

§ 931. Original jurisdiction and venue.
§ 932. Appeals from minor judiciary.
§ 933. Appeals from government agencies.

§ 934. Writs of certiorari.

Subchapter D. Court Divisions

§ 951. Court divisions.
§ 952. Status of court divisions.
§ 953. Administrative judges of divisions.

Subchapter E. Sections of the Staff of the Court

§ 961. Domestic relations section.
§ 962. Other sections.

ARTICLE D. MINOR COURTS

Chapter 11. Community and Municipal Courts

Subchapter A. Community Courts

§ 1101. Community courts.
§ 1102. Establishment or discontinuance of community courts.
§ 1103. Powers of community courts.
§ 1104. Seats of courts.
§ 1105. Jurisdiction and venue.
§ 1106. Lien of judgments.

Subchapter B. Philadelphia Municipal Court

§ 1121. Philadelphia Municipal Court.
§ 1122. Seat of court.
§ 1123. Jurisdiction and venue.
§ 1124. Lien of judgments.
§ 1125. Substitute arraignment court magistrates.
§ 1126. Masters.
§ 1127. Hearing officers.

Subchapter C. Pittsburgh Magistrates Court

§ 1141. Pittsburgh Magistrates Court.
§ 1142. Seat of court.
§ 1143. Jurisdiction and venue.
§ 1144. Lien of judgment.

Chapter 13. Traffic Courts

Subchapter A. General Provisions

§ 1301. Seats of traffic courts.
§ 1302. Jurisdiction and venue.
§ 1303. Signatures and dockets.

Subchapter B. Traffic Court of Philadelphia

§ 1321. Traffic Court of Philadelphia (Expired).

Subchapter C. Traffic Court of Pittsburgh

§ 1331. Traffic Court of Pittsburgh.
§ 1332. Operations of traffic court.

Subchapter D. Optional Traffic Courts

§ 1341. Third class city traffic courts authorized.
§ 1342. Operations of optional traffic courts.

ARTICLE E. MAGISTERIAL DISTRICT JUDGES

Chapter 15. Magisterial District Judges

Subchapter A. Magisterial Districts

§ 1501. Definitions.
§ 1502. Classification of districts.
§ 1503. Reestablishment of districts.

Subchapter B. Magisterial District Judges

§ 1511. Magisterial district judges.
§ 1512. Seal.
§ 1513. Powers of magisterial district judges.
§ 1514. Offices.
§ 1515. Jurisdiction and venue.
§ 1516. Lien of judgment.
§ 1517. Salary (Repealed).
§ 1518. Philadelphia Municipal Court (Repealed).
§ 1519. Philadelphia Traffic Court (Repealed).
§ 1520. Adjudication alternative program.
§ 1521. Accelerated Rehabilitative Disposition for summary offenders (Repealed).
§ 1522. Notice of summary cases involving juveniles.
§ 1523. Parental or legal guardian attendance required at juvenile hearings.

ARTICLE F. COURT OF JUDICIAL DISCIPLINE

Chapter 16. Court of Judicial Discipline of Pennsylvania

§ 1601. Court of Judicial Discipline.
§ 1602. Composition of court.
§ 1603. Organization and operation.
§ 1604. Powers of Court of Judicial Discipline.
§ 1605. Seat of court.
§ 1606. Official immunity.

SUBPART B. OTHER STRUCTURAL PROVISIONS

Chapter 17. Governance of the System

Subchapter A. General Provisions

§ 1701. General supervisory and administrative authority of the Supreme Court.
§ 1702. Rule making procedures.
§ 1703. Meeting procedures.

Subchapter B. Specific Powers of the Governing Authority of the System

§ 1721. Delegation of powers.
§ 1722. Adoption of administrative and procedural rules.
§ 1723. General supervisory and administrative authority.
§ 1724. Personnel of the system.
§ 1725. Establishment of fees and charges.
§ 1725.1. Costs.

§ 1725.2. Assumption of summary conviction costs by county.
§ 1725.3. Criminal laboratory and paramedic user fee.
§ 1725.4. Fee increases and automation fee.
§ 1725.5. Booking center fee.
§ 1725.6. Countywide booking center plan.
§ 1725.7. Petition for expungement or order for limited access fee.
§ 1726. Establishment of taxable costs.
§ 1726.1. Forensic examination costs for sexual offenses.
§ 1726.2. Criminal prosecutions involving domestic violence.
§ 1727. Budget and financial matters.
§ 1728. Recognition of related organizations.
§ 1729. Conferences and institutes.
§ 1730. Boards, councils, commissions and committees.

Subchapter C. Compensation

§ 1741. Compensation of judges.
§ 1742. Exclusive jurisdiction of Supreme Court.

Chapter 18. Compensation (Repealed)

§ 1801 - § 1810 (Repealed)

Chapter 19. Administrative Office of Pennsylvania Courts

§ 1901. Court Administrator of Pennsylvania.
§ 1902. Administrative Office of Pennsylvania Courts.
§ 1903. Staff.
§ 1904. Availability of criminal charge information in child custody proceedings.
§ 1905. County-level court administrators.
§ 1906. Senior judge operational support grants (Expired).
§ 1906.1. Senior judge operational support grant program.
§ 1907. Deteriorated real property education and training program for judges.

Chapter 21. Judicial Boards and Commissions

Subchapter A. Judicial Conduct Board

§ 2101. Judicial Conduct Board.
§ 2102. Composition of board.
§ 2103. Organization.
§ 2104. Staff and operations.
§ 2105. Powers and duties.
§ 2106. Official immunity.

Subchapter B. Judicial Qualifications Commission (Reserved)

Subchapter C. Jury Selection Commissions

§ 2121. Jury selection commissions.
§ 2122. Composition of jury selection commissions.
§ 2123. Expenses, staff and quarters.
§ 2124. Powers and duties.

Subchapter D. Minor Judiciary Education Board

§ 2131. Minor Judiciary Education Board.
§ 2132. Composition of board.
§ 2133. Organization.

§ 2134. Staff.
§ 2135. Powers and duties.

Subchapter E. Boards of Viewers

§ 2141. Boards of viewers.
§ 2142. Composition of boards.
§ 2143. Staff.
§ 2144. Powers and duties.

Subchapter F. Pennsylvania Commission on Sentencing

§ 2151. Pennsylvania Commission on Sentencing (Repealed).
§ 2151.1. Definitions.
§ 2151.2. Commission.
§ 2152. Composition of commission.
§ 2153. Powers and duties of commission.
§ 2154. Adoption of guidelines for sentencing.
§ 2154.1. Adoption of guidelines for restrictive conditions.
§ 2154.2. Adoption of guidelines for State intermediate punishment (Repealed).
§ 2154.3. Adoption of guidelines for fines.
§ 2154.4. Adoption of guidelines for resentencing.
§ 2154.5. Adoption of guidelines for parole.
§ 2154.6. Adoption of recommitment ranges following revocation of parole by board.
§ 2154.7. Adoption of risk assessment instrument.
§ 2155. Publication of guidelines for sentencing, resentencing and parole, risk assessment instrument and recommitment ranges following revocation.
§ 2156. Severability of subchapter.

Subchapter G. Pennsylvania Board of Law Examiners

§ 2161. Criminal history record checks.

Chapter 23. Personnel of the System

Subchapter A. General Provisions

§ 2301. Appointment of personnel.
§ 2302. Maintenance of adequate county staff.

Subchapters B through I (Reserved)

Subchapter J. Transferred County-Level Court Administrator Leave and Benefits

§ 2391. Short title of subchapter.
§ 2392. Definitions.
§ 2393. Holidays.
§ 2394. Sick leave and annual leave.
§ 2395. Other leave.
§ 2396. Leave following transfer.
§ 2397. County payments for certain leave.

Chapter 25. Representation of Litigants

Subchapter A. General Provisions

§ 2501. Appearance in person or by counsel.
§ 2502. Certain persons not to appear as counsel.

§ 2503. Right of participants to receive counsel fees.
§ 2504. Letters of attorney.

Subchapter B. Attorneys and Counsellors

§ 2521. Office of attorney at law.
§ 2522. Oath of office.
§ 2523. Persons specially admitted by local rules.
§ 2524. Penalty for unauthorized practice of law.
§ 2525. Unauthorized solicitation prohibited.

Chapter 27. Office of the Clerk of the Court of Common Pleas

Subchapter A. General Provisions

§ 2701. Scope and purpose of chapter.
§ 2702. Place of filing of documents.
§ 2703. Notice of transfer of functions and duties.
§ 2704. Responsibility for entry, maintenance and certification of data and certification of amicable judgments.
§ 2705. Responsibility for reports to executive agencies.

Subchapter B. Prothonotaries

§ 2731. Prothonotary.
§ 2732. Selection of prothonotary.
§ 2733. Seal.
§ 2734. Office of the prothonotary.
§ 2735. Staff.
§ 2736. Matters or documents filed in the office of the prothonotary.
§ 2737. Powers and duties of the office of the prothonotary.
§ 2737.1. Incorrect debtor identified.
§ 2738. Criminal, probate, estates and fiduciary matters.

Subchapter C. Clerks of the Courts

§ 2751. Clerk of the courts.
§ 2752. Selection of clerk of the courts.
§ 2753. Seal.
§ 2754. Office of the clerk of the courts.
§ 2755. Staff.
§ 2756. Matters or documents filed in the office of the clerk of the courts.
§ 2757. Powers and duties of the office of the clerk of the courts.

Subchapter D. Clerks of Orphans' Court Divisions

§ 2771. Clerk of the orphans' court division.
§ 2772. Selection of clerk of the orphans' court division.
§ 2773. Seal.
§ 2774. Office of the clerk of the orphans' court division.
§ 2775. Staff.
§ 2776. Matters or documents filed in the office of the clerk of the orphans' court division.
§ 2777. Powers and duties of the office of the clerk of the orphans' court division.

Chapter 29. Officers Serving Process and Enforcing Orders

Subchapter A. General Provisions (Reserved)

Subchapter B. Sheriffs

§ 2921. Powers and duties of the sheriff.

Subchapter C. Constables (Repealed)

§ 2941 - § 2950 (Repealed)

PART III. SELECTION, RETENTION AND REMOVAL OF JUDICIAL OFFICERS

Chapter 31. Selection and Retention of Judicial Officers

Subchapter A. Qualifications Generally

§ 3101. Qualifications of judicial officers generally.

Subchapter B. Qualifications of Certain Minor Judiciary

§ 3111. Definitions.
§ 3112. Course of instruction and examination required.
§ 3113. Content of course of instruction and examination.
§ 3114. Admission of interested persons.
§ 3115. Certification of successful completion of course of training.
§ 3116. Effect of failure to obtain certificate.
§ 3117. Expenses.
§ 3118. Continuing education requirement.
§ 3119. Rules and regulations.

Subchapter C. Selection of Judicial Officers

§ 3131. Selection of judicial officers for regular terms.
§ 3132. Vacancies in office.
§ 3132.1. Reappointment of magisterial district judge.
§ 3133. Commonwealth Court judges.
§ 3134. Community court judges.
§ 3135. Increase in number of judges.

Subchapter D. Tenure and Compensation

§ 3151. Oath of office.
§ 3152. Tenure of judicial officers.
§ 3153. Retention elections after regular term.
§ 3154. Compensation of judicial officers (Repealed).

Chapter 33. Discipline, Removal and Retirement of Judicial Officers

Subchapter A. Standards of Conduct

§ 3301. Constitutional restrictions.
§ 3302. Additional restrictions.
§ 3303. Additional compensation prohibited.
§ 3304. Acting as collection agent or paid arbitrator prohibited.
§ 3305. Automatic removal upon conviction or disbarment.
§ 3306. Automatic removal upon nonjudicial candidacy.
§ 3307. Automatic suspension of judicial officer under impeachment.

Subchapter B. Establishment and Discontinuance of Courts

§ 3321. Establishment of community courts.
§ 3322. Discontinuance of community courts.

Subchapter C. Discipline and Removal of Judges

§ 3331. Power of discipline or removal.
§ 3332. Investigation and hearing.
§ 3333. Recommendation to and action by Supreme Court (Deleted by amendment).
§ 3334. Proceedings confidential.

Subchapter D. Retirement

§ 3351. Automatic retirement on age.
§ 3352. Pension rights.

PART IV. FINANCIAL MATTERS

Chapter 35. Budget and Finance

Subchapter A. General Provisions

§ 3501. Definitions.
§ 3502. Financial regulations.
§ 3503. Penalties.

Subchapter B. Judicial Department Budget and Finance

§ 3521. Development of budget information.
§ 3522. Preparation of tentative budget request.
§ 3523. Adoption of final budget request.
§ 3524. Form of Judicial Department appropriation.
§ 3525. List of employees to be furnished.
§ 3526. Release of funds.
§ 3527. Estimates of current expenditures by Administrative Office.
§ 3528. Fiscal period.
§ 3529. Audits of affairs of unified judicial system.
§ 3530. Preparation of requisitions.
§ 3531. Budget implementation data.
§ 3532. Expenses.

Subchapter C. County Finance

§ 3541. Judicial and related account.
§ 3542. Receipts.
§ 3543. Credits to account.
§ 3544. Disbursements.
§ 3545. Debits to account.
§ 3546. Relief from liability for loss of property if expenses not paid.
§ 3547. Restriction on compelling local action.

Subchapter D. Money Paid into Court

§ 3561. Money paid into court.

Subchapter E. Fines, Etc.

§ 3571. Commonwealth portion of fines, etc.

§ 3572. County portion of fines, etc.
§ 3573. Municipal corporation portion of fines, etc.
§ 3574. Fines in the nature of private compensation.
§ 3575. Criminal Justice Enhancement Account.

Subchapter F. Compensation and Salaries

§ 3581. Judicial salaries (Repealed).

Chapter 37. Facilities and Supplies

Subchapter A. Statewide Facilities and Services

§ 3701. Pennsylvania Judicial Center (Reserved).
§ 3702. General facilities and services furnished by Administrative Office.
§ 3703. Local chamber facilities.
§ 3704. Local facilities for holding sessions of Statewide courts.

Subchapter B. District and County Facilities and Services

§ 3721. County judicial center or courthouse.
§ 3722. General facilities and services furnished by county.
§ 3723. Other facilities and services furnished by Administrative Office.
§ 3724. County law libraries.
§ 3725. Standards of local facilities and services.
§ 3726. Manner of expenditure of local funds.
§ 3727. Restriction on compelling local action.

Subchapter C. Judicial Computer System

§ 3731. Establishment of restricted receipt account.
§ 3732. Utilization of funds in account.
§ 3733. Deposits into account.
§ 3733.1. Surcharge.
§ 3733.2. Additional surcharge (Expired).
§ 3734. Annual appropriations.
§ 3735. Review of plan and contracts.

PART V. ADMINISTRATION OF JUSTICE GENERALLY

Chapter 41. Administration of Justice

Subchapter A. General Provisions

§ 4101. Coordination of activities.
§ 4102. Liability insurance for district justices (Repealed).

Subchapter B. Temporary Assignment of Judges and Magisterial District Judges

§ 4121. Assignment of judges.
§ 4122. Assignment of magisterial district judges.
§ 4123. Assignment procedure.
§ 4124. Assignment of senior Philadelphia Municipal Court judges.

Subchapter C. Contempt of Court

§ 4131. Definitions (Reserved).

§ 4132. Attachment and summary punishment for contempts.
§ 4133. Commitment or fine for contempt.
§ 4134. Commitment for failure to pay fine.
§ 4135. Publication out of court.
§ 4136. Rights of persons charged with certain indirect criminal contempts.
§ 4137. Contempt powers of magisterial district judges.
§ 4138. Contempt powers of Pittsburgh Magistrates Court.
§ 4139. Contempt powers of Traffic Court of Philadelphia.

Chapter 43. Dockets, Indices and Other Records

Subchapter A. Establishment, Maintenance and Effect of Judicial Records

§ 4301. Establishment and maintenance of judicial records.
§ 4302. Effect of records as notice.
§ 4303. Effect of judgments and orders as liens.
§ 4304. Notice of Federal pending actions.
§ 4305. Federal judgments as liens.
§ 4306. Enforcement of foreign judgments.

Subchapter B. Disposition of Obsolete Records

§ 4321. Record retention schedules.
§ 4322. Destruction and disposition of obsolete records.
§ 4323. Form of recordation.
§ 4324. Copies of destroyed records.
§ 4325. Duplicate permanent records.
§ 4326. Original records meriting special care.
§ 4327. Transfer of custody to local museum upon application.

Chapter 44. Court Interpreters

Subchapter A. General Provisions

§ 4401. Legislative findings and declaration.
§ 4402. Definitions.

Subchapter B. Court Interpreters for Persons with Limited English Proficiency

§ 4411. Duties of Court Administrator.
§ 4412. Appointment of interpreter.
§ 4413. Replacement of interpreter.
§ 4414. Oath.
§ 4415. Confidential communications in presence of interpreter.
§ 4416. Cost of providing interpreter.
§ 4417. Funding.

Subchapter C. Court Interpreters for Persons Who Are Deaf

§ 4431. Duties of Court Administrator.
§ 4432. Appointment of interpreter.
§ 4433. Replacement of interpreter.
§ 4434. Interrogation.
§ 4435. Oath.
§ 4436. Confidential communications in presence of interpreter.
§ 4437. Cost of providing interpreter.
§ 4438. Funding.

Chapter 45. Juries and Jurors

Subchapter A. Qualifications and Exemptions

§ 4501. Declaration of policy.
§ 4502. Qualifications of jurors.
§ 4503. Exemptions from jury duty.

Subchapter B. Selection and Custody of Jurors

§ 4521. Selection of prospective jurors.
§ 4521.1. Statewide jury information system.
§ 4522. List of qualified jurors.
§ 4523. List of disqualified jurors.
§ 4524. Selection of jurors for service.
§ 4525. Equipment used for selection of jurors.
§ 4526. Challenging compliance with selection procedures.
§ 4527. Effect of verdict on jury selection errors.

Subchapter C. Summoning Jurors

§ 4531. Issuance of court orders for jurors.
§ 4532. Summoning persons to serve as jurors.

Subchapter D. Investigating Grand Juries

§ 4541. Short title of subchapter.
§ 4542. Definitions.
§ 4543. Convening county investigating grand jury.
§ 4544. Convening multicounty investigating grand jury.
§ 4545. Composition of investigating grand jury.
§ 4546. Term of investigating grand jury.
§ 4547. Additional investigating grand juries.
§ 4548. Powers of investigating grand jury.
§ 4549. Investigating grand jury proceedings.
§ 4550. Submission of investigations by attorney for the Commonwealth to investigating grand jury.
§ 4551. Investigating grand jury presentments.
§ 4552. Investigating grand jury reports.
§ 4553. Expenses of investigating grand juries and trials resulting therefrom.

Subchapter E. Miscellaneous Provisions

§ 4561. Compensation of and travel allowance for jurors.
§ 4562. Juror's right to refuse inquiries.
§ 4563. Protection of employment of petit and grand jurors.
§ 4563.1. Protection of employment of grand jurors (Deleted by amendment).
§ 4564. Alternate jurors.
§ 4565. Challenging certain petit jurors where political subdivision is a party.

Subchapter F. Penalties

§ 4581. Interfering with selection of jurors.
§ 4582. Tampering with names of jurors.
§ 4583. Tampering with jurors.
§ 4583.1. Aggravated jury tampering.
§ 4584. Failure of juror to appear.

Chapter 47. DNA Data and Testing (Repealed)

Subchapter A. Preliminary Provisions (Repealed)

§ 4701 - § 4703 (Repealed)

Subchapter B. General Provisions (Repealed)

§ 4711 - § 4722 (Repealed)

Subchapter C. Enforcement and Other Provisions (Repealed)

§ 4731 - § 4736 (Repealed)

Subchapter D. Miscellaneous Provisions (Repealed)

§ 4741 (Repealed)

Chapter 49. Access to Justice

§ 4901. Short title of chapter.
§ 4902. Declaration.
§ 4903. Definitions.
§ 4904. Establishment of Access to Justice Account.
§ 4905. Purpose of account.
§ 4906. Distribution of funds.
§ 4907. Expiration of chapter (Repealed).

PART VI. ACTIONS, PROCEEDINGS AND OTHER MATTERS GENERALLY

Chapter 51. Preliminary Provisions

§ 5101. Remedy to exist for legal injury.
§ 5101.1. Venue in medical professional liability actions.
§ 5102. Place and form of filing applications for relief.
§ 5103. Transfer of erroneously filed matters.
§ 5104. Trial by jury.
§ 5105. Right to appellate review.
§ 5106. Change of venue.
§ 5107. Service of process.
§ 5108. Imprisonment for debt.
§ 5110. Limited waiver of sovereign immunity (Repealed).
§ 5111. Limitations on damages (Repealed).

Chapter 53. Bases of Jurisdiction and Interstate and International Procedure

Subchapter A. General Provisions

§ 5301. Persons.
§ 5302. Land.
§ 5303. Chattels.
§ 5304. Documents.
§ 5305. Corporate shares.
§ 5306. Obligations.
§ 5307. Status.
§ 5308. Necessary minimum contacts.

Subchapter B. Interstate and International Procedure

§ 5321. Short title of subchapter.
§ 5322. Bases of personal jurisdiction over persons outside this Commonwealth.

§ 5323. Service of process on persons outside this Commonwealth.
§ 5324. Assistance to tribunals and litigants outside this Commonwealth with respect to service.
§ 5325. When and how a deposition may be taken outside this Commonwealth.
§ 5326. Assistance to tribunals and litigants outside this Commonwealth with respect to depositions (Repealed).
§ 5327. Determination of foreign law.
§ 5328. Proof of official records.
§ 5329. Other provisions of law unaffected.

Subchapter B.1. Foreign Depositions and Subpoenas

§ 5331. Short title of subchapter.
§ 5332. Scope of subchapter.
§ 5333. Definitions.
§ 5334. Principles of construction.
§ 5335. Issuance of subpoena.
§ 5336. Pennsylvania rules applicable.
§ 5337. Application to court.

Subchapter C. Child Custody Jurisdiction (Repealed)

§ 5341 - § 5366 (Repealed)

Chapter 55. Limitation of Time

Subchapter A. General Provisions

§ 5501. Scope of chapter.
§ 5502. Method of computing periods of limitation generally.
§ 5503. Commencement of matters.
§ 5504. Judicial extension of time.
§ 5505. Modification of orders.

Subchapter B. Civil Actions and Proceedings

§ 5521. Limitations on foreign claims.
§ 5522. Six months limitation.
§ 5523. One year limitation.
§ 5524. Two year limitation.
§ 5524.1. Limitation and application for asbestos claims (Unconstitutional).
§ 5525. Four year limitation.
§ 5526. Five year limitation.
§ 5527. Six year limitation.
§ 5527.1. Ten year limitation.
§ 5527.2. Mesne profits.
§ 5527.3. Reimbursement.
§ 5528. Fifteen year limitation.
§ 5529. Twenty year limitation.
§ 5530. Twenty-one year limitation.
§ 5531. No limitation.
§ 5532. Absence or concealment.
§ 5533. Infancy, insanity or imprisonment.
§ 5534. War.
§ 5535. Effect of other actions and proceedings.
§ 5536. Construction projects.
§ 5537. Land surveying.
§ 5538. Landscape architecture.
§ 5539. Real estate appraisals.

Subchapter C. Criminal Proceedings

§ 5551. No limitation applicable.
§ 5552. Other offenses.
§ 5553. Summary offenses involving vehicles.
§ 5554. Tolling of statute.

Subchapter D. Appeals

§ 5571. Appeals generally.
§ 5571.1. Appeals from ordinances, resolutions, maps, etc.
§ 5572. Time of entry of order.
§ 5573. Effect of application for rehearing.
§ 5574. Effect of application for amendment to qualify for interlocutory appeal.

Chapter 57. Bonds and Recognizances

Subchapter A. General Provisions

§ 5701. Right to bail.
§ 5702. Bail to be governed by general rules.

Subchapter B. Bail Bondsmen

§ 5741. Definitions.
§ 5742. Licensure required.
§ 5743. Issuance of license (Repealed).
§ 5743.1. Authorization to conduct business within each county.
§ 5744. Office.
§ 5745. Suspension or nonrenewal of license for unpaid bail forfeitures.
§ 5746. Suspension or revocation of authority to conduct business in a county.
§ 5747. Statements by fidelity or surety companies (Repealed).
§ 5747.1. Forfeited undertaking.
§ 5748. Maximum premiums (Repealed).
§ 5748.1. Private cause of action.
§ 5749. Prohibitions and penalties.
§ 5750. Third-party sureties.

Subchapter C. Special Provisions

§ 5761. Bail in drug offenses.

Chapter 58. Forfeiture of Assets

§ 5801. Scope of chapter.
§ 5802. Controlled substances forfeiture.
§ 5803. Asset forfeiture.
§ 5804. (Reserved).
§ 5805. Forfeiture procedure.
§ 5806. Motion for return of property.
§ 5806.1. (Reserved).
§ 5806.2. (Reserved).
§ 5807. Restrictions on use.
§ 5807.1. Prohibition on adoptive seizures.
§ 5807.2. Federal reporting requirements.
§ 5808. Exceptions.

Chapter 59. Depositions and Witnesses

Subchapter A. Witnesses Generally

§ 5901. Judicial oath.
§ 5902. Effect of religious beliefs.
§ 5903. Compensation and expenses of witnesses.
§ 5904. Subpoena of witnesses.
§ 5905. Subpoenas.

CRIMINAL PROCEEDINGS

§ 5911. Competency of witnesses generally.
§ 5912. Effect of prior convictions.
§ 5913. Spouses as witnesses against each other.
§ 5914. Confidential communications between spouses.
§ 5915. Testimony by spouse in rebuttal.
§ 5916. Confidential communications to attorney.
§ 5917. Notes of evidence at former trial.
§ 5918. Examination of defendant as to other offenses.
§ 5919. Depositions in criminal matters.
§ 5920. Expert testimony in certain criminal proceedings.

CIVIL MATTERS

§ 5921. Interest not to disqualify.
§ 5922. Disqualification by perjury.
§ 5923. Confidential communications between spouses.
§ 5924. Spouses as witnesses against each other.
§ 5925. Testimony by married person against spouse in rebuttal.
§ 5926. Testimony by spouse after attack on character or conduct.
§ 5927. Actions by spouse to recover separate property.
§ 5928. Confidential communications to attorney.
§ 5929. Physicians not to disclose information.
§ 5930. Surviving party as witness, in case of death, mental incapacity, etc.
§ 5931. Incompetent witnesses.
§ 5932. Witness competent to testify against interest; to become competent upon release of interest.
§ 5933. Competency of surviving party.
§ 5934. Notes of evidence at former trial.
§ 5935. Examination of person adversely interested.
§ 5936. Medical testimony by deposition.

CERTAIN PRIVILEGES AND IMMUNITIES

§ 5941. Persons who may be compelled to testify.
§ 5942. Confidential communications to news reporters.
§ 5943. Confidential communications to clergymen.
§ 5944. Confidential communications to psychiatrists or licensed psychologists.
§ 5945. Confidential communications to school personnel.
§ 5945.1. Confidential communications with sexual assault counselors.
§ 5945.2. Confidential communications to crime stopper or similar anticrime program.
§ 5945.3. Confidential communications with human trafficking caseworkers.
§ 5946. Competency of certain witnesses where political subdivision is a party.
§ 5947. Immunity of witnesses.
§ 5948. Confidential communications to qualified professionals.

§ 5949. Confidential mediation communications and documents.
§ 5950. Confidential communications involving law enforcement officers.
§ 5951. Confidential communications involving public safety responders and corrections officers.
§ 5952. Confidential communications to peer support members.

Subchapter B. Securing Attendance of Witnesses in Criminal Proceedings

§ 5961. Short title of subchapter.
§ 5962. Definitions.
§ 5963. Summoning witness in this Commonwealth to testify in another state.
§ 5964. Witness from another state summoned to testify in this Commonwealth.
§ 5965. Exemption from arrest and service of process.

Subchapter C. Rendition of Prisoners as Witnesses in Criminal Proceedings

§ 5971. Short title of subchapter.
§ 5972. Definitions.
§ 5973. Scope of subchapter.
§ 5974. Summoning prisoner in this Commonwealth to testify in another state.
§ 5975. Court order.
§ 5976. Terms and conditions.
§ 5977. Prisoner from another state summoned to testify in this Commonwealth.
§ 5978. Compliance.
§ 5979. Exemption from arrest and service of process.

Subchapter D. Child Victims and Witnesses

§ 5981. Declaration of policy.
§ 5982. Definitions.
§ 5983. Rights and services.
§ 5984. Videotaped depositions (Repealed).
§ 5984.1. Recorded testimony.
§ 5985. Testimony by contemporaneous alternative method.
§ 5985.1. Admissibility of certain statements.
§ 5986. Hearsay.
§ 5987. Use of dolls.
§ 5988. Victims of sexual or physical abuse.

Subchapter E. Victims and Witnesses with Intellectual Disabilities or Autism

§ 5991. Declaration of policy.
§ 5992. Definitions.
§ 5993. Admissibility of certain statements.

Chapter 61. Rules of Evidence

Subchapter A. Documentary Evidence

§ 6101. Scope of subchapter.
§ 6102. Judicial notice of official seals.
§ 6103. Proof of official records.
§ 6104. Effect of official records generally.
§ 6105. Acts of notaries public.

§ 6106. Certified exemplifications of records.
§ 6107. Judicial notice of certain local government ordinances.
§ 6108. Business records.
§ 6109. Photographic copies of business and public records.
§ 6110. Registers kept by religious societies and municipalities.
§ 6111. Handwriting.
§ 6112. Introduction of parol evidence after refusal to produce documents.

Subchapter B. Eminent Domain Matters

§ 6121. Eminent domain matters.

Subchapter C. Blood Tests to Determine Paternity (Repealed)

§ 6131 - § 6137 (Repealed)

Subchapter D. Miscellaneous Provisions

§ 6141. Effect of certain settlements.
§ 6142. Pleas in vehicle matters.
§ 6143. Registration number as evidence of operation of vehicle.
§ 6144. Dying declarations in case of abortion.

Subchapter E. Medical Records

§ 6151. Use of certified copies.
§ 6152. Subpoena of records.
§ 6152.1. Limit on charges.
§ 6153. Receipts.
§ 6154. Affidavit of none or partial possession.
§ 6155. Rights of patients.
§ 6156. Opening of sealed envelopes.
§ 6157. Retention of records.
§ 6158. Obtaining personal attendance of custodian.
§ 6159. Obtaining production of original record.
§ 6160. Definitions.

Chapter 62. Uniform Unsworn Declarations Act

§ 6201. Short title of chapter.
§ 6202. Definitions.
§ 6203. Applicability.
§ 6204. Validity of unsworn declaration.
§ 6205. Required medium.
§ 6206. Form of unsworn declaration.
§ 6207. Uniformity of application and construction.
§ 6208. Relation to Electronic Signatures in Global and National Commerce Act.

Chapter 62A. Protection of Victims of Sexual Violence or Intimidation

§ 62A01. Scope of chapter.
§ 62A02. Findings and purpose.
§ 62A03. Definitions.
§ 62A04. Responsibilities of law enforcement agencies.
§ 62A05. Commencement of proceedings.
§ 62A06. Hearings.
§ 62A07. Relief.

§ 62A08. (Reserved).
§ 62A09. Emergency relief by minor judiciary.
§ 62A10. Sexual assault counselor.
§ 62A11. Disclosure of addresses.
§ 62A12. Arrest for violation of order.
§ 62A13. Private criminal complaints for violation of order or agreement.
§ 62A14. Contempt for violation of order.
§ 62A15. Civil contempt or modification for violation of order or agreement.
§ 62A16. Confidentiality.
§ 62A17. Procedure and other remedies.
§ 62A18. Applicability.
§ 62A19. Inability to pay.
§ 62A20. Construction.

Chapter 63. Juvenile Matters

Subchapter A. General Provisions

§ 6301. Short title and purposes of chapter.
§ 6302. Definitions.
§ 6303. Scope of chapter.
§ 6304. Powers and duties of probation officers.
§ 6304.1. Summary offenses.
§ 6305. Masters.
§ 6306. Costs and expenses of care of child.
§ 6307. Inspection of court files and records.
§ 6308. Law enforcement records.
§ 6309. Juvenile history record information.
§ 6310. Parental participation.
§ 6311. Guardian ad litem for child in court proceedings.

Subchapter B. Jurisdiction and Custody

§ 6321. Commencement of proceedings.
§ 6322. Transfer from criminal proceedings.
§ 6323. Informal adjustment.
§ 6324. Taking into custody.
§ 6325. Detention of child.
§ 6326. Release or delivery to court.
§ 6327. Place of detention.
§ 6328. Dependency in lieu of delinquency.

Subchapter C. Procedures and Safeguards

§ 6331. Release from detention or commencement of proceedings.
§ 6332. Informal hearing.
§ 6333. Subpoena.
§ 6334. Petition.
§ 6335. Release or holding of hearing.
§ 6336. Conduct of hearings.
§ 6336.1. Notice and hearing.
§ 6336.2. Use of restraints on children during court proceedings.
§ 6337. Right to counsel.
§ 6337.1. Right to counsel for children in dependency and delinquency proceedings.
§ 6338. Other basic rights.
§ 6339. Investigation and report.
§ 6340. Consent decree.
§ 6341. Adjudication.

§ 6342. Court-appointed special advocates.

Subchapter D. Disposition of Children Generally

§ 6351. Disposition of dependent child.
§ 6351.1. Authority of court upon petition to remove child from foster parent.
§ 6352. Disposition of delinquent child.
§ 6352.1. Treatment records.
§ 6352.2. Interagency information sharing.
§ 6353. Limitation on and change in place of commitment.
§ 6354. Effect of adjudication.
§ 6355. Transfer to criminal proceedings.
§ 6356. Disposition of mentally ill or mentally retarded child.
§ 6357. Rights and duties of legal custodian.
§ 6358. Assessment of delinquent children by the State Sexual Offenders Assessment Board.

Subchapter E. Dispositions Affecting Other Jurisdictions

§ 6361. Disposition of nonresident child.
§ 6362. Disposition of resident child received from another state.
§ 6363. Ordering foreign supervision.
§ 6364. Supervision under foreign order.
§ 6365. Powers of foreign probation officers.

Subchapter F. Juvenile Court Judges' Commission

§ 6371. Definitions.
§ 6372. Juvenile Court Judges' Commission.
§ 6373. Powers and duties.
§ 6374. Power to make grants.
§ 6375. Funding.

Chapter 64. Court-ordered Involuntary Treatment of Certain Sexually Violent Persons

§ 6401. Scope of chapter.
§ 6402. Definitions.
§ 6403. Court-ordered involuntary treatment.
§ 6404. Duration of inpatient commitment and review.
§ 6404.1. Transfer to involuntary outpatient treatment.
§ 6404.2. Duration of outpatient commitment and review.
§ 6405. Right to counsel.
§ 6406. Duty of Department of Public Welfare.
§ 6407. Regulations.
§ 6408. Jurisdiction.
§ 6409. Immunity for good faith conduct.

Chapter 65. Habeas Corpus

§ 6501. Writ not to be suspended.
§ 6502. Power to issue writ.
§ 6503. Right to apply for writ.
§ 6504. Return on writ.
§ 6505. Interference with writ prohibited.

Chapter 66. Prisoner Litigation

§ 6601. Definitions.
§ 6602. Prisoner filing fees.

§ 6603. Limitations on remedies.
§ 6604. Prospective relief.
§ 6605. Types of prospective relief.
§ 6606. Termination or modification of prospective relief.
§ 6607. Time limits on settlements.
§ 6608. Payment of damage award or settlement.

Chapter 67. Protection From Abuse (Repealed)

§ 6701 - § 6717 (Repealed)

Chapter 67A. Recordings by Law Enforcement Officers

§ 67A01. Definitions.
§ 67A02. Scope of chapter.
§ 67A03. Requests for law enforcement audio recordings or video recordings.
§ 67A04. Law enforcement review.
§ 67A05. Procedure.
§ 67A06. Petition for judicial review.
§ 67A07. Audio recording or video recording policies.
§ 67A08. Construction.
§ 67A09. Applicability.

Chapter 68. Forfeitures

§ 6801. Controlled substances forfeiture (Repealed).
§ 6801.1. Terrorism forfeiture (Repealed).
§ 6802. Procedure with respect to seized property subject to liens and rights of lienholders (Repealed).

Chapter 69. Particular Rights and Immunities

§ 6901. Short title of chapter.
§ 6902. Definitions.
§ 6903. Required disclosures in connection with rental-purchase agreement.
§ 6904. Prohibited provisions of agreement.
§ 6905. Lessee's right to acquire ownership.
§ 6906. Lessee's right to reinstate agreement after termination.
§ 6907. Rent reduction.
§ 6908. Advertising and display of property.
§ 6909. Lessor's liability for noncompliance.
§ 6910. Limitations on lessor's liability.
§ 6911. Conflict with other law.

Chapter 70. Ignition Interlock Devices (Repealed)

§ 7001 - § 7003 (Repealed)

PART VII. CIVIL ACTIONS AND PROCEEDINGS

Chapter 71. General Provisions

§ 7101. Settlements and other agreements with hospitalized persons.
§ 7102. Comparative negligence.
§ 7103. Interpreters for the deaf (Deleted by amendment).

Chapter 73. Arbitration

Subchapter A. Statutory Arbitration

§ 7301. Short title of subchapter.
§ 7302. Scope of subchapter.
§ 7303. Validity of agreement to arbitrate.
§ 7304. Court proceedings to compel or stay arbitration.
§ 7305. Appointment of arbitrators by court.
§ 7306. Action by arbitrators.
§ 7307. Hearing before arbitrators.
§ 7308. Representation by attorney.
§ 7309. Witnesses, subpoenas, oaths and depositions.
§ 7310. Award of arbitrators.
§ 7311. Change of award by arbitrators.
§ 7312. Fees and expenses of arbitration.
§ 7313. Confirmation of award by court.
§ 7314. Vacating award by court.
§ 7315. Modification or correction of award by court.
§ 7316. Judgment or decree on award.
§ 7317. Form and service of applications to court.
§ 7318. Court and jurisdiction.
§ 7319. Venue of court proceedings.
§ 7320. Appeals from court orders.

Subchapter A.1. Revised Statutory Arbitration

§ 7321.1. Short title of subchapter.
§ 7321.2. Definitions.
§ 7321.3. Notice.
§ 7321.4. When subchapter applies.
§ 7321.5. Effect of agreement to arbitrate; nonwaivable provisions.
§ 7321.6. Application for judicial relief.
§ 7321.7. Validity of agreement to arbitrate.
§ 7321.8. Motion to compel or stay arbitration.
§ 7321.9. Provisional remedies.
§ 7321.10. Initiation of arbitration.
§ 7321.11. Consolidation of separate arbitration proceedings.
§ 7321.12. Appointment of arbitrator; service as a neutral arbitrator.
§ 7321.13. Disclosure by arbitrator.
§ 7321.14. Action by majority.
§ 7321.15. Immunity of arbitrator; competency to testify; attorney fees and costs.
§ 7321.16. Arbitration process.
§ 7321.17. Representation by attorney.
§ 7321.18. Witnesses; subpoenas; depositions; discovery.
§ 7321.19. Judicial enforcement of preaward ruling by arbitrator.
§ 7321.20. Award.
§ 7321.21. Change of award by arbitrator.
§ 7321.22. Remedies; fees and expenses of arbitration proceeding.
§ 7321.23. Confirmation of award.
§ 7321.24. Vacating award.
§ 7321.25. Modification or correction of award.
§ 7321.26. Judgment on award; attorney fees and litigation expenses.
§ 7321.27. Jurisdiction.
§ 7321.28. Venue.
§ 7321.29. Appeals.
§ 7321.30. Uniformity of application and construction.

§ 7321.31. Relationship to Electronic Signatures in Global and National Commerce Act.

Subchapter B. Common Law Arbitration

§ 7341. Common law arbitration.
§ 7342. Procedure.

Subchapter C. Judicial Arbitration

§ 7361. Compulsory arbitration.
§ 7362. Voluntary arbitration of pending judicial matters.

Chapter 74. Collaborative Law Process

§ 7401. Short title and scope of chapter.
§ 7402. Definitions.
§ 7403. Beginning the collaborative law process.
§ 7404. Assessment and review.
§ 7405. Collaborative law participation agreement.
§ 7406. Concluding the collaborative law process.
§ 7407. Disqualification of collaborative attorney.
§ 7408. Disclosure of information.
§ 7409. Confidentiality.
§ 7410. Privilege.
§ 7411. Professional responsibility.

Chapter 75. Commencement of Actions

Subchapter A. General Provisions

§ 7501. Attachment of property prior to judgment.
§ 7502. Affidavit of noninvolvement.

Subchapter B. Interpleader Compacts

§ 7521. Short title of subchapter.
§ 7522. Interpleader compact.
§ 7523. Duties of the Department of State.
§ 7524. Duties of the Governor.

Subchapter C. Declaratory Judgments

§ 7531. Short title of subchapter.
§ 7532. General scope of declaratory remedy.
§ 7533. Construction of documents.
§ 7534. Before breach of contract.
§ 7535. Rights of fiduciaries and other persons.
§ 7536. Enumeration not exclusive.
§ 7537. Remedy discretionary.
§ 7538. Applications for relief.
§ 7539. Issues of fact.
§ 7540. Parties.
§ 7541. Construction of subchapter.

Subchapter D. Reciprocal Tax Enforcement

§ 7551. Enforcement of taxes imposed by other states.

Chapter 77. Trial

§ 7701. Procedures, motions and other matters.

§ 7702. Commencement and termination of trial.

Chapter 79. Post-trial Matters

§ 7901. Procedures, motions and other matters.

Chapter 81. Judgments and Other Liens

Subchapter A. General Provisions

§ 8101. Interest on judgments.
§ 8102. Contribution among joint judgment debtors.
§ 8103. Deficiency judgments.
§ 8104. Duty of judgment creditor to enter satisfaction.

Subchapter B. Exemptions from Execution

§ 8121. Scope of subchapter.
§ 8122. Waiver of exemption.
§ 8123. General monetary exemption.
§ 8124. Exemption of particular property.
§ 8125. Tangible personal property exhibited at international exhibitions.
§ 8126. Common carriers not liable.
§ 8127. Personal earnings exempt from process.
§ 8128. Transfer of claim to avoid policy of Commonwealth.

Subchapter C. Priority of Liens

§ 8141. Time from which liens have priority.
§ 8142. Endorsement of time.
§ 8143. Open-end mortgages.
§ 8144. Mortgages to secure certain advances.

Subchapter D. Enforcement of Judgments

§ 8151. Notice to Department of Revenue of judicial sale of property.
§ 8152. Judicial sale as affecting lien of mortgage.

Chapter 83. Particular Rights and Immunities

Subchapter A. Rights of Action

§ 8301. Death action.
§ 8302. Survival action.
§ 8303. Action for performance of a duty required by law.
§ 8304. Damages in actions on bad checks.
§ 8305. Actions for wrongful birth and wrongful life.
§ 8306. Defense against claim for injury sustained in utero barred.
§ 8307. Action by parent, guardian or other custodian for damages in the sale or transfer of controlled substances to a child.
§ 8308. Damages in actions on retail theft.
§ 8309. Civil rights violations.
§ 8310. Damages in actions on thefts of leased property.
§ 8311. Damages in actions for conversion of timber.
§ 8312. Profits received as a result of commission of crime.
§ 8313. Agricultural crop destruction.
§ 8314. Assault with biological agent on animal, fowl or honey bees.

§ 8315. Damages in actions for identity theft.
§ 8316. Unauthorized use of name or likeness.
§ 8316.1. Damages in actions for unlawful dissemination of intimate image.
§ 8316.2. Contracts or agreements for nondisclosure of certain conduct.
§ 8317. Actions involving products or services used to invade privacy.
§ 8318. Terrorism action.
§ 8319. Ecoterrorism.
§ 8320. Commemorative service demonstration action.

Subchapter B. Contribution Among Tort-feasors

§ 8321. Short title of subchapter.
§ 8322. Definition.
§ 8323. Scope of subchapter.
§ 8324. Right of contribution.
§ 8325. Effect of judgment.
§ 8326. Effect of release as to other tort-feasors.
§ 8327. Liability to make contribution as affected by release.

Subchapter C. Immunities Generally

§ 8331. Medical good Samaritan civil immunity.
§ 8331.1. Veterinary good Samaritan civil immunity.
§ 8331.2. Good Samaritan civil immunity for use of automated external defibrillator.
§ 8331.3. Criminal victim aid good Samaritan civil immunity.
§ 8332. Emergency response provider and bystander good Samaritan civil immunity.
§ 8332.1. Manager, coach, umpire or referee and nonprofit association negligence standard.
§ 8332.2. Officer, director or trustee of nonprofit organization negligence standard.
§ 8332.3. Volunteer firefighter civil immunity.
§ 8332.4. Volunteer-in-public-service negligence standard.
§ 8332.5. Corporate representatives.
§ 8332.6. Antidrug and town-watch volunteer civil immunity.
§ 8332.7. Immunity of State parole officers.
§ 8332.8. Immunity of county probation officers.
§ 8333. Body fluid and tissue limited civil immunity.
§ 8334. Civil immunity in mass immunization projects.
§ 8335. Damages for conversion of property of fluctuating value.
§ 8336. Civil immunity for assistance upon request in incidents involving the transportation of hazardous substances.
§ 8337. Civil immunity of school officers or employees relating to drug or alcohol abuse.
§ 8337.1. Civil immunity of school officers or employees relating to emergency care, first aid and rescue.
§ 8338. Liability for damages from donated food and grocery products.
§ 8338.1. Liability for damages from donated vehicles or equipment to volunteer fire companies.
§ 8339. Agricultural immunity.
§ 8339.1. Railroad civil immunity.
§ 8340. Immunity of program administrators and supervisors.
§ 8340.1. Employer immunity from liability for disclosure of information regarding former or current employees.
§ 8340.2. Civil immunity for use of force.
§ 8340.3. Rescue from motor vehicle.

Subchapter D. Defamation

§ 8341. Single publication limitation.
§ 8342. Justification a defense.
§ 8343. Burden of proof.
§ 8344. Malice or negligence necessary to support award of damages.
§ 8345. No liability when without power of censorship.

Subchapter E. Wrongful Use of Civil Proceedings

§ 8351. Wrongful use of civil proceedings.
§ 8352. Existence of probable cause.
§ 8353. Damages.
§ 8354. Burden of proof.
§ 8355. Certification of pleadings, motions and other papers.

Subchapter F. Corporate Directors' Liability (Repealed)

§ 8361 - § 8367 (Repealed)

Subchapter F.1. Successor Business Entity Liability

§ 8368.1. Legislative findings and declaration.
§ 8368.2. Definitions.
§ 8368.3. Liability.
§ 8368.4. Fair market value.
§ 8368.5. Adjustment of fair market value.
§ 8368.6. Applicability and construction.

Subchapter G. Special Damages

§ 8371. Actions on insurance policies.

Subchapter H. Drug Nuisances

§ 8381. Short title of subchapter.
§ 8382. Definitions.
§ 8383. Action to abate.
§ 8384. Complaint.
§ 8385. Service of original process.
§ 8386. Preliminary injunction.
§ 8387. Protection of witnesses.
§ 8388. Security.
§ 8389. Judgment and remedies.
§ 8390. Violation of injunctions or abatement order.
§ 8391. Release and cancellation.
§ 8392. Severability.

Chapter 85. Matters Affecting Government Units

Subchapter A. General Provisions

§ 8501. Definitions.
§ 8502. Enforcement proceedings.

Subchapter B. Actions Against Commonwealth Parties

SOVEREIGN IMMUNITY

§ 8521. Sovereign immunity generally.

§ 8522. Exceptions to sovereign immunity.
§ 8523. Venue and process.
§ 8524. Defenses.
§ 8525. Legal assistance.
§ 8526. Counterclaim by the Commonwealth.
§ 8527. Indemnity relating to inmate health care.

LIMITATIONS ON DAMAGES

§ 8528. Limitations on damages.

Subchapter C. Actions Against Local Parties

GOVERNMENTAL IMMUNITY

§ 8541. Governmental immunity generally.
§ 8542. Exceptions to governmental immunity.

OFFICIAL IMMUNITY

§ 8545. Official liability generally.
§ 8546. Defense of official immunity.
§ 8547. Legal assistance.
§ 8548. Indemnity.
§ 8549. Limitation on damages.
§ 8550. Willful misconduct.

LIMITATIONS ON DAMAGES

§ 8553. Limitations on damages.

JUDGMENTS

§ 8557. Judgment as a bar.
§ 8558. Judgments against insured local agency.
§ 8559. Judgments against self-insured local agency and those not fully insured.

POWERS OF LOCAL AGENCIES

§ 8563. General powers of local agencies.
§ 8564. Liability insurance and self-insurance.

PART VIII. CRIMINAL PROCEEDINGS

Chapter 87. General Provisions

Subchapter A. In General

§ 8701. Interpreters for the deaf (Deleted by amendment).
§ 8702. Impaneling jury from another county.
§ 8703. Arraignment.

Subchapter B. Availability of Otherwise Confidential Information

§ 8721. Definitions.
§ 8722. Petition for access to confidential information.
§ 8723. Grounds for access.
§ 8724. Disclosure of confidential information.
§ 8725. Penalties for improper disclosure.

Chapter 89. Commencement of Proceedings

Subchapter A. General Provisions

§ 8901. Intrastate hot pursuit (Repealed).
§ 8902. Arrest without warrant.

Subchapter B. Interstate Hot Pursuit

§ 8921. Scope of subchapter.
§ 8922. Authority of officers of another state to arrest in this Commonwealth.
§ 8923. Hearing after arrest.
§ 8924. Construction of subchapter.

Subchapter C. Indictment and Information

§ 8931. Indictment and information.
§ 8932. Nolle prosequi or settlement.
§ 8933. Dismissal of criminal cases.
§ 8934. Sealing of affidavits.

Subchapter D. Municipal Police Jurisdiction

§ 8951. Definitions.
§ 8952. Primary municipal police jurisdiction.
§ 8953. Statewide municipal police jurisdiction.
§ 8953.1. Nonmunicipal police extraterritorial jurisdiction.
§ 8953.2. Agents of the Office of Attorney General.
§ 8954. Noncompliance with mandatory certification requirements.
§ 8955. Interpretation.

Chapter 91. Detainers and Extradition

Subchapter A. Agreement on Detainers

§ 9101. Agreement on detainers.
§ 9102. Appropriate court.
§ 9103. Enforcement and cooperation.
§ 9104. Second and subsequent offenses.
§ 9105. Escape.
§ 9106. Duty of warden or other official.
§ 9107. Administrator and information agent.
§ 9108. Transmission of subchapter.

Subchapter B. Extradition of Persons Charged with Crime

§ 9121. Short title of subchapter.
§ 9122. Definitions.
§ 9123. Duty of Governor with respect to fugitives from justice.
§ 9124. Form of demand.
§ 9125. Governor may investigate case.
§ 9126. Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion.
§ 9127. Extradition of persons not present in demanding state at time of commission of crime.
§ 9128. Issue by Governor of warrant of arrest.
§ 9129. Manner and place of execution.
§ 9130. Authority of arresting officer.

§ 9131. Rights of accused person.
§ 9132. Penalty for noncompliance.
§ 9133. Confinement in jail.
§ 9134. Arrest prior to requisition.
§ 9135. Arrest without a warrant.
§ 9136. Commitment to await requisition.
§ 9137. Bail.
§ 9138. Extension of time of commitment.
§ 9139. Forfeiture of bail.
§ 9140. Persons under criminal prosecution in this Commonwealth at time of requisition.
§ 9141. Inquiry into guilt or innocence of accused.
§ 9142. Governor may recall warrant or issue another.
§ 9143. Duty of Governor in case of fugitives from this Commonwealth.
§ 9144. Issuance of requisition.
§ 9144.1. Payment of expenses, costs and fees.
§ 9145. Immunity from service of process in certain civil actions.
§ 9146. Written waiver of extradition proceedings.
§ 9146.1. Presigned waiver of extradition.
§ 9147. Nonwaiver by Commonwealth.
§ 9148. Liability to further criminal prosecutions.

Subchapter C. Inter-County Detention

§ 9161. Arrest prior to requisition.
§ 9162. Arrest without a warrant.
§ 9163. Commitment to await requisition.
§ 9164. Bail.
§ 9165. Payment of costs and expenses.

Subchapter D. Exchange of Offenders Under Treaty

§ 9171. Exchange of offenders under treaty.

Chapter 93. Trial

§ 9301. Procedures, motions and other matters.
§ 9302. Commencement and termination of trial.
§ 9303. Liability for violations of general and specific criminal statutes.

Chapter 95. Post-trial Matters

Subchapter A. General Provisions

§ 9501. Procedures, motions and other matters.

Subchapter A.1. Victim and Witness Outreach

§ 9521. Defense-initiated victim or witness outreach.

Subchapter B. Post Conviction Relief

§ 9541. Short title of subchapter.
§ 9542. Scope of subchapter.
§ 9543. Eligibility for relief.
§ 9543.1. Postconviction DNA testing.
§ 9544. Previous litigation and waiver.
§ 9545. Jurisdiction and proceedings.
§ 9546. Relief and order.

§ 9547. Amendment and withdrawal of petition (Repealed).
§ 9548. Answer to petition (Repealed).
§ 9549. Hearing on petition (Repealed).
§ 9550. Order of court and final disposition of petition (Repealed).
§ 9551. Pauper petitions (Repealed).

Subchapter C. Report by District Attorney

§ 9561. Report by district attorney.

Subchapter D. Unitary Review in Death Penalty Cases

§ 9570. Short title of subchapter.
§ 9571. Scope of subchapter.
§ 9572. Representation of counsel.
§ 9573. Time for petition; contents of petition.
§ 9574. Answer to petition.
§ 9575. Disposition without evidentiary hearing.
§ 9576. Evidentiary hearing.
§ 9577. Disposition and appeal.
§ 9578. Subsequent petitions.
§ 9579. Certification.

Chapter 97. Sentencing

Subchapter A. General Provisions

§ 9701. Short title of chapter.
§ 9702. Definitions.
§ 9703. Scope of chapter.

Subchapter B. Sentencing Authority

§ 9711. Sentencing procedure for murder of the first degree.
§ 9711.1. Sentencing for certain murders of infant persons.
§ 9712. Sentences for offenses committed with firearms.
§ 9712.1. Sentences for certain drug offenses committed with firearms.
§ 9713. Sentences for offenses committed on public transportation.
§ 9714. Sentences for second and subsequent offenses.
§ 9715. Life imprisonment for homicide.
§ 9716. Two or more mandatory minimum sentences applicable.
§ 9717. Sentences for offenses against elderly persons.
§ 9718. Sentences for offenses against infant persons.
§ 9718.1. Sexual offender treatment.
§ 9718.2. Sentences for sexual offenders.
§ 9718.3. Sentence for failure to comply with registration of sexual offenders (Expired).
§ 9718.4. Sentence for failure to comply with registration of sexual offenders.
§ 9718.5. Mandatory period of probation for certain sexual offenders.
§ 9719. Sentences for offenses committed while impersonating a law enforcement officer.
§ 9719.1. Sentences for offenses committed against law enforcement officer.
§ 9720. Sentencing for criminal mischief.
§ 9720.1. Restitution for identity theft (Repealed).
§ 9720.2. Sentencing for trafficking of persons.
§ 9720.3. Sentencing for certain paroled offenders.

§ 9720.4. Sentencing for offenses committed in association with a criminal gang.
§ 9720.5. Sentencing for offenses involving sexual abuse of children.
§ 9720.6. Sentencing for arson offenses.
§ 9720.7. Sentencing for burglary.
§ 9720.8. Sentencing for offenses involving domestic violence in the presence of a minor.

Subchapter C. Sentencing Alternatives

§ 9721. Sentencing generally.
§ 9722. Order of probation.
§ 9723. Determination of guilt without further penalty.
§ 9724. Partial confinement.
§ 9725. Total confinement.
§ 9726. Fine.
§ 9727. Disposition of persons found guilty but mentally ill.
§ 9728. Collection of restitution, reparation, fees, costs, fines and penalties.
§ 9729. Intermediate punishment (Repealed).
§ 9730. Payment of court costs, restitution and fines.
§ 9730.1. Collection of court costs, restitution and fines by private collection agency.
§ 9730.2. Sentence of community service.
§ 9730.3. Counseling services for victims of sexual abuse (Repealed).

Subchapter D. Informational Basis of Sentence

§ 9731. Requirement for presentence investigation and report.
§ 9732. Contents of presentence report.
§ 9733. General principles of disclosure of presentence report.
§ 9734. Disclosure of presentence report to the parties.
§ 9735. Objections to contents of presentence report.
§ 9736. Report of psychiatric evaluation.
§ 9737. Report of outstanding charges and sentences.
§ 9738. Victim impact statements.

Subchapter E. Imposition of Sentence

§ 9751. Sentencing judge.
§ 9752. Sentencing proceeding generally.
§ 9753. Determination of guilt without further penalty.
§ 9754. Order of probation.
§ 9755. Sentence of partial confinement.
§ 9755.1. Temporary release from county correctional institution.
§ 9756. Sentence of total confinement.
§ 9757. Consecutive sentences of total confinement for multiple offenses.
§ 9758. Fine.
§ 9759. Record.
§ 9760. Credit for time served.
§ 9761. Computation and order of service of sentences.
§ 9762. Sentencing proceeding; place of confinement.
§ 9763. Conditions of probation.
§ 9764. Information required upon commitment and subsequent disposition.
§ 9765. Merger of sentences.

Subchapter F. Further Judicial Action

§ 9771. Modification or revocation of order of probation.
§ 9771.1. Court-imposed sanctions for violating probation.
§ 9772. Failure to pay fine.
§ 9773. Modification or revocation of county intermediate punishment sentence (Repealed).
§ 9774. Revocation of State intermediate punishment sentence (Repealed).
§ 9774.1. Probation review conference.
§ 9775. Parole without board supervision.
§ 9776. Judicial power to release inmates.
§ 9777. Transfer of inmates in need of medical treatment.

Subchapter G. Appellate Review of Sentence

§ 9781. Appellate review of sentence.

Subchapter H. Registration of Sexual Offenders

§ 9791. Legislative findings and declaration of policy (Expired).
§ 9792. Definitions (Expired).
§ 9793. Registration of certain offenders for ten years (Deleted by amendment).
§ 9794. Designation of sexually violent predators (Deleted by amendment).
§ 9795. Registration of offenders (Deleted by amendment).
§ 9795.1. Registration (Expired).
§ 9795.2. Registration procedures and applicability (Expired).
§ 9795.3. Sentencing court information (Expired).
§ 9795.4. Assessments (Expired).
§ 9795.5. Exemption from certain notifications (Expired).
§ 9796. Verification of residence (Expired).
§ 9797. Victim notification (Expired).
§ 9798. Other notification (Expired).
§ 9798.1. Information made available on the Internet and electronic notification (Expired).
§ 9798.2. Administration (Expired).
§ 9798.3. Global positioning system technology (Expired).
§ 9799. Immunity for good faith conduct (Expired).
§ 9799.1. Duties of Pennsylvania State Police (Expired).
§ 9799.2. Duties of Pennsylvania Board of Probation and Parole (Expired).
§ 9799.3. Board (Expired).
§ 9799.4. Counseling of sexually violent predators (Expired).
§ 9799.5. Exemption from notification (Deleted by amendment).
§ 9799.6. Applicability (Deleted by amendment).
§ 9799.7. Exemption from notification for certain licensees and their employees (Expired).
§ 9799.8. Annual performance audit (Expired).
§ 9799.9. Photographs and fingerprinting (Expired).
§ 9799.10. Purposes of subchapter.
§ 9799.11. Legislative findings, declaration of policy and scope.
§ 9799.12. Definitions.
§ 9799.13. Applicability.
§ 9799.14. Sexual offenses and tier system.
§ 9799.15. Period of registration.
§ 9799.16. Registry.
§ 9799.17. Termination of period of registration for juvenile offenders.
§ 9799.18. Information sharing.

§ 9799.19. Initial registration.
§ 9799.20. Duty to inform.
§ 9799.21. Penalty.
§ 9799.22. Enforcement.
§ 9799.23. Court notification and classification requirements.
§ 9799.24. Assessments.
§ 9799.25. Verification by sexual offenders and Pennsylvania State Police.
§ 9799.26. Victim notification.
§ 9799.27. Other notification.
§ 9799.28. Public Internet website.
§ 9799.29. Administration.
§ 9799.30. Global positioning system technology.
§ 9799.31. Immunity for good faith conduct.
§ 9799.32. Pennsylvania State Police and Department of Corrections.
§ 9799.33. Duties of Department of Corrections and probation and parole officials.
§ 9799.34. Duties of facilities housing sexual offenders.
§ 9799.35. Board.
§ 9799.36. Counseling of sexually violent predators.
§ 9799.37. Exemption from notification for certain licensees and their employees.
§ 9799.38. Annual performance audit.
§ 9799.39. Photographs and fingerprinting.
§ 9799.40. Duties of Pennsylvania Commission on Sentencing.
§ 9799.41. Expiration.
§ 9799.42. Standing for Pennsylvania State Police.

Subchapter I. Continued Registration of Sexual Offenders

§ 9799.51. Legislative findings and declaration of policy.
§ 9799.52. Scope.
§ 9799.53. Definitions.
§ 9799.54. Applicability.
§ 9799.55. Registration.
§ 9799.56. Registration procedures and applicability.
§ 9799.57. Sentencing court information.
§ 9799.58. Assessments.
§ 9799.59. Exemption from certain notifications.
§ 9799.60. Verification of residence.
§ 9799.61. Victim notification.
§ 9799.62. Other notification.
§ 9799.63. Information made available on Internet and electronic notification.
§ 9799.64. Administration.
§ 9799.65. Global positioning system technology.
§ 9799.66. Immunity for good faith conduct.
§ 9799.67. Duties of Pennsylvania State Police.
§ 9799.68. Duties of Department of Corrections.
§ 9799.69. Board.
§ 9799.70. Counseling of sexually violent predators.
§ 9799.71. Exemption from notification for certain licensees and their employees.
§ 9799.72. Annual performance audit.
§ 9799.73. Photographs and fingerprinting.
§ 9799.74. Standing for Pennsylvania State Police.
§ 9799.75. Construction of subchapter.

Chapter 98. County Intermediate Punishment

§ 9801. Short title of chapter.

§ 9802. Definitions.
§ 9803. Purpose.
§ 9804. County intermediate punishment programs.
§ 9805. Boards.
§ 9806. County intermediate punishment plan.
§ 9807. Commission.
§ 9808. Funding and audits.
§ 9809. Prohibitions.
§ 9810. Continued eligibility.
§ 9811. Nonapplication of certain provisions.
§ 9812. Construction.
§ 9813. Work release or other court order and purposes.

Chapter 99. Other Criminal Provisions

Subchapter A. County Probation Officers

§ 9911. Definitions.
§ 9912. Supervisory relationship to offenders.
§ 9913. Peace officer power for probation officers.
§ 9914. Meetings.

TITLE 42
JUDICIARY AND JUDICIAL PROCEDURE

Part
I. Preliminary Provisions
II. Organization
III. Selection, Retention and Removal of Judicial Officers
IV. Financial Matters
V. Administration of Justice Generally
VI. Actions, Proceedings and Other Matters Generally
VII. Civil Actions and Proceedings
VIII. Criminal Proceedings

Enactment. Unless otherwise noted, the provisions of Title 42 were added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53. Act 142 also amended certain part headings and repealed former Chapter 83 which were added November 15, 1972, P.L.1063, No.271.

Special Provisions in Appendix. See Act 142 of 1976, Act 53 of 1978 and other statutory provisions in the appendix to this title for special provisions relating to pending proceedings, periods of limitation, existing judicial officers and bodies and financial matters, etc.

Short Title of Implementing Statutes. Section 28 of Act 142 of 1976 provided that Act 142 shall be known and may be cited as the Judiciary Act of 1976.

Section 1 of Act 53 of 1978 provided that Act 53 shall be known and may be cited as the Judiciary Act Repealer Act.

Section 101 of Act 142 of 1980 provided that Act 142 shall be known and may be cited as the JARA Continuation Act of 1980.

Section 101 of Act 326 of 1982 provided that Act 326 shall be known and may be cited as the JARA Continuation Act of 1982.

PART I
PRELIMINARY PROVISIONS

Chapter

1. General Provisions

Enactment. Part I was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

CHAPTER 1
GENERAL PROVISIONS

Sec.
101. Short title of title.
102. Definitions.
103. Principles of construction.

Enactment. Chapter 1 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

§ 101. Short title of title.

This title shall be known and may be cited as the "Judicial Code."

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Action." Any action at law or in equity.

"Administrative judge." The administrative judge of a division of a court, determined or selected as prescribed by general rule.

"Administrative Office." The office of the Court Administrator of Pennsylvania as specified in section 1902 (relating to Administrative Office of Pennsylvania Courts).

"Administrative staff." All individuals employed in the business of a court, including the personnel of the office of the clerk of the court of common pleas, but the term does not include judicial officers or their personal staff. The term includes the clerks or prothonotaries of the Supreme Court, the Superior Court and the Commonwealth Court and their staffs.

"Affidavit." Includes an unsworn document containing statements of fact and a statement by the signatory that it is made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

"Appeal." Any petition or other application to a court for review of subordinate governmental determinations. The term includes an application for certiorari under section 934 (relating to writs of certiorari) or under any other provision of law. Where required by the context, the term includes proceedings on petition for review.

"Appellate court." Includes the Supreme Court, the Superior Court and the Commonwealth Court.

"Appointive judicial officers." Arbitrators, auditors, commissioners to take oaths and depositions, custodians, examiners, guardians, masters, mental health review officers, receivers, referees, trustees, viewers and other like officers.

"Branch." As applied to a court of common pleas in a multicounty judicial district, an administrative unit composed of those members of the staff of the court from a particular county within the judicial district.

"Central staff." All individuals employed in the business of the unified judicial system, but the term does not include

magisterial district judges or their personal staff or personnel of the courts.

"Clerk." As applied to a court of common pleas or the Philadelphia Municipal Court, the personnel of the office of the clerk of the court of common pleas, and as applied to any other court, the administrative staff responsible for the receipt of documents transmitted to the court by litigants and the transmission of notice of orders entered by and process issued under the authority of the court.

"Clerk of the courts." The officer exercising the powers and performing the duties specified in Subchapter C of Chapter 27 (relating to clerks of the courts). The term includes the Clerk of Quarter Sessions of Philadelphia.

"Clerk of the orphans' court division." The officer exercising the powers and performing the duties specified in Subchapter D of Chapter 27 (relating to clerks of orphans' court divisions).

"Commonwealth agency." Any executive agency or independent agency.

"Commonwealth Court." The court existing under section 4 of Article V of the Constitution of Pennsylvania and Subchapter C of Chapter 5 (relating to Commonwealth Court of Pennsylvania).

"Commonwealth government." The government of the Commonwealth, including the courts and other officers or agencies of the unified judicial system, the General Assembly and its officers and agencies, the Governor, and the departments, boards, commissions, authorities and officers and agencies of the Commonwealth, but the term does not include any political subdivision, municipal or other local authority, or any officer or agency of any such political subdivision or local authority.

"Community court." A court existing in a judicial district under section 6(a) of Article V of the Constitution of Pennsylvania and Subchapter A of Chapter 11 (relating to community courts).

"County." Includes the City and County of Philadelphia.

"County staff." System and related personnel elected by the electorate of a county or subject to appointment and removal by officers, other than judicial officers, so elected. The term does not include judicial officers.

"Court." Includes any one or more of the judges of the court who are authorized by general rule or rule of court, or by law or usage, to exercise the powers of the court in the name of the court.

"Court Administrator of Pennsylvania." The court administrator appointed by the Supreme Court under section 10(b) of Article V of the Constitution of Pennsylvania and section 1901 (relating to Court Administrator of Pennsylvania).

"Court of common pleas." The court existing in each judicial district under section 5 of Article V of the Constitution of Pennsylvania and Chapter 9 (relating to organization and jurisdiction of courts of common pleas).

"Determination." Action or inaction by a government unit which action or inaction is subject to judicial review by a court under section 9 of Article V of the Constitution of Pennsylvania or otherwise. The term includes an order entered by a government unit.

"District justice." (Deleted by amendment).

"Division." An administrative unit composed of those judges of the court responsible for the transaction of a specified class of the business of the court. In a court having two or more divisions each division of the court is vested with the

full jurisdiction of the whole court, but the business of the court may be allocated among the divisions of the court by or pursuant to general rules.

"Executive agency." The Governor and the departments, boards, commissions, authorities and other officers and agencies of the Commonwealth government, but the term does not include any court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies, or any independent agency.

"General rule." A rule or order promulgated by the governing authority.

"Governing authority."

(1) The Supreme Court; or

(2) any agency or unit of the unified judicial system exercising a power or performing a duty pursuant to section 1721 (relating to delegation of powers).

"Government agency." Any Commonwealth agency or any political subdivision or municipal or other local authority, or any officer or agency of any such political subdivision or local authority.

"Government unit." The General Assembly and its officers and agencies, any government agency or any court or other officer or agency of the unified judicial system.

"Independent agency." Boards, commissions, authorities and other agencies and officers of the Commonwealth government which are not subject to the policy supervision and control of the Governor, but the term does not include any court or other officer or agency of the unified judicial system or the General Assembly and its officers and agencies. For purposes of jurisdiction of courts the term includes the Pennsylvania Deposit Insurance Corporation existing under the act of October 5, 1978 (P.L.1088, No.255), known as the "Pennsylvania Deposit Insurance Corporation Act."

"Indictable offense." An offense other than a summary offense.

"Issuing authority." Any judge or magisterial district judge of the minor judiciary, subject to the express limitations on jurisdiction specified in this title.

"Judge." Includes a justice of the Supreme Court. Except with respect to the power to select a president or administrative judge, to appoint and remove the administrative staff of the court and to adopt rules of court and other similar matters, the term includes a senior judge.

"Judicial and related account." The account required to be established upon the books of certain political subdivisions pursuant to section 3541 (relating to judicial and related account).

"Judicial branch." The judicial branch specified in section 10(c) of Article V of the Constitution of Pennsylvania.

"Judicial Department." A term utilized in appropriation statutes to distinguish judicial appropriations from other appropriations.

"Judicial district." A district established by section 901 (relating to judicial districts) for the election of one or more judges of a court of common pleas.

"Judicial officers." Judges, magisterial district judges and appointive judicial officers.

"Litigant." A party or any other person legally concerned with the results of a matter.

"Magisterial district." A district established within a judicial district pursuant to Subchapter A of Chapter 15

(relating to magisterial districts) for the election of a magisterial district judge.

"Magisterial district judge." A justice of the peace holding office under section 7(a) of Article V of the Constitution of Pennsylvania and Subchapter B of Chapter 15 (relating to magisterial district judges).

"Matter." Action, proceeding or appeal.

"Minor judiciary." The community courts, magisterial district judges and Pittsburgh Magistrates Court.

"Office of the clerk of the court of common pleas." A term employed in this title to refer generally to the administrative staff of the courts of common pleas and the Philadelphia Municipal Court responsible for the receipt of documents transmitted to the court by litigants and the transmission of notice of orders entered by and process issued under the authority of the court. The business of such staff shall be divided among the personnel of the offices of the prothonotary, the clerk of the courts and the clerk of the orphans' court division in the manner provided by or pursuant to Chapter 27 (relating to office of the clerk of the court of common pleas). Except as otherwise provided by statute, the term does not imply the unification of the administration, personnel or operations of any or all of such offices.

"Officer enforcing orders." Includes:

(1) A recorder of deeds when the order affects the ownership of an interest in property described or describable by a document which has been or may be filed or recorded in his office, or relates to the indexing of documents filed or recorded in his office.

(2) A register of wills.

(3) A sheriff.

"Order." Includes judgment, decision, decree, sentence and adjudication.

"Participant." Litigants, witnesses and their counsel.

"Party." A person who commences or against whom relief is sought in a matter. The term includes counsel for such a person who is represented by counsel.

"Personal staff." Private secretaries, law clerks and such other personnel as an individual may be authorized by law to select and remove subject to standards and classifications established by the governing authority.

"Personnel of the court." The judges and staff of the court.

"Personnel of the system." Judicial officers, personal staff, administrative staff and central staff.

"Philadelphia Municipal Court." The municipal court existing under section 6(c) of Article V of the Constitution of Pennsylvania and Subchapter B of Chapter 11 (relating to Philadelphia Municipal Court) so long as a community court has not been established or in the event one has been discontinued in the City and County of Philadelphia.

"Pittsburgh Magistrates Court." The court existing under Subchapter C of Chapter 11 (relating to Pittsburgh Magistrates Court).

"President judge." The president judge of a court determined or selected as provided or as prescribed by law.

"Proceeding." Includes every declaration, petition or other application which may be made to a court under law or usage or under special statutory authority, but the term does not include an action or an appeal.

"Process." A document evidencing a command of a court or of a magisterial district judge.

"Prothonotary." The officer exercising the powers and performing the duties specified in Subchapter B of Chapter 27 (relating to prothonotaries).

"Quasi-judicial order." An order of a government unit, made after notice and opportunity for hearing, which is by law reviewable solely upon the record made before the government unit, and not upon a record made in whole or in part before the reviewing court. This definition has no application to the definition of "tribunal."

"Related staff." All individuals employed at public expense who serve the unified judicial system, but the term does not include personnel of the system.

"Rule of court." A rule promulgated by a court regulating practice or procedure before the promulgating court.

"Section." An administrative unit of the administrative staff of the court composed of those persons responsible for the support of a class of the business of the court specified by law.

"Senior magisterial district judge." A former or retired magisterial district judge who retires or otherwise vacates office after January 1, 1970, who has served at least one complete six year elected term as a magisterial district judge, and who, with his consent, is assigned on temporary magisterial service pursuant to section 4122(b) (relating to assignment of senior magisterial district judges).

"Senior judge." A former or retired judge who shall not have been defeated for reelection and shall have served as a judge (whether or not continuously or on the same court) by election or appointment for an aggregate of at least ten years and any duly elected judge having an aggregate of six years of service as a judge who is required to retire at age 70 and who, with his consent, is assigned on temporary judicial service pursuant to section 4121(b) (relating to assignment of judges).

"Staff of the court." Appointive judicial officers, the administrative staff and personal staff of the court.

"State." When used in reference to the different parts of the United States, includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and other organized territories and possessions of the United States.

"State Law Library." The Law Library Bureau of the State Library of Pennsylvania.

"Superior Court." The court existing under section 3 of Article V of the Constitution of Pennsylvania and Subchapter B of Chapter 5 (relating to Superior Court of Pennsylvania).

"Supreme Court." The court existing under section 2 of Article V of the Constitution of Pennsylvania and Subchapter A of Chapter 5 (relating to Supreme Court of Pennsylvania).

"System." The unified judicial system.

"System and related personnel." Personnel of the system and related staff. The term includes district attorneys, public defenders, sheriffs and other officers serving process or enforcing orders, registers of wills, prothonotaries, clerks of the courts, clerks of the orphans' court division, coroners, jury commissioners, probation officials, and the personnel of all of the foregoing.

"Traffic Court of Philadelphia." Any of the following:

(1) The Traffic Division under section 1121(c) (relating to Philadelphia Municipal Court). This paragraph includes the predecessor of the Traffic Division.

(2) The Traffic Court of Philadelphia under section 1321(b) (relating to Traffic Court of Philadelphia). This

paragraph includes the predecessor of the Traffic Court of Philadelphia.

"Tribunal." A court, magisterial district judge or other judicial officer vested with the power to enter an order in a matter. The term includes a government unit, other than the General Assembly and its officers and agencies, when performing quasi-judicial functions.

"Unified judicial system." The unified judicial system existing under section 1 of Article V of the Constitution of Pennsylvania and section 301 (relating to unified judicial system).

"Verified." Includes an unsworn document containing a statement by the signatory that is made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; July 20, 1979, P.L.157, No.52, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Oct. 12, 1984, P.L.959, No.187, eff. 60 days; Nov. 29, 1990, P.L.574, No.147, eff. 60 days; July 9, 1992, P.L.689, No.102, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Aug. 11, 2009, P.L.147, No.33, eff. 60 days; June 19, 2013, P.L.55, No.17, eff. imd.)

2013 Amendment. Act 17 amended the defs. of "minor judiciary" and "Traffic Court of Philadelphia."

2009 Amendment. Act 33 amended the def. of "process."

2007 Effectuation of Repeal. The Legislative Reference Bureau effectuated the 1992 repeal.

2004 Amendment. Act 207 amended the defs. of "central staff," "issuing authority," "judicial officers," "magisterial district," "minor judiciary," "senior district justice" and "tribunal," added the def. of "magisterial district judge" and deleted the def. of "district justice." See sections 28 and 29 of Act 207 in the appendix to this title for special provisions relating to applicability and construction of law.

1992 Repeal. Act 102 repealed Act 147 of 1990, which added par. (4) of the def. of "officer enforcing orders." Section 1956 of Title 1 provides: "The repeal of an amendatory statute does not revive the corresponding provision or section of the original statute or of any prior amendment." The text of par. (4) of the def. of "officer enforcing orders" has not been changed to give effect to the repeal.

1991 Unconstitutionality. Act 147 of 1990 was declared unconstitutional by the Supreme Court. In re Act 147 of 1990, 528 Pa. 460, 598 A.2d 985 (1991).

1990 Amendment. Act 147 amended the def. of "officer enforcing orders."

1980 Amendment. Act 142 amended the defs. of "independent agency," "senior judge" and "system and related personnel."

1978 Amendment. Act 53 amended the def. of "appointive judicial officers" and added the defs. of "officer enforcing orders" and "senior district justice."

Effective Date. Section 29(2) of Act 142 of 1976 provided that section 102, insofar as applicable to section 1725 of this title, shall take effect January 1, 1977.

Cross References. Section 102 is referred to in section 4402 of this title; section 101 of Title 2 (Administrative Law and Procedure); section 6109 of Title 18 (Crimes and Offenses); section 102 of Title 20 (Decedents, Estates and Fiduciaries); sections 102, 5329.1 of Title 23 (Domestic Relations); section

4110 of Title 51 (Military Affairs); section 310 of Title 57 (Notaries Public); section 102 of Title 75 (Vehicles).

§ 103. Principles of construction.

(a) Necessary powers conferred.--The provisions of this title shall be construed so as to vest in the unified judicial system and in the personnel of the system power to do all things that are reasonably necessary for the proper execution and administration of their functions within the scope of their respective jurisdiction.

(b) No inference from express grant of powers.--The inclusion in this title of provisions derived from or based on the text of the Constitution of Pennsylvania and the specification in this title of the powers of the unified judicial system is for the avoidance of potential controversy and the convenient codification of the powers of the system from whatever source derived and shall not be construed as a determination by the General Assembly that any of such powers are or are not inherent in the Supreme Court or the other agencies and units of the system under the Constitution of Pennsylvania or otherwise.

PART II
ORGANIZATION

Subpart

A. Courts and Magisterial District Judges
B. Other Structural Provisions

Enactment. Part II was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBPART A
COURTS AND MAGISTERIAL DISTRICT JUDGES

Article

A. Preliminary Provisions
B. Appellate Courts
C. Courts of Common Pleas
D. Minor Courts
E. Magisterial District Judges
F. Court of Judicial Discipline

Subpart Heading. The heading of Subpart A was amended August 11, 2009, P.L.147, No.33, effective in 60 days.

ARTICLE A
PRELIMINARY PROVISIONS

Chapter

3. General Structure and Powers

CHAPTER 3
GENERAL STRUCTURE AND POWERS

Subchapter

A. Unified Judicial System
B. General Provisions Relating to Courts

Enactment. Chapter 3 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBCHAPTER A
UNIFIED JUDICIAL SYSTEM

Sec.
301. Unified judicial system.

§ 301. Unified judicial system.

The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of the:

(1) Supreme Court.
(2) Superior Court.
(3) Commonwealth Court.
(4) Courts of common pleas.
(5) Community courts.
(6) Philadelphia Municipal Court.
(7) Pittsburgh Magistrates Court.
(8) Traffic Court of Philadelphia.
(9) Magisterial district judges.

All courts and magisterial district judges and their jurisdiction shall be in this unified judicial system.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Cross References. Section 301 is referred to in section 102 of this title; section 3717 of Title 22 (Detectives and Private Police).

SUBCHAPTER B
GENERAL PROVISIONS RELATING TO COURTS

Sec.
321. Court of record.
322. Seal.
323. Powers.
324. Sessions and terms of court.
325. Chief Justice and president judges.
326. Quorum.
327. Oaths and acknowledgments.

§ 321. Court of record.

Except as otherwise provided in this subpart every court of this Commonwealth shall be a court of record with all the qualities and incidents of a court of record at common law.

§ 322. Seal.

Each court of this Commonwealth shall have a seal engraved with the name of the court and such other inscription as may be specified by general rule or rule of court. A facsimile or preprinted seal may be used for all purposes in lieu of the original seal.

§ 323. Powers.

Every court shall have power to issue, under its judicial seal, every lawful writ and process necessary or suitable for the exercise of its jurisdiction and for the enforcement of any order which it may make and all legal and equitable powers required for or incidental to the exercise of its jurisdiction,

and, except as otherwise prescribed by general rules, every court shall have power to make such rules and orders of court as the interest of justice or the business of the court may require.

§ 324. Sessions and terms of court.

Except as otherwise prescribed by general rule or rule of court each court shall be in session as often as its judges shall deem necessary or proper and there shall be no terms of court. Each court shall always be open for the transaction of judicial business and the court or any judge shall have the same power in vacation to issue injunctions, grant stays and enter other orders as they have while the court is in session. The continued existence or expiration of a session of a court in no way affects the power of a court to do any act or take any proceeding.

§ 325. Chief Justice and president judges.

(a) General rule.--The Chief Justice of Pennsylvania and the president judges of all courts with seven or less judges shall be the judge longest in continuous service on their respective courts. In the event of his resignation from this position the judge next longest in continuous service shall be the Chief Justice of Pennsylvania or the president judge. Should any two or more judges of the same court assume office at the same time, they shall cast lots forthwith for priority of commission, and certify the results to the Governor who shall issue their commissions accordingly.

(b) Courts of eight or more judges.--The president judges of all courts with eight or more judges shall be selected for five-year terms by the members of their respective courts. In the event of a tie vote for the office of president judge, the Supreme Court shall appoint as president judge one of the judges receiving the highest number of votes.

(c) Traffic Court of Philadelphia.--(Deleted by amendment).

(d) Resignation and temporary inability.--The Chief Justice of Pennsylvania or a president judge may resign such position and remain a member of the court.

(e) Powers of president judge.--Except as otherwise provided or prescribed by this title, by general rule or by order of the governing authority, the president judge of a court shall:

(1) Be the executive and administrative head of the court, supervise the judicial business of the court, promulgate all administrative rules and regulations, make all judicial assignments, and assign and reassign among the personnel of the court available chambers and other physical facilities.

(2) Exercise the powers of the court under section 2301(a)(2) (relating to appointment of personnel).

(June 19, 2013, P.L.55, No.17, eff. imd.)

2013 Amendment. Act 17 deleted subsec. (c).

§ 326. Quorum.

(a) Supreme Court.--A majority of the Supreme Court shall be a quorum of the court.

(b) Other courts.--The quorum requisite to hold a session of any other court shall be specified by general rule.

(c) Inability to assemble quorum.--Where by reason of vacancy, illness, disqualification or otherwise it is impossible to assemble a quorum of a court at the time and place appropriate therefor, sufficient judges shall be temporarily assigned to the court to permit the court to hold a duly convened session and transact the business of the court.

(d) Court en banc.--The composition of a court en banc shall be as specified by general rules.

§ 327. Oaths and acknowledgments.

(a) General ability.--Each judicial officer, each clerk of court, each retired or senior judge and such other personnel of the system and jurors as may be designated by or pursuant to general rules may administer oaths and affirmations and take acknowledgments. An acknowledgment may be taken by a member of the bar of the Supreme Court of Pennsylvania if the document is thereafter certified to an officer authorized to administer oaths. Certification by an attorney shall be in accordance with 57 Pa.C.S. Ch. 3 (relating to Revised Uniform Law on Notarial Acts) and shall include the attorney's Supreme Court identification number.

(b) Retired or senior judges.--A retired or senior judge may administer oaths and affirmations and take acknowledgments so long as all of the following criteria are met:

(1) The retired or senior judge has served as a magisterial district judge, judge or justice, whether or not continuously or on the same court, by election or appointment, for an aggregate period equaling a full term of office.

(2) The retired or senior judge has not been defeated for reelection or retention.

(3) The retired or senior judge has not been convicted of or pleaded nolo contendere to any misdemeanor or felony offense under the laws of this Commonwealth or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.

(4) The retired or senior judge has not resigned a judicial commission to avoid having charges filed or to avoid prosecution by Federal, State or local law enforcement agencies or by the Judicial Conduct Board.

(5) The retired or senior judge has not been removed from office by the Court of Judicial Discipline.

(6) The retired or senior judge is a resident of this Commonwealth.

(July 1, 1987, P.L.180, No.21, eff. imd.; June 30, 2012, P.L.666, No.79, eff. 60 days; Oct. 9, 2013, P.L.609, No.73)

2013 Amendment. Act 73 amended subsec. (a). Section 5(3) of Act 73 provided that section 327 shall take effect 180 days after publication of the notice under section 4 of Act 73.

Cross References. Section 327 is referred to in sections 2737, 2757, 2777 of this title; section 5601 of Title 20 (Decedents, Estates and Fiduciaries); section 316 of Title 57 (Notaries Public).

ARTICLE B
APPELLATE COURTS

Chapter

5. Organization of Appellate Courts
7. Jurisdiction of Appellate Courts

CHAPTER 5
ORGANIZATION OF APPELLATE COURTS

Subchapter

A. Supreme Court of Pennsylvania
B. Superior Court of Pennsylvania
C. Commonwealth Court of Pennsylvania

Enactment. Chapter 5 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBCHAPTER A
SUPREME COURT OF PENNSYLVANIA

Sec.

501. Supreme Court.
502. General powers of Supreme Court.
503. Reassignment of matters.
504. Seat of court.

Cross References. Subchapter A is referred to in section 102 of this title.

§ 501. Supreme Court.

The Supreme Court of Pennsylvania shall consist of the Chief Justice of Pennsylvania and six associate justices. The court shall be the highest court of this Commonwealth and in it shall be reposed the supreme judicial power of the Commonwealth.

§ 502. General powers of Supreme Court.

The Supreme Court shall have and exercise the powers vested in it by the Constitution of Pennsylvania, including the power generally to minister justice to all persons and to exercise the powers of the court, as fully and amply, to all intents and purposes, as the justices of the Court of King's Bench, Common Pleas and Exchequer, at Westminster, or any of them, could or might do on May 22, 1722. The Supreme Court shall also have and exercise the following powers:

(1) All powers necessary or appropriate in aid of its original and appellate jurisdiction which are agreeable to the usages and principles of law.

(2) The powers vested in it by statute, including the provisions of this title.

§ 503. Reassignment of matters.

(a) General rule.--The Supreme Court may by general rule provide for the assignment and reassignment of classes of matters among the several courts of this Commonwealth and the magisterial district judges as the needs of justice shall require and all laws shall be suspended to the extent that they are inconsistent with such general rules.

(b) Procedures.--

(1) Rules adopted pursuant to subsection (a) shall be reported to the General Assembly by the Chief Justice at or after the beginning of a regular session thereof, but not later than May 1.

(2) Upon receipt, such rules shall be proposed to each house of the General Assembly as a resolution or resolutions, shall be placed on the calendar of each house for the next legislative day following their receipt, and shall be considered by each house within 120 calendar days of continuous session by the General Assembly.

(3) Such rules shall take effect if they are approved by a majority vote of the duly elected members of each house during such 120-day period, or may be disapproved by either house during that period by a majority vote of the duly

elected membership of each house. The effective date of such rules shall be the date of approval of the last of the two houses to act.

(4) Upon the expiration of the 120-day period after the delivery of such rules to the two houses of the General Assembly and the failure to act as provided in paragraphs (2) and (3), such rules shall become effective.

(5) For the purposes of this subsection, continuity of session shall be considered as broken only by an adjournment of the General Assembly sine die; but in the computation of the 120-day period, there shall be excluded the days on which either house is not in session because of an adjournment of more than ten days to a day certain.

(6) Any such rules may, under provisions contained therein, be made operative at a time later than the date on which such rules would otherwise take effect.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Cross References. Section 503 is referred to in sections 701, 704, 931, 932, 933, 1105, 1123, 1143, 1302, 1515, 1702, 1722, 3724, 5502 of this title.

§ 504. Seat of court.

The regular sessions of the Supreme Court shall be held in the facility specified in section 3701 (relating to Pennsylvania Judicial Center) and elsewhere as prescribed by general rule.

SUBCHAPTER B
SUPERIOR COURT OF PENNSYLVANIA

Sec.

541. Superior Court.
542. Powers of Superior Court.
543. Seat of court.
544. Additional judges.

Cross References. Subchapter B is referred to in section 102 of this title.

§ 541. Superior Court.

The Superior Court of Pennsylvania shall consist of 15 judges.

(June 11, 1980, P.L.213, No.63, eff. imd.)

§ 542. Powers of Superior Court.

The Superior Court shall have all powers necessary or appropriate in aid of its jurisdiction which are agreeable to the usages and principles of law.

§ 543. Seat of court.

The regular sessions of the Superior Court shall be held at the cities of Harrisburg, Philadelphia and Pittsburgh and elsewhere as prescribed by general rule or rule of court.

§ 544. Additional judges.

(a) Constitution.--In order to increase the number of Superior Court judges so that the court shall hereafter be composed of 15 judges, pursuant to sections 3 and 13 of Article V of the Constitution of Pennsylvania, the appointment of eight additional judges to the court is hereby provided for. These additional judges shall possess the qualifications otherwise required by law for judges of the Superior Court and shall be initially appointed as provided in this section.

(b) Initial appointments.--The Governor, with the advice and consent of two-thirds of the members elected to the Senate, shall appoint eight additional judges for initial terms as follows:

(1) Two judges shall be appointed for terms ending the first Monday of January next following the third municipal election more than ten months after the additional judges are selected. These appointees shall be of different political parties.

(2) Two judges shall be appointed for terms ending the first Monday of January next following the second municipal election more than ten months after the additional judges are selected. These appointees shall be of different political parties.

(3) Four judges shall be appointed for terms ending the first Monday of January next following the first municipal election more than ten months after the additional judges are selected. Of these appointees, no more than two shall be of the same political party.

(c) Vacancies.--Vacancies caused by the death, retirement, resignation or removal of a judge appointed under this section shall be filled in the manner and for the term prescribed by section 13 of Article V of the Constitution of Pennsylvania.

(d) Retention declarations.--No judge appointed pursuant to this section shall, prior to the expiration of his appointive term, file a declaration of candidacy for retention, as provided in section 15 of Article V of the Constitution of Pennsylvania.

(e) Elections.--Elections for judges of the court shall be held at the times and in the manner prescribed by section 13 of Article V of the Constitution of Pennsylvania and, to the extent not inconsistent therewith, pursuant to the election laws of this Commonwealth applicable to the election of judges of the Superior Court.

(f) Terms of judges.--Except as provided in this section for the initial appointive terms for additional judges of the Superior Court, the terms of office of judges of the Superior Court shall be as otherwise provided by law.

(June 11, 1980, P.L.213, No.63, eff. imd.)

1980 Amendment. Act 63 added section 544.

SUBCHAPTER C
COMMONWEALTH COURT OF PENNSYLVANIA

Sec.

561. Commonwealth Court.
562. Powers of Commonwealth Court.
563. Seat of court.
564. Evidentiary hearings.

Cross References. Subchapter C is referred to in section 102 of this title.

§ 561. Commonwealth Court.

The Commonwealth Court of Pennsylvania shall consist of nine judges.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

§ 562. Powers of Commonwealth Court.

The Commonwealth Court shall have power to issue, under its judicial seal, every lawful writ and process necessary or suitable for the exercise of its jurisdiction and for the enforcement of any order which it may make, including such writs

and process to or to be served or enforced by system and related personnel as the courts of common pleas are authorized by law or usage to issue. The court shall also have all powers of a court of record possessed by the courts of common pleas and all powers necessary or appropriate in aid of its appellate jurisdiction which are agreeable to the usages and principles of law.

§ 563. Seat of court.

(a) Regular sessions.--The regular sessions of the Commonwealth Court shall be held at the seat of government and elsewhere as provided in subsection (b). Each judge shall be provided with suitable chambers and other facilities at the seat of government. The intention of this provision is to render the court and the judges thereof as available, except as provided in subsection (b) or as otherwise provided in this title, at the seat of government for the conduct of routine and emergency judicial business as would be the case if the jurisdiction of the court were exercised by the Court of Common Pleas of Dauphin County.

(b) Other sessions.--Within the limits of available appropriations, special sessions of the court may be held from time to time for the convenience of parties or witnesses, or both, in the interest of justice, in such judicial districts of this Commonwealth as make available without cost to the Commonwealth suitable courtroom and related physical facilities. The court shall also sit in the cities of Philadelphia and Pittsburgh.

§ 564. Evidentiary hearings.

In any matter which requires the taking of testimony, the President Judge of the Commonwealth Court may assign a judge of the court, or another judge temporarily assigned to the court pursuant to section 4121 (relating to assignment of judges), to sit and receive the evidence, and perform such other duties as may be prescribed by rule or order of court.

CHAPTER 7
JURISDICTION OF APPELLATE COURTS

Subchapter

A. General Provisions
B. Jurisdiction of Supreme Court
C. Jurisdiction of Superior Court
D. Jurisdiction of Commonwealth Court

Enactment. Chapter 7 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

701. Scope of subchapter.
702. Interlocutory orders.
702.1. Expedited appeals in eminent domain proceedings.
703. Place and form of filing appeals.
704. Waiver of objections to jurisdiction.
705. Transfers between intermediate appellate courts.
706. Disposition of appeals.
707. Lien of judgments for money.

708. Improvident administrative appeals and other matters.

§ 701. Scope of subchapter.

(a) General rule.--The provisions of this subchapter shall apply to all courts of this Commonwealth, including the courts of common pleas when sitting as appellate courts.

(b) Reassignment of matters.--Any of the provisions of Subchapter B (relating to jurisdiction of Supreme Court), Subchapter C (relating to jurisdiction of Superior Court) and Subchapter D (relating to jurisdiction of Commonwealth Court) shall be subject to and superseded by any inconsistent provisions of any general rule adopted pursuant to section 503 (relating to reassignment of matters).

§ 702. Interlocutory orders.

(a) Appeals authorized by law.--An appeal authorized by law from an interlocutory order in a matter shall be taken to the appellate court having jurisdiction of final orders in such matter.

(b) Interlocutory appeals by permission.--When a court or other government unit, in making an interlocutory order in a matter in which its final order would be within the jurisdiction of an appellate court, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the matter, it shall so state in such order. The appellate court may thereupon, in its discretion, permit an appeal to be taken from such interlocutory order.

(c) Supersedeas.--Except as otherwise prescribed by general rules, a petition for permission to appeal under this section shall not stay the proceedings before the lower court or other government unit, unless the lower court or other government unit or the appellate court or a judge thereof shall so order.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsecs. (b) and (c).

Cross References. Section 702 is referred to in sections 704, 5105, 5574 of this title.

§ 702.1. Expedited appeals in eminent domain proceedings.

When a court in an eminent domain proceeding rules on preliminary objections to a declaration of taking and is of the opinion that the matters involved are of immediate public importance, it shall, upon request of a party, so state in the order. If an appeal is taken from that order, the appellate court shall give priority to the determination of the issues raised by the appeal.
(May 4, 2006, P.L.112, No.34, eff. 120 days)

2006 Amendment. Act 34 added section 702.1. Section 6(1) of Act 34 provided that, except as provided in par. (2), Act 34 shall apply to all condemnations effected on or after the effective date of section 6.

§ 703. Place and form of filing appeals.

Appeals, petitions for review, petitions for permission to appeal and petitions for allowance of appeal shall be filed in such office and in such form as may be prescribed by general rule.

§ 704. Waiver of objections to jurisdiction.

(a) General rule.--The failure of an appellee to file an objection to the jurisdiction of an appellate court within such time as may be specified by general rule, shall, unless the appellate court otherwise orders, operate to perfect the appellate jurisdiction of such appellate court, notwithstanding

any provision of this title, or of any general rule adopted pursuant to section 503 (relating to reassignment of matters), vesting jurisdiction of such appeal in another appellate court.

(b) Exception.--Subsection (a) shall not apply to any defect in the jurisdiction of an appellate court which arises out of:

(1) The failure to effect a filing within the time provided or prescribed by law.

(2) An attempt to take an appeal from an interlocutory order which has not been made appealable by law or pursuant to section 702(b) (relating to interlocutory appeals by permission).

§ 705. Transfers between intermediate appellate courts.

The Superior Court and the Commonwealth Court shall have power pursuant to general rules, on their own motion or upon petition of any party, to transfer any appeal to the other court for consideration and decision with any matter pending in such other court involving the same or related questions of fact, law or discretion.

§ 706. Disposition of appeals.

An appellate court may affirm, modify, vacate, set aside or reverse any order brought before it for review, and may remand the matter and direct the entry of such appropriate order, or require such further proceedings to be had as may be just under the circumstances.

Cross References. Section 706 is referred to in sections 704, 754 of Title 2 (Administrative Law and Procedure); section 1711.1 of Title 62 (Procurement).

§ 707. Lien of judgments for money.

Any judgment or other order of the Supreme Court, the Superior Court or the Commonwealth Court for the payment of money shall not be a lien upon real property in any county until it is entered of record in the office of the clerk of the court of common pleas of the county where the property is situated, or in the office of the clerk of the branch of the court of common pleas embracing such county, in the same manner as a judgment transferred from the court of common pleas of another county.

§ 708. Improvident administrative appeals and other matters.

(a) General rule.--No objection to a governmental determination shall be defeated by reason of error in the form of the objection or the office of clerk of court in which the objection is filed.

(b) Appeals.--If an appeal is improvidently taken to a court under any provision of law from the determination of a government unit where the proper mode of relief is an action in the nature of equity, mandamus, prohibition, quo warranto or otherwise, this alone shall not be a ground for dismissal, but the papers whereon the appeal was taken shall be regarded and acted on as a complaint or other proper process commenced against the government unit or the persons for the time being conducting its affairs and as if filed at the time the appeal was taken.

(c) Other matters.--If a complaint in the nature of equity, mandamus, prohibition, quo warranto or other original process is commenced in any court against a government unit or one or more of the persons for the time being conducting its affairs, as such, objecting to a governmental determination by any of them, where the proper mode of relief is an appeal from the determination of the government unit, this alone shall not be a ground for dismissal, but the papers whereon the process against the government unit or any of such persons was commenced

shall be regarded and acted on as an appeal from such determination of the government unit and as if filed at the time such process was commenced.

(d) Place of filing.--Section 5103 (relating to transfer of erroneously filed matters) shall also be applicable to an appeal or other matter which is deemed to be filed or commenced under any provision of this section.

(e) Single form of action.--Where pursuant to general rules review of a determination of a government unit may be had by a petition for review or another single form of action embracing the appeal and actions in the nature of equity, mandamus, prohibition, quo warranto or otherwise, the jurisdiction of the appellate court shall not be limited by the provisions of 1 Pa.C.S. § 1504 (relating to statutory remedy preferred over common law), but such provisions to the extent applicable shall limit the relief available.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 added subsec. (e).

Cross References. Section 708 is referred to in section 1722 of this title.

SUBCHAPTER B
JURISDICTION OF SUPREME COURT

Sec.

721. Original jurisdiction.
722. Direct appeals from courts of common pleas.
723. Appeals from Commonwealth Court.
724. Allowance of appeals from Superior and Commonwealth Courts.
725. Direct appeals from constitutional and judicial agencies.
726. Extraordinary jurisdiction.
727. Special tribunal.

Cross References. Subchapter B is referred to in section 701 of this title.

§ 721. Original jurisdiction.

The Supreme Court shall have original but not exclusive jurisdiction of all cases of:

(1) Habeas corpus.

(2) Mandamus or prohibition to courts of inferior jurisdiction.

(3) Quo warranto as to any officer of Statewide jurisdiction.

Cross References. Section 721 is referred to in section 761 of this title.

§ 722. Direct appeals from courts of common pleas.

The Supreme Court shall have exclusive jurisdiction of appeals from final orders of the courts of common pleas in the following classes of cases:

(1) Matters prescribed by general rule.

(2) The right to public office.

(3) Matters where the qualifications, tenure or right to serve, or the manner of service, of any member of the judiciary is drawn in question.

(4) Automatic review of sentences as provided by 42 Pa.C.S. §§ 9546(d) (relating to relief and order) and 9711(h) (relating to review of death sentence).

(5) Supersession of a district attorney by an Attorney General or by a court or where the matter relates to the convening, supervision, administration, operation or discharge of an investigating grand jury or otherwise directly affects such a grand jury or any investigation conducted by it.

(6) Matters where the right or power of the Commonwealth or any political subdivision to create or issue indebtedness is drawn in direct question.

(7) Matters where the court of common pleas has held invalid as repugnant to the Constitution, treaties or laws of the United States, or to the Constitution of this Commonwealth, any treaty or law of the United States or any provision of the Constitution of, or of any statute of, this Commonwealth, or any provision of any home rule charter.

(8) Matters where the right to practice law is drawn in direct question.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Sept. 23, 1980, P.L.686, No.137, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Apr. 13, 1988, P.L.336, No.47, eff. imd.)

1988 Amendment. Act 47 amended par. (4). Section 6 of Act 47 provided that par. (4) shall apply to all actions for collateral relief, whether statutory or common law, instituted on or after the effective date of Act 47, irrespective of the date of conviction or sentence.

1980 Amendment. Act 142 amended par. (5).

Cross References. Section 722 is referred to in section 762 of this title.

§ 723. Appeals from Commonwealth Court.

(a) General rule.--The Supreme Court shall have exclusive jurisdiction of appeals from final orders of the Commonwealth Court entered in any matter which was originally commenced in the Commonwealth Court except an order entered in a matter which constitutes an appeal to the Commonwealth Court from another court, a magisterial district judge or another government unit.

(b) Board of Finance and Revenue matters.--Any final order of the Commonwealth Court entered in any appeal from a decision of the Board of Finance and Revenue shall be appealable to the Supreme Court, as of right, under this section.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Cross References. Section 723 is referred to in sections 724, 763, 5105 of this title.

§ 724. Allowance of appeals from Superior and Commonwealth Courts.

(a) General rule.--Except as provided by section 9781(f) (relating to limitation on additional appellate review), final orders of the Superior Court and final orders of the Commonwealth Court not appealable under section 723 (relating to appeals from Commonwealth Court) may be reviewed by the Supreme Court upon allowance of appeal by any two justices of the Supreme Court upon petition of any party to the matter. If the petition shall be granted, the Supreme Court shall have jurisdiction to review the order in the manner provided by section 5105(d)(1) (relating to scope of appeal).

(b) Improvident appeals.--If an appeal is improvidently taken to the Supreme Court under section 723 in a case where the proper mode of review is by petition for allowance of appeal under this section, this alone shall not be a ground for dismissal, but the papers whereon the appeal was taken shall be regarded and acted on as a petition for allowance of appeal and as if duly filed at the time the appeal was taken.
(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

1980 Amendment. Act 142 amended subsec. (a).

§ 725. Direct appeals from constitutional and judicial agencies.

The Supreme Court shall have exclusive jurisdiction of appeals from final orders of the following constitutional and judicial agencies:

(1) Legislative Reapportionment Commission.

(2) Court of Judicial Discipline, except matters within the exclusive jurisdiction of a special tribunal as established under section 18(c)(1) of Article V of the Constitution of Pennsylvania.

(3) The agency vested with the power to determine whether those members of the minor judiciary required to do so have completed a course of training and instruction in the duties of their respective offices and passed an examination.

(4) The agency vested with the power to admit or recommend the admission of persons to the bar and the practice of law.

(5) The agency vested with the power to discipline or recommend the discipline of attorneys at law.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; July 2, 1993, P.L.395, No.56, eff. Aug. 16, 1993)

1993 Amendment. Act 56 amended par. (2).

1978 Amendment. Act 53 amended pars. (4) and (5).

Cross References. Section 725 is referred to in section 763 of this title.

§ 726. Extraordinary jurisdiction.

Notwithstanding any other provision of law, the Supreme Court may, on its own motion or upon petition of any party, in any matter pending before any court or magisterial district judge of this Commonwealth involving an issue of immediate public importance, assume plenary jurisdiction of such matter at any stage thereof and enter a final order or otherwise cause right and justice to be done.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Saved from Suspension. Pennsylvania Rule of Civil Procedure for District Justices No. 1082, as amended April 25, 1979, provided that section 726 shall not be deemed suspended or affected. Rules 1001 through 1082 relate to appellate proceedings with respect to judgments and other decisions of district justices in civil matters. Act 207 of 2004 changed justices of the peace to magisterial district judges. Rule 1082 can now be found in the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.

§ 727. Special tribunal.

(a) General rule.--A justice seeking review of a decision of the Court of Judicial Discipline pursuant to section 18 of

Article V of the Constitution of Pennsylvania shall so notify the Court of Judicial Discipline.

(b) Establishment.--Upon receipt of notice under subsection (a), the Court of Judicial Discipline shall notify the Secretary of the Commonwealth who shall set a date within 20 days for the selection of the special tribunal as set forth in section 18 of Article V of the Constitution of Pennsylvania. At the time and place fixed, the Secretary of the Commonwealth, in a manner consistent with any applicable general rules, shall publicly select by lot seven names from the members of the Superior Court and the Commonwealth Court in regular active duty, except judges then serving on the Court of Judicial Discipline or the Judicial Conduct Board.

(c) Vacancies.--A vacancy on the special tribunal shall be filled for the unexpired term in the manner provided under subsection (b).

(d) Powers and duties.--The special tribunal shall review the decision of the Court of Judicial Discipline as provided in section 18 of Article V of the Constitution of Pennsylvania. There shall be no right of appeal or other form of review from the special tribunal.

(July 2, 1993, P.L.395, No.56, eff. Aug. 16, 1993)

1993 Amendment. Act 56 added section 727.

Suspension by Court Rule. Section 727 was suspended by Rule No. 7 of Pennsylvania Rules Governing Appeals from the Court of Judicial Discipline, adopted May 24, 1994, insofar as it is inconsistent with Rules 1 through 11.

SUBCHAPTER C
JURISDICTION OF SUPERIOR COURT

Sec.

741. Original jurisdiction.
742. Appeals from courts of common pleas.
743. Commerce court program.

Cross References. Subchapter C is referred to in section 701 of this title.

§ 741. Original jurisdiction.

The Superior Court shall have no original jurisdiction, except in cases of mandamus and prohibition to courts of inferior jurisdiction where such relief is ancillary to matters within its appellate jurisdiction, and except that it, or any judge thereof, shall have full power and authority when and as often as there may be occasion, to issue writs of habeas corpus under like conditions returnable to the said court.

§ 742. Appeals from courts of common pleas.

The Superior Court shall have exclusive appellate jurisdiction of all appeals from final orders of the courts of common pleas, regardless of the nature of the controversy or the amount involved, except such classes of appeals as are by any provision of this chapter within the exclusive jurisdiction of the Supreme Court or the Commonwealth Court.

§ 743. Commerce court program.

(a) Appeals.--The Superior Court may establish from available funds a commerce court program that shall have specialized jurisdiction. In a commerce court program established under this section, the specialized jurisdiction of appeals relating to the following matters may be vested in the program:

(1) The internal affairs, governance, dissolution, liquidation, rights or obligations between or among owners and liability or indemnity of managers of business corporations, partnerships, limited partnerships, limited liability partnerships, professional associations, business trusts, joint ventures or other business enterprises, including any actions involving the interpretation of the rights or obligations under the organic law, articles of incorporation, bylaws or agreements governing these enterprises.

(2) Disputes between or among two or more business enterprises relating to a transaction, business relationship or contract.

(b) Rules.--The court may adopt rules for the administration of the program established under this section. The rules may not be inconsistent with this section or any rule established by the Supreme Court.

(c) Jurisdiction.--Nothing under this section shall be construed to affect the jurisdiction of an appellate court as provided by law other than this section.

(Nov. 3, 2020, P.L.1090, No.111, eff. 60 days)

2020 Amendment. Act 111 added section 743.

SUBCHAPTER D
JURISDICTION OF COMMONWEALTH COURT

Sec.

761. Original jurisdiction.
762. Appeals from courts of common pleas.
763. Direct appeals from government agencies.
764. Election contests and other matters.

Cross References. Subchapter D is referred to in section 701 of this title.

§ 761. Original jurisdiction.

(a) General rule.--The Commonwealth Court shall have original jurisdiction of all civil actions or proceedings:

(1) Against the Commonwealth government, including any officer thereof, acting in his official capacity, except:

(i) actions or proceedings in the nature of applications for a writ of habeas corpus or post-conviction relief not ancillary to proceedings within the appellate jurisdiction of the court;

(ii) eminent domain proceedings;

(iii) actions or proceedings conducted pursuant to Chapter 85 (relating to matters affecting government units);

(iv) actions or proceedings conducted pursuant to the act of May 20, 1937 (P.L.728, No.193), referred to as the Board of Claims Act; and

(v) actions or proceedings in the nature of trespass as to which the Commonwealth government formerly enjoyed sovereign or other immunity and actions or proceedings in the nature of assumpsit relating to such actions or proceedings in the nature of trespass.

(2) By the Commonwealth government, including any officer thereof, acting in his official capacity, except eminent domain proceedings.

(3) Arising under Article V of the act of May 17, 1921 (P.L.789, No.285), known as "The Insurance Department Act of 1921."

(4) Original jurisdiction of which is vested in the Commonwealth Court by any statute hereafter enacted.

(b) Concurrent and exclusive jurisdiction.--The jurisdiction of the Commonwealth Court under subsection (a) shall be exclusive except as provided in section 721 (relating to original jurisdiction) and except with respect to actions or proceedings by the Commonwealth government, including any officer thereof, acting in his official capacity, where the jurisdiction of the court shall be concurrent with the several courts of common pleas.

(c) Ancillary matters.--The Commonwealth Court shall have original jurisdiction in cases of mandamus and prohibition to courts of inferior jurisdiction and other government units where such relief is ancillary to matters within its appellate jurisdiction, and it, or any judge thereof, shall have full power and authority when and as often as there may be occasion, to issue writs of habeas corpus under like conditions returnable to the said court. To the extent prescribed by general rule the Commonwealth Court shall have ancillary jurisdiction over any claim or other matter which is related to a claim or other matter otherwise within its exclusive original jurisdiction. (Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Sept. 28, 1978, P.L.788, No.152, eff. imd.; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 5, 1980, P.L.1104, No.189, eff. imd.; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

1982 Amendment. Act 326 amended subsec. (a).

1980 Amendments. Act 142 amended subsec. (a), repealed subsec. (c) and relettered subsec. (d) to (c) and Act 189 amended subsec. (a)(1), retroactive to June 27, 1978.

1978 Amendments. Act 53 amended subsecs. (a) and (b) and Act 152 amended subsecs. (a) and (c).

Transfer of Records. Section 6 of Act 189 of 1980 provided that the Prothonotary of the Commonwealth Court shall, except as otherwise ordered by the court in the interest of justice, transfer to the appropriate office of the clerk of the court of common pleas all dockets, records, pleadings and other papers, or certified copies thereof, relating to all pending matters jurisdiction of which is vested in another tribunal by reason of 42 Pa.C.S. § 761(a)(1)(iv) or 933(a)(1)(v) as added or amended by Act 189.

References in Text. The act of May 20, 1937, P.L.728, No.193, referred to as the Board of Claims Act, referred to in subsec. (a)(1)(iv), was repealed by the act of December 3, 2002, P.L.1147, No.142. The subject matter is now contained in Subchapter C of Chapter 17 of Title 62 (Procurement).

Cross References. Section 761 is referred to in section 762 of this title; section 323 of Title 57 (Notaries Public).

§ 762. Appeals from courts of common pleas.

(a) General rule.--Except as provided in subsection (b), the Commonwealth Court shall have exclusive jurisdiction of appeals from final orders of the courts of common pleas in the following cases:

(1) Commonwealth civil cases.--All civil actions or proceedings:

(i) Original jurisdiction of which is vested in another tribunal by virtue of any of the exceptions to section 761(a)(1) (relating to original jurisdiction), except actions or proceedings in the nature of

applications for a writ of habeas corpus or post-conviction relief not ancillary to proceedings within the appellate jurisdiction of the court.

(ii) By the Commonwealth government, including any officer thereof acting in his official capacity.

(2) Governmental and Commonwealth regulatory criminal cases.--All criminal actions or proceedings for the violation of any:

(i) Rule, regulation or order of any Commonwealth agency.

(ii) Regulatory statute administered by any Commonwealth agency subject to Subchapter A of Chapter 5 of Title 2 (relating to practice and procedure of Commonwealth agencies). The term "regulatory statute" as used in this subparagraph does not include any provision of Title 18 (relating to crimes and offenses).

(3) Secondary review of certain appeals from Commonwealth agencies.--All appeals from Commonwealth agencies which may be taken initially to the courts of common pleas under section 933 (relating to appeals from government agencies).

(4) Local government civil and criminal matters.--

(i) All actions or proceedings arising under any municipality, institution district, public school, planning or zoning code or under which a municipality or other political subdivision or municipality authority may be formed or incorporated or where is drawn in question the application, interpretation or enforcement of any:

(A) statute regulating the affairs of political subdivisions, municipality and other local authorities or other public corporations or of the officers, employees or agents thereof, acting in their official capacity;

(B) home rule charter or local ordinance or resolution; or

(C) statute relating to elections, campaign financing or other election procedures.

(ii) All appeals from government agencies other than Commonwealth agencies decided under section 933 or otherwise.

(5) Certain private corporation matters.--

(i) All actions or proceedings relating to corporations not-for-profit arising under Title 15 (relating to corporations and unincorporated associations) or where is drawn in question the application, interpretation or enforcement of any provision of the Constitution, treaties or laws of the United States, or the Constitution of Pennsylvania or any statute, regulating in any such case the corporate affairs of any corporation not-for-profit subject to Title 15 or the affairs of the members, security holders, directors, officers, employees or agents thereof, as such.

(ii) All actions or proceedings otherwise involving the corporate affairs of any corporation not-for-profit subject to Title 15 or the affairs of the members, security holders, directors, officers, or employees or agents thereof, as such.

(6) Eminent domain.--All eminent domain proceedings or where is drawn in question the power or right of the

acquiring agency to appropriate the condemned property or to use it for the purpose condemned or otherwise.

(7) **Immunity waiver matters.**--Matters conducted pursuant to Subchapter C of Chapter 85 (relating to actions against local parties).

(b) Exception.--The Commonwealth Court shall not have jurisdiction of such classes of appeals from courts of common pleas as are by section 722 (relating to direct appeals from courts of common pleas) within the exclusive jurisdiction of the Supreme Court.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Sept. 28, 1978, P.L.788, No.152, eff. imd.; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 5, 1980, P.L.1104, No.189, eff. imd.; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

1982 Amendment. Act 326 amended subsec. (a), retroactive to December 5, 1980, as to subsec. (a)(1)(ii).

Cross References. Section 762 is referred to in section 933 of this title.

§ 763. Direct appeals from government agencies.

(a) General rule.--Except as provided in subsection (c), the Commonwealth Court shall have exclusive jurisdiction of appeals from final orders of government agencies in the following cases:

(1) All appeals from Commonwealth agencies under Subchapter A of Chapter 7 of Title 2 (relating to judicial review of Commonwealth agency action) or otherwise and including appeals from the Board of Claims, the Environmental Hearing Board, the Pennsylvania Public Utility Commission, the Unemployment Compensation Board of Review and from any other Commonwealth agency having Statewide jurisdiction.

(2) All appeals jurisdiction of which is vested in the Commonwealth Court by any statute hereafter enacted.

(b) Awards of arbitrators.--The Commonwealth Court shall have exclusive jurisdiction of all petitions for review of an award of arbitrators appointed in conformity with statute to arbitrate a dispute between the Commonwealth and an employee of the Commonwealth. The petition for review shall be deemed an appeal from a government unit for the purposes of section 723 (relating to appeals from Commonwealth Court) and Chapter 55 (relating to limitation of time).

(c) Exceptions.--The Commonwealth Court shall not have jurisdiction of such classes of appeals from government agencies as are:

(1) By section 725 (relating to direct appeals from constitutional and judicial agencies) within the exclusive jurisdiction of the Supreme Court.

(2) By section 933 (relating to appeals from government agencies) within the exclusive jurisdiction of the courts of common pleas.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; May 15, 1998, P.L.358, No.57, eff. 180 days)

1998 Amendment. Act 57 amended subsec. (a).

Cross References. Section 763 is referred to in section 1204 of Title 4 (Amusements); section 8533.1 of Title 24 (Education); section 8157 of Title 35 (Health and Safety); section 2309 of Title 58 (Oil and Gas); sections 531, 1725 of Title 62 (Procurement); section 5953.1 of Title 71 (State Government); sections 1553, 1554, 1556 of Title 75 (Vehicles).

§ 764. Election contests and other matters.

The Commonwealth Court shall have exclusive original jurisdiction of:

(1) Contested nominations and elections of the second class under the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code."

(2) All matters arising in the Office of the Secretary of the Commonwealth relating to Statewide office, except nomination and election contests within the jurisdiction of another tribunal.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 added section 764.

ARTICLE C
COURTS OF COMMON PLEAS

Chapter

9. Organization and Jurisdiction of Courts of Common Pleas

CHAPTER 9
ORGANIZATION AND JURISDICTION OF
COURTS OF COMMON PLEAS

Subchapter

A. Judicial Districts
B. Organization of Courts of Common Pleas
C. Jurisdiction of Courts of Common Pleas
D. Court Divisions
E. Sections of the Staff of the Court

Enactment. Chapter 9 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Cross References. Chapter 9 is referred to in section 102 of this title.

SUBCHAPTER A
JUDICIAL DISTRICTS

Sec.

901. Judicial districts.

§ 901. Judicial districts.

(a) General rule.--The Commonwealth is divided into 60 judicial districts, numbered and composed as follows:

First.--City and County of Philadelphia.
Second.--County of Lancaster.
Third.--County of Northampton.
Fourth.--County of Tioga.
Fifth.--County of Allegheny.
Sixth.--County of Erie.
Seventh.--County of Bucks.
Eighth.--County of Northumberland.
Ninth.--County of Cumberland.
Tenth.--County of Westmoreland.
Eleventh.--County of Luzerne.
Twelfth.--County of Dauphin.
Thirteenth.--County of Greene.
Fourteenth.--County of Fayette.
Fifteenth.--County of Chester.

Sixteenth.--County of Somerset.
Seventeenth.--Counties of Snyder and Union.
Eighteenth.--County of Clarion.
Nineteenth.--County of York.
Twentieth.--County of Huntingdon.
Twenty-first.--County of Schuylkill.
Twenty-second.--County of Wayne.
Twenty-third.--County of Berks.
Twenty-fourth.--County of Blair.
Twenty-fifth.--County of Clinton.
Twenty-sixth.--Counties of Columbia and Montour.
Twenty-seventh.--County of Washington.
Twenty-eighth.--County of Venango.
Twenty-ninth.--County of Lycoming.
Thirtieth.--County of Crawford.
Thirty-first.--County of Lehigh.
Thirty-second.--County of Delaware.
Thirty-third.--County of Armstrong.
Thirty-fourth.--County of Susquehanna.
Thirty-fifth.--County of Mercer.
Thirty-sixth.--County of Beaver.
Thirty-seventh.--Counties of Forest and Warren.
Thirty-eighth.--County of Montgomery.
Thirty-ninth.--Counties of Franklin and Fulton.
Fortieth.--County of Indiana.
Forty-first.--Counties of Juniata and Perry.
Forty-second.--County of Bradford.
Forty-third.--County of Monroe.
Forty-fourth.--Counties of Sullivan and Wyoming.
Forty-fifth.--County of Lackawanna.
Forty-sixth.--County of Clearfield.
Forty-seventh.--County of Cambria.
Forty-eighth.--County of McKean.
Forty-ninth.--County of Centre.
Fiftieth.--County of Butler.
Fifty-first.--County of Adams.
Fifty-second.--County of Lebanon.
Fifty-third.--County of Lawrence.
Fifty-fourth.--County of Jefferson.
Fifty-fifth.--County of Potter.
Fifty-sixth.--County of Carbon.
Fifty-seventh.--County of Bedford.
Fifty-eighth.--County of Mifflin.
Fifty-ninth.--Counties of Cameron and Elk.
Sixtieth.--County of Pike.

(b) Change in number or boundaries.--Except as otherwise provided therein, any statute amending subsection (a) so as to change the number or boundaries of the judicial districts of this Commonwealth shall take effect 30 days after the entry of an order of the Supreme Court evidencing the advice and consent of the court to the amendment pursuant to section 11 of Article V of the Constitution of Pennsylvania.
(Apr. 8, 1982, P.L.292, No.82)

1982 Amendment. Section 2 of Act 82 provided that Act 82 shall take effect 30 days after the advice and consent of the Supreme Court of Pennsylvania is given by order of the court pursuant to section 11 of Article V of the Constitution of Pennsylvania. The consent of the Supreme Court was given by order of June 30, 1982, published at 12 Pa.B. 2264. Section 901 was amended by adding a 60th Judicial District composed of the County of Pike and removing that county from the 43rd Judicial

District, and section 911 was amended by adding a judge to the 60th Judicial District and removing a judge from the 43rd Judicial District.

Cross References. Section 901 is referred to in section 102 of this title.

SUBCHAPTER B
ORGANIZATION OF COURTS OF COMMON PLEAS

Sec.

911. Courts of common pleas.
912. Powers of courts of common pleas.
913. Seats of courts.
914. Reimbursement for common pleas court costs.
915. Proportional reduction.
916. Problem-solving courts.
916.1. Commerce courts.
917. Housing courts.

§ 911. Courts of common pleas.

(a) General rule.--There shall be one court of common pleas for each judicial district of this Commonwealth consisting of the following number of judges:

Judicial District	Number of Judges
First	93
Second	15
Third	9
Fourth	1
Fifth	43
Sixth	9
Seventh	15
Eighth	4
Ninth	7
Tenth	11
Eleventh	11
Twelfth	11
Thirteenth	2
Fourteenth	5
Fifteenth	15
Sixteenth	3
Seventeenth	2
Eighteenth	1
Nineteenth	15
Twentieth	2
Twenty-first	6
Twenty-second	2
Twenty-third	13
Twenty-fourth	5
Twenty-fifth	2
Twenty-sixth	3
Twenty-seventh	7
Twenty-eighth	2
Twenty-ninth	5
Thirtieth	3
Thirty-first	11
Thirty-second	21
Thirty-third	2
Thirty-fourth	1
Thirty-fifth	4
Thirty-sixth	7
Thirty-seventh	2

Thirty-eighth	26
Thirty-ninth	5
Fortieth	3
Forty-first	2
Forty-second	2
Forty-third	7
Forty-fourth	2
Forty-fifth	9
Forty-sixth	2
Forty-seventh	5
Forty-eighth	2
Forty-ninth	4
Fiftieth	7
Fifty-first	4
Fifty-second	4
Fifty-third	4
Fifty-fourth	1
Fifty-fifth	1
Fifty-sixth	3
Fifty-seventh	2
Fifty-eighth	2
Fifty-ninth	1
Sixtieth	2

(a.1) Interim judgeship.--(Expired).

(a.2) Fifteenth Judicial District.--(Expired).

(b) Single county districts.--In single county judicial districts the court of common pleas of the district shall be known as the "Court of Common Pleas of (the respective) County."

(c) Multicounty districts.--In multicounty judicial districts the court of common pleas of the district shall be known as the "Court of Common Pleas of the (respective) Judicial District." There shall be a separate branch of the court in each county comprising the judicial district.

(Nov. 26, 1978, P.L.1264, No.301, eff. imd.; July 10, 1980, P.L.513, No.106; Apr. 8, 1982, P.L.292, No.82; July 10, 1984, P.L.708, No.150, eff. imd.; Dec. 22, 1986, P.L.1744, No.213, eff. 60 days; May 13, 1987, P.L.15, No.6, eff. imd.; Dec. 7, 1990, P.L.619, No.159, eff. imd.; Feb. 14, 1997, P.L.3, No.2, eff. imd.; Dec. 15, 1998, P.L.949, No.126; Dec. 20, 2000, P.L.742, No.105, eff. imd.; June 22, 2001, P.L.388, No.28, eff. imd.; Dec. 9, 2002, P.L.1705, No.215, eff. imd.; Nov. 30, 2004, P.L.1703, No.217, eff. imd.; Oct. 9, 2008, P.L.1352, No.98, eff. imd.; Nov. 23, 2010, P.L.1137, No.114, eff. 60 days; Oct. 30, 2017, P.L.802, No.49, eff. imd.; Dec. 14, 2023, P.L.435, No.58, eff. imd.)

2023 Amendment. Act 58 amended subsec. (a). See section 2 of Act 58 in the appendix to this title for special provisions relating to applicability.

2017 Amendment. See section 3 of Act 49 in the appendix to this title for special provisions relating to applicability.

2014 Expiration. Subsection (a.2) expired January 6, 2014. See Act 114 of 2010.

2010 Amendment. Act 114 added subsec. (a.2).

2008 Amendment. See section 8 of Act 98 in the appendix to this title for special provisions relating to the selection of additional judges.

2004 Amendment. See section 5 of Act 217 in the appendix to this title for special provisions relating to election of additional judges.

2002 Amendment. See section 7 of Act 215 in the appendix to this title for special provisions relating to election of additional judges.

2002 Expiration. Subsec. (a.1) expired January 8, 2002. See Act 28 of 2001.

2001 Amendment. Act 28 added subsec. (a.1). See sections 2 and 3 of Act 28 in the appendix to this title for special provisions relating to election of additional judges and legislative findings.

2000 Amendment. See section 7 of Act 105 in the appendix to this title for special provisions relating to election of additional judges.

1998 Amendment. Act 126 amended the entire section, effective immediately as to subsec. (a) and January 1, 1999, as to the remainder of the section. Section 12 of Act 126 provided that the new judgeship for the fifty-second district added by the amendment of subsec. (a) shall be created on January 3, 2000, and shall be initially filled by election at the 1999 municipal election.

1997 Amendment. See section 2 of Act 2 in the appendix to this title for special provisions relating to the election of additional judges.

1990 Amendment. See sections 2 and 3 of Act 159 in the appendix to this title for special provisions relating to judgeships in First Judicial District and filling of new judgeships.

1984 Amendment. See section 3 of Act 150 in the appendix to this title for special provisions relating to election of additional judges.

1978 Amendment. See section 4 of Act 301 in the appendix to this title for special provisions relating to election of additional judges.

§ 912. Powers of courts of common pleas.

Every court of common pleas shall have power to issue, under its judicial seal, every lawful writ and process to or to be served or enforced by system and related personnel as such courts have been heretofore authorized by law or usage to issue. Every judge of a court of common pleas shall have all the powers of a judge or magisterial district judge of the minor judiciary.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 913. Seats of courts.

The regular sessions of each court of common pleas shall be held at the county seat of each county comprising the judicial district and elsewhere as prescribed by general rule or rule of court.

§ 914. Reimbursement for common pleas court costs.

For the purposes of reimbursement for common pleas court judge authorized positions, no county shall receive less than 77.5% of the actual reimbursement for court costs provided to them from funds appropriated for the fiscal year July 1, 1980, to June 30, 1981.
(Dec. 20, 2000, P.L.742, No.105, eff. 60 days)

2000 Amendment. Act 105 added section 914.

Cross References. Section 914 is referred to in section 915 of this title.

§ 915. Proportional reduction.

Notwithstanding the provisions of section 914 (relating to reimbursement for common pleas court costs), in the event that the total county court reimbursement qualifying for payment for any calendar year exceeds the amount appropriated by the General Assembly for such purpose, the Court Administrator of Pennsylvania shall proportionally reduce the amount of reimbursement for every county so that the total of all reimbursements does not exceed the amount appropriated. (July 17, 2007, P.L.123, No.37, eff. 60 days)

2007 Amendment. Act 37 added section 915.

§ 916. Problem-solving courts.

(a) Establishment.--The court of common pleas of a judicial district and the Municipal Court of Philadelphia may establish, from available funds, one or more problem-solving courts which have specialized jurisdiction, including, but not limited to, veterans courts, drug courts, mental health courts and driving under the influence courts, whereby defendants are admitted to a court-supervised individualized treatment program. The court may adopt local rules for the administration of problem-solving courts and their related treatment services. The local rules may not be inconsistent with this section or any rules established by the Supreme Court.

(b) Statewide problem-solving courts coordinator.--To the extent that funds are available, the Supreme Court may appoint a Statewide problem-solving courts coordinator. The coordinator may:

(1) Encourage and assist in the establishment of problem-solving courts in each judicial district.

(2) Identify sources of funding for problem-solving courts and their related treatment services, including the availability of grants.

(3) Provide coordination and technical assistance for grant applications.

(4) Develop model guidelines for the administration of problem-solving courts and their related treatment services.

(5) Establish procedures for monitoring problem-solving courts and their related treatment services and for evaluating the effectiveness of problem-solving courts and their related treatment services.

(c) Advisory committee.--The Supreme Court may establish, from available funds, an interdisciplinary and interbranch advisory committee to advise and assist the Statewide problem-solving courts coordinator in monitoring and administrating problem-solving courts Statewide.

(d) Veterans courts.--

(1) If a court of common pleas of a judicial district or the Municipal Court of Philadelphia has established a veterans court under subsection (a), the court may provide for participation by defendants from another county or counties.

(2) A court of common pleas of a judicial district or the Municipal Court of Philadelphia may join with the court in another county or counties to establish a multicounty veterans court.

(e) Veterans track.--If a court of common pleas of a judicial district or the Municipal Court of Philadelphia established a problem-solving court under subsection (a), except for a veterans court, the court may establish a veterans track within the problem-solving court. As used in this subsection, the term "veterans track" means a program that utilizes some components of a veterans court, including, but not limited to,

treatment resources and veteran mentors and does not have the population and judicial resources to sustain a full veterans court.

(f) Local rules.--A court of common pleas of a judicial district or the Municipal Court of Philadelphia that established a veterans court, multicounty veterans court or veterans track under this section may adopt local rules for the administration of the courts and their related treatment services. The local rules may not be inconsistent with this section or any rules established by the Supreme Court.

(June 3, 2010, P.L.207, No.30, eff. 60 days; Nov. 3, 2020, P.L.1090, No.111, eff. 60 days)

2020 Amendment. Act 111 amended subsec. (a) and added subsecs. (d), (e) and (f).

2010 Amendment. Act 30 added section 916.

Cross References. Section 916 is referred to in section 9771 of this title.

§ 916.1. Commerce courts.

(a) Establishment.--The court of common pleas of a judicial district may establish from available funds a commerce court that shall have specialized jurisdiction. In a court of common pleas that has established a commerce court under this section, the exclusive jurisdiction of cases relating to the following matters may be vested in the commerce court:

(1) The internal affairs, governance, dissolution, liquidation, rights or obligations between or among owners and liability or indemnity of managers of business corporations, partnerships, limited partnerships, limited liability partnerships, professional associations, business trusts, joint ventures or other business enterprises, including any actions involving the interpretation of the rights or obligations under the organic law, articles of incorporation, bylaws or agreements governing these enterprises.

(2) Disputes between or among two or more business enterprises relating to a transaction, business relationship or contract.

(b) Rules.--The court may adopt local rules for the administration of commerce courts established under this section. The local rules may not be inconsistent with this section or any rule established by the Supreme Court.

(c) Statewide commerce courts coordinator.--To the extent that funds are available, the Supreme Court may appoint a Statewide commerce courts coordinator. The coordinator may:

(1) Encourage and assist in the establishment of commerce courts in each judicial district.

(2) Develop model guidelines for the administration of commerce courts and their related services.

(3) Establish procedures for monitoring commerce courts and for evaluating the effectiveness of commerce courts.

(d) Advisory committee.--The Supreme Court may establish, from available funds, an interdisciplinary and interbranch advisory committee to advise and assist the Statewide commerce courts coordinator in monitoring and administrating commerce courts Statewide.

(Nov. 3, 2020, P.L.1090, No.111, eff. 60 days)

2020 Amendment. Act 111 added section 916.1.

§ 917. Housing courts.

(a) Establishment.--The court of common pleas of a judicial district may establish, from available funds, a housing court

which shall have jurisdiction as provided under subsection (d). The court may adopt local rules for the administration of housing courts and their related services such as housing clinics to counsel code violators on their responsibilities and procedures to bring properties into code compliance. The local rules may not be inconsistent with this section or any rules established by the Supreme Court.

(b) Statewide housing courts coordinator.--To the extent that funds are available, the Supreme Court may appoint a Statewide housing courts coordinator who may be assigned other responsibilities by the Supreme Court. The coordinator may:

(1) Encourage and assist in the establishment of housing courts in each judicial district where the caseload justifies the establishment of such courts.

(2) Identify sources of funding for housing courts and their related services, including the availability of grants.

(3) Provide coordination and technical assistance for grant applications.

(4) Develop model guidelines for the administration of housing courts and their related services.

(5) Establish procedures for monitoring housing courts and their related services and for evaluating the effectiveness of housing courts and their related services.

(c) Advisory committee.--The Supreme Court may establish, from available funds, an interdisciplinary and interbranch advisory committee to advise and assist the Statewide housing courts coordinator in monitoring and administering housing courts Statewide.

(d) Jurisdiction of housing court.--In a court of common pleas which has established a housing court pursuant to this section, the exclusive jurisdiction of the following matters may be vested in the housing court:

(1) Criminal and civil actions arising within the county under any other general or special law, ordinance, rule or regulation concerned with the health, safety or welfare of an occupant of a place used or intended for use as a place of human habitation.

(2) Land use decisions appealed to the court of common pleas in accordance with Article X-A of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, provided they relate to single-family and multifamily properties, or proceedings appealed to court in accordance with the act of June 13, 1961 (P.L.282, No.167), relating to the establishment of historic districts.

(3) Appeals from government agencies under the former act of December 2, 1968 (P.L.1133, No.353), known as the Local Agency Law, or otherwise, relating to the housing, building, safety, plumbing, mechanical, electrical, health or fire ordinances and regulations of a municipal corporation within the county or of the county itself.

(4) Matters arising under the act of April 6, 1951 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951, which involve a place used or intended for use as a place of human habitation.

(5) Matters arising under the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act, which involve a place used, or intended for use, as a place of human habitation.

(Oct. 27, 2010, P.L.875, No.90, eff. 180 days)

2010 Amendment. Act 90 added section 917.

SUBCHAPTER C
JURISDICTION OF COURTS OF COMMON PLEAS

Sec.
931. Original jurisdiction and venue.
932. Appeals from minor judiciary.
933. Appeals from government agencies.
934. Writs of certiorari.

§ 931. Original jurisdiction and venue.

(a) General rule.--Except where exclusive original jurisdiction of an action or proceeding is by statute or by general rule adopted pursuant to section 503 (relating to reassignment of matters) vested in another court of this Commonwealth, the courts of common pleas shall have unlimited original jurisdiction of all actions and proceedings, including all actions and proceedings heretofore cognizable by law or usage in the courts of common pleas.

(b) Concurrent and exclusive jurisdiction.--The jurisdiction of the courts of common pleas under this section shall be exclusive except with respect to actions and proceedings concurrent jurisdiction of which is by statute or by general rule adopted pursuant to section 503 vested in another court of this Commonwealth or in the magisterial district judges.

(c) Venue and process.--Except as provided by section 5101.1 (relating to venue in medical professional liability actions) and Subchapter B of Chapter 85 (relating to actions against Commonwealth parties), the venue of a court of common pleas concerning matters over which jurisdiction is conferred by this section shall be as prescribed by general rule. The process of the court shall extend beyond the territorial limits of the judicial district to the extent prescribed by general rule. Except as otherwise prescribed by general rule, in a proceeding to enforce an order of a government agency the process of the court shall extend throughout this Commonwealth.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Sept. 28, 1978, P.L.788, No.152, eff. imd.; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Oct. 17, 2002, P.L.880, No.127, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (b). See sections 28 and 29 of Act 207 in the appendix to this title for special provisions relating to applicability and construction of law.

2002 Amendment. Act 127 amended subsec. (c). Section 5 of Act 127 provided that the amendment of subsec. (c) shall apply to all medical professional liability actions filed on or after the effective date of section 5.

1980 Amendment. Act 142 added present section 931 and repealed former section 931 relating to the same subject matter.

Cross References. Section 931 is referred to in section 7796 of Title 20 (Decedents, Estates and Fiduciaries).

§ 932. Appeals from minor judiciary.

Except as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), each court of common pleas shall have exclusive jurisdiction of appeals from final orders of the minor judiciary established within the judicial district.

§ 933. Appeals from government agencies.

(a) General rule.--Except as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), each court of common pleas shall have

jurisdiction of appeals from final orders of government agencies in the following cases:

(1) Appeals from Commonwealth agencies in the following cases:

(i) Determinations of the Department of Health in connection with any matters concerning birth records. Except as prescribed by general rules, the venue of such matters shall be as provided in 20 Pa.C.S. § 711(9) (relating to birth records) and 20 Pa.C.S. § 713 (relating to special provisions for Philadelphia County).

(ii) Determinations of the Department of Transportation appealable under the following provisions of Title 75 (relating to vehicles):

Section 1377 (relating to judicial review).
Section 1550 (relating to judicial review).
Section 4724(b) (relating to judicial review).
Section 7303(b) (relating to judicial review).
Section 7503(b) (relating to judicial review).

Except as otherwise prescribed by general rules, the venue shall be in the county of the principal place of business of any salvor or messenger service, the location of any inspection station involved, the county where the arrest for a violation of 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance) was made in appeals involving the suspension of operating privileges under 75 Pa.C.S. § 1547 (relating to chemical testing to determine amount of alcohol or controlled substance) or the residence of any individual appellant where the venue is not otherwise fixed by this sentence. In the case of a nonresident individual venue, except as otherwise prescribed by general rules, shall be in the county in which the offense giving rise to the recall, cancellation, suspension or revocation of operating privileges occurred.

(iii) (Deleted by amendment).

(iv) Determinations of the Workers' Compensation Appeal Board appealable under the act of June 21, 1939 (P.L.566, No.284), known as The Pennsylvania Occupational Disease Act. Except as otherwise prescribed by general rules, the venue of such matters shall be as provided in section 427 of the act.

(v) Determinations of the Pennsylvania Liquor Control Board appealable under the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, except matters appealable under section 433, 444 or 710 of the act. Except as otherwise prescribed by general rules, the venue of such matters shall be as provided in the act.

(vi) Determinations of the Department of Revenue reviewable under Article XXI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, or under any predecessor statute, in connection with the administration of the estate of a decedent. Except as otherwise prescribed by general rules, the venue of such matters shall be in the court having jurisdiction over the administration of the related estate.

(vii) (Deleted by amendment).

(viii) (Deleted by amendment).

(ix) Determinations of the Department of Labor and Industry or the Department of Commerce reviewable under the act of December 15, 1980 (P.L.1203, No.222), known as the Building Energy Conservation Act. Except as

otherwise prescribed by general rules, venue shall be in the county where the building is located.

(2) Appeals from government agencies, except Commonwealth agencies, under Subchapter B of Chapter 7 of Title 2 (relating to judicial review of local agency action) or otherwise.

(3) Appeals jurisdiction of which is vested in the courts of common pleas by any statute hereafter enacted.

(b) Awards of arbitrators.--Except as otherwise prescribed by any general rule adopted pursuant to section 503, each court of common pleas shall have jurisdiction of petitions for review of an award of arbitrators appointed in conformity with statute to arbitrate a dispute between a government agency, except a Commonwealth agency, and an employee of such agency. The application shall be deemed an appeal from a government agency for the purposes of section 762(4) (relating to appeals from courts of common pleas) and Chapter 55 (relating to limitation of time).

(c) Concurrent and exclusive jurisdiction.--Except as otherwise provided by statute or prescribed by general rule adopted pursuant to section 503:

(1) The jurisdiction of a court of common pleas of a judicial district under this section shall be exclusive as to a government agency which has jurisdiction only within such judicial district, and shall be concurrent with the courts of common pleas of all judicial districts in which the government agency has jurisdiction where such agency has jurisdiction in more than one judicial district.

(2) Whenever proceedings are commenced in two or more courts with respect to the same determination of a government agency, exclusive jurisdiction shall be vested in the court having jurisdiction in which such proceedings are first commenced.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 5, 1980, P.L.1104, No.189, eff. imd.; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; June 5, 1998, P.L.451, No.63, eff. 60 days; Sept. 30, 2003, P.L.120, No.24, eff. Feb. 1, 2004; July 4, 2008, P.L.286, No.35, eff. July 1, 2008)

2008 Amendment. Act 35 deleted subsec. (a)(1)(vii). Section 2 of Act 35 provided that each court of common pleas shall retain jurisdiction over appeals of cases filed and pending with them prior to the effective date of Act 35.

2003 Amendment. Act 24 amended subsec. (a)(1)(ii).

1998 Amendment. Act 63 amended subsec. (a).

1978 Amendment. Act 53 added present section 933 and repealed former section 933 relating to the same subject matter.

Transfer of Records. Section 6 of Act 189 of 1980 provided that the Prothonotary of the Commonwealth Court shall, except as otherwise ordered by the court in the interest of justice, transfer to the appropriate office of the clerk of the court of common pleas all dockets, records, pleadings and other papers, or certified copies thereof, relating to all pending matters jurisdiction of which is vested in another tribunal by reason of 42 Pa.C.S. § 761(a)(1)(iv) or 933(a)(1)(v) as added or amended by Act 189.

References in Text. The Department of Commerce, referred to in subsec. (a)(1)(ix), was renamed the Department of Community and Economic Development by Act 58 of 1996.

Section 7503 of Title 75, referred to in subsec. (a)(1)(ii), was deleted by amendment.

The act of December 15, 1980, P.L.1203, No.222, known as the Building Energy Conservation Act, referred to in subsec. (a) (1) (ix), was repealed by the act of November 10, 1999, P.L.491, No.45. The subject matter is now contained in the Pennsylvania Construction Code Act.

Cross References. Section 933 is referred to in sections 762, 763 of this title; sections 501, 561, 581, 701 of Title 2 (Administrative Law and Procedure); section 1506 of Title 4 (Amusements); sections 1553, 1554, 1556 of Title 75 (Vehicles).

§ 934. Writs of certiorari.

Unless and until changed by general rule, the judges of the courts of common pleas, within their respective judicial districts, shall have power, in addition to the right of appeal under section 9 of Article V of the Constitution of Pennsylvania, to issue writs of certiorari to the minor judiciary.

Cross References. Section 934 is referred to in section 102 of this title.

SUBCHAPTER D
COURT DIVISIONS

Sec.

951. Court divisions.
952. Status of court divisions.
953. Administrative judges of divisions.

§ 951. Court divisions.

(a) Philadelphia County.--The Court of Common Pleas of Philadelphia County shall have the following divisions:

(1) Trial division.
(2) Orphans' court division.
(3) Family court division.

(b) Allegheny County.--The Court of Common Pleas of Allegheny County shall have the following divisions:

(1) Civil division.
(2) Criminal division.
(3) Orphans' court division.
(4) Family division.

(c) Other separate orphans' court divisions.--The courts of common pleas of Beaver, Berks, Bucks, Cambria, Chester, Dauphin, Delaware, Erie, Fayette, Lackawanna, Lancaster, Lehigh, Luzerne, Montgomery, Schuylkill, Washington, Westmoreland and York counties shall each have a separate orphans' court division.

(d) Judicial districts having no separate orphans' court division.--In each judicial district having no separate orphans' court division, there shall be an orphans' court division composed of the court of common pleas of that judicial district.

(e) Change in size of divisions.--The number of judges constituting a division may be increased or reduced by order of the governing authority.

§ 952. Status of court divisions.

The divisions of a court of common pleas are administrative units composed of those judges of the court responsible for the transaction of specified classes of the business of the court. In a court of common pleas having two or more divisions each division of the court is vested with the full jurisdiction of the whole court, but the business of the court may be allocated among the divisions of the court by or pursuant to general rules.

§ 953. Administrative judges of divisions.

Each division of a court of common pleas shall have an administrative judge who shall assist the president judge of the court in supervising and administering the business of the court and shall be responsible to him.

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

SUBCHAPTER E
SECTIONS OF THE STAFF OF THE COURT

Sec.

961. Domestic relations section.
962. Other sections.

Enactment. Subchapter E was added April 28, 1978, P.L.202, No.53, effective in 60 days.

§ 961. Domestic relations section.

Each court of common pleas shall have a domestic relations section, which shall consist of such probation officers and other staff of the court as shall be assigned thereto.

§ 962. Other sections.

Each court of common pleas shall have such other sections as may be provided or prescribed by law.

ARTICLE D
MINOR COURTS

Chapter

11. Community and Municipal Courts
13. Traffic Courts

CHAPTER 11
COMMUNITY AND MUNICIPAL COURTS

Subchapter

A. Community Courts
B. Philadelphia Municipal Court
C. Pittsburgh Magistrates Court

Enactment. Chapter 11 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBCHAPTER A
COMMUNITY COURTS

Sec.

1101. Community courts.
1102. Establishment or discontinuance of community courts.
1103. Powers of community courts.
1104. Seats of courts.
1105. Jurisdiction and venue.
1106. Lien of judgments.

Cross References. Subchapter A is referred to in section 102 of this title.

§ 1101. Community courts.

(a) General rule.--There shall be one community court for each judicial district of this Commonwealth which has elected to establish and which has not elected to discontinue such a court in the manner provided in this subchapter. The community court shall be a court not of record and shall consist of a number of judges determined by dividing the total population of the judicial district as determined by the last officially reported decennial or special Federal census by 75,000. In any judicial district where the aforesaid division results in a remainder greater than 40,000, the judicial district shall be entitled to an additional community court judge. In no event shall any judicial district have less than two community court judges.

(b) Single county districts.--In single county judicial districts the community court of the district shall be known as the "Community Court of (the respective) County."

(c) Multicounty districts.--In multicounty judicial districts the community court of the district shall be known as the "Community Court of the (respective) Judicial District."

§ 1102. Establishment or discontinuance of community courts.

(a) General rule.--The question whether a community court shall be established or discontinued in any judicial district shall be placed upon the ballot in a primary election by petition which shall be in the form prescribed by the officer of the Commonwealth who under law shall have supervision over elections. The petition shall be filed with that officer and shall be signed by a number of electors equal to 5% of the total votes cast for all candidates for the office occupied by a single official for which the highest number of votes was cast in that judicial district at the last preceding general or municipal election. The manner of signing such petitions, the time of circulating them, the affidavits of the persons circulating them and all other details not contained in this subsection shall be governed by the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code." The question shall not be placed upon the ballot in a judicial district more than once in any five-year period. The affirmative vote of a majority of the electors of the judicial district voting thereon shall be sufficient to establish or discontinue a community court for the judicial district.

(b) Establishment.--The community court of a judicial district shall be established on the first Monday of January following the municipal election at which the first judges of the court shall be elected. A court when established shall, in accordance with and subject to Article V of the Constitution of Pennsylvania, supplant all magisterial district judges or the municipal court and the traffic court, as the case may be, within the judicial district, except that in the fifth judicial district a community court shall not supplant the Pittsburgh Magistrates Court. Upon the expiration of the term of any magisterial district judge or judge of the municipal or traffic court, as the case may be, or the abolition of his office in the manner and at such time as is provided by section 3321 (relating to establishment of community courts), in a judicial district in which a community court has been established, the matters then pending and the books, dockets and records thereof shall be transferred to the community court which shall determine and conclude such matters as if it had assumed jurisdiction in the first instance.

(c) Discontinuance.--Where the electors of a judicial district have at a primary election approved the discontinuance of an existing community court within their judicial district

such community court and the office of the judges serving thereon shall then be abolished in the manner and at such time as is provided by section 3322 (relating to discontinuance of community courts). Thereafter, the office of magisterial district judge or judge of the municipal or traffic court, as the case may be, shall be established to replace and supplant such community court on the first Monday of January of the even-numbered year next following the odd-numbered year specified in section 1503(b) (relating to discontinuance of community court) and the number and boundaries of magisterial districts, if any, of each class within such judicial district shall be established in the manner provided by section 1503(b).
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsecs. (b) and (c). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 1103. Powers of community courts.

Every judge of a community court shall have all the powers of a judge of the municipal court or traffic court, or of a magisterial district judge, as the case may be.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 1104. Seats of courts.

The regular sessions of each community court shall be held at such location within the judicial district as may be approved by the president judge of the court of common pleas of the judicial district in compliance with general rules.

§ 1105. Jurisdiction and venue.

(a) General rule.--Except as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters) each community court shall have the jurisdiction which under law was exercised by the municipal court or traffic court or by magisterial district judges, as the case may be, within the judicial district.

(b) Venue and process.--The venue of a community court concerning matters over which jurisdiction is conferred by subsection (a) shall be as prescribed by general rule. The process of the court shall extend beyond the territorial limits of the judicial district to the extent prescribed by general rule.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 1106. Lien of judgments.

A judgment of a community court shall not operate as a lien on real property until a transcript of the record showing a final judgment in the community court has been filed in the manner prescribed by general rules in the office of the clerk of the court of common pleas of the county where the property is situated, or in the office of the clerk of the branch of the court of common pleas embracing such county. After such entry the judgment shall, from the date of such entry, be a lien upon real property to the same extent that judgment recovered in the court of common pleas is a lien. No such transcript shall be filed until after 30 days after the entry of final judgment by

the community court. No execution against real estate shall issue out of the community court.

SUBCHAPTER B
PHILADELPHIA MUNICIPAL COURT

Sec.

1121. Philadelphia Municipal Court.
1122. Seat of court.
1123. Jurisdiction and venue.
1124. Lien of judgments.
1125. Substitute arraignment court magistrates.
1126. Masters.
1127. Hearing officers.

Special Provisions in Appendix. See sections 9(b) and 10 of Act 142 of 1976 in the appendix to this title for special provisions relating to temporary assignment of judges and concurrent jurisdiction of Court of Common Pleas of Philadelphia County.

Cross References. Subchapter B is referred to in section 102 of this title.

§ 1121. Philadelphia Municipal Court.

(a) Organization.--The Philadelphia Municipal Court shall be organized as follows:

(1) The General Division shall consist of 27 judges.

(2) The Traffic Division shall consist of four judges elected to the Traffic Court of Philadelphia prior to the effective date of this paragraph. If a vacancy in the Traffic Division occurs, the vacancy shall not be filled. This paragraph shall expire on the later of:

(i) the date of the ratification by the electorate of an amendment to the Constitution of Pennsylvania abolishing the Philadelphia Traffic Court; or

(ii) the date of the expiration of the longest term of a judge specified in subsection (c)(4).

(b) General Division.--

(1) A judge in the General Division must be an attorney at law.

(2) The salary of a judge in the General Division shall be as set forth in section 2.1(e) and (i) of the act of September 30, 1983 (P.L.160, No.39), known as the Public Official Compensation Law.

(3) The General Division shall exercise full jurisdiction of the municipal court under section 1123(a) (relating to jurisdiction and venue).

(c) Traffic Division.--

(1) A judge in the Traffic Division must:

(i) be an attorney at law; or

(ii) prior to assuming office, complete a course of training and instruction in the duties of the office and pass an examination.

(2) The salary of a judge in the Traffic Division shall be as set forth in section 2.1(f) and (i) of the Public Official Compensation Law.

(3) The Traffic Division shall, at the direction of the President Judge of the Philadelphia Municipal Court, exercise jurisdiction under section 1123(a)(9).

(4) This subsection shall apply during the terms of all judges of the Philadelphia Traffic Court:

(i) who have been elected prior to January 1, 2014; and

(ii) whose term expires after December 31, 2017.

(5) A judge identified in paragraph (4) shall, until the expiration of the term to which the judge has been elected, serve as a judge in the Traffic Division.

(6) This subsection shall expire on the later of:

(i) the date of the ratification by the electorate of an amendment to the Constitution of Pennsylvania abolishing the Philadelphia Traffic Court; or

(ii) the date of the expiration of the longest term of a judge specified in paragraph (4).

(d) Annual report.--The President Judge of the Philadelphia Municipal Court shall file an annual report with the General Assembly regarding the Traffic Division. The report shall include how funding was allocated for the Traffic Division, the number of cases that came before the Traffic Division and how the cases were resolved by the Traffic Division.

(Feb. 14, 1997, P.L.3, No.2; June 19, 2013, P.L.55, No.17, eff. imd.)

1997 Amendment. Section 4 of Act 2 provided that the amendment shall take effect on the first Monday of January 1998. Section 3 of Act 2 provided that the first judges elected to those judgeships created under section 1121 shall be elected at the 1999 municipal election.

Cross References. Section 1121 is referred to in section 102 of this title.

§ 1122. Seat of court.

The regular sessions of the Philadelphia Municipal Court shall be held at such locations within the first judicial district as may be approved by the president judge of the court in compliance with general rules.

§ 1123. Jurisdiction and venue.

(a) General rule.--Except as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), the Philadelphia Municipal Court shall have jurisdiction of the following matters:

(1) Summary offenses, except those arising out of the same episode or transaction involving a delinquent act for which a petition alleging delinquency is filed under Chapter 63 (relating to juvenile matters).

(2) Criminal offenses by any person (other than a juvenile) for which no prison term may be imposed or which are punishable by imprisonment for a term of not more than five years, including indictable offenses under Title 75 (relating to vehicles). In cases under this paragraph the defendant shall have no right of trial by jury in the municipal court, but shall have the right of appeal for trial de novo, including the right of trial by jury, to the court of common pleas. The judges of the municipal court exercising jurisdiction under this paragraph shall have the same jurisdiction in probation and parole arising out of sentences imposed by them as judges of the court of common pleas.

(3) Matters arising under the act of April 6, 1951 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951. The judges of the Philadelphia Municipal Court shall have the power to enter judgments exceeding $5,000 in matters arising under this subsection. Appeals from a judgment of the municipal court under this subsection shall be to the court of common pleas in accordance with local rules of court established by the administrative judge of the trial

division. Those rules shall not be inconsistent with Statewide rules of procedure as established by the Supreme Court.

(4) Civil actions, except actions by or against a Commonwealth party as defined by section 8501 (relating to definitions), wherein the sum demanded does not exceed $12,000, exclusive of interest and costs, in the following classes of actions:

(i) In assumpsit.

(ii) In trespass, including all forms of trespass and trespass on the case.

(iii) For fines and penalties by any government agency.

A plaintiff may waive a portion of his claim of more than $12,000 so as to bring the matter within the monetary jurisdiction of the municipal court. Such waiver shall be revoked automatically if the defendant appeals the final order of the municipal court. In cases under this paragraph the defendant shall have no right of trial by jury in the municipal court, but shall have the right to appeal for trial de novo, including the right of trial by jury, to the court of common pleas, in accordance with local rules of court established by the administrative judge of the trial division. These rules shall not be inconsistent with Statewide rules of procedure as established by the Supreme Court. It is the purpose of this paragraph to establish an expeditious small claims procedure whereby it shall not be necessary for the litigants to obtain counsel. Judgments by confession shall not be entered in the municipal court.

(5) As commissioners to preside at arraignments, fix and accept bail, issue warrants and perform duties of a similar nature, including the jurisdiction of a committing magistrate in all criminal proceedings. In addition to the exercise of the powers by the judges set forth in this paragraph, the Philadelphia Municipal Court, through the president judge and a majority of the judges of the court, shall have the power to appoint for four-year terms six arraignment court magistrates, to administer oaths and affirmations, preside at preliminary arraignments, assign counsel in certain cases, issue criminal complaints, fix bail and issue arrest warrants and search and seizure warrants. The arraignment court magistrates shall be employees of the Commonwealth and they shall receive an annual salary equal to the salary of an associate judge of the Traffic Court of Philadelphia. The method of selection and appointment and removal of arraignment court magistrates and establishing standards of conduct and the rights, responsibilities and authority of the arraignment court magistrates and the procedures for appealing from the decisions of the arraignment court magistrates shall be provided by local rules adopted by the municipal court.

(5.1) In addition to the exercise of the powers by the judges set forth in this section, the President Judge of the Philadelphia Municipal Court may appoint arraignment court magistrates, persons who complete a training program as shall be provided by local rules adopted by the President Judge of the Philadelphia Municipal Court, or attorneys who are in good standing and are admitted to the Pennsylvania Bar as judges pro tempore to accept guilty pleas and impose sentences in accordance with pleas for summary offenses. A judge pro tempore must be an independent contractor hired by the Philadelphia Municipal Court and shall receive such

compensation and shall serve at such hours as agreed to between the judge pro tempore and the President Judge of the Philadelphia Municipal Court. The methods of selection, appointment and removal of judges pro tempore and of establishing standards of conduct and the rights, responsibilities and authority of the judges pro tempore and the procedures for appealing decisions of the judges pro tempore shall be provided by local rules adopted by the President Judge of the Philadelphia Municipal Court.

(6) Civil actions wherein the sum demanded does not exceed $15,000 in matters involving judgments of real estate taxes and school taxes levied by cities of the first class.

(7) Actions to enjoin any nuisance caused by the operation of a licensee or occurring on licensed premises subject to the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

(8) Any action to enjoin a public nuisance. The action to enjoin may be brought by any person who resides or has a place of business within 500 feet of the location of the alleged nuisance.

(9) Prosecutions for summary offenses arising under:

(i) Title 75; or

(ii) an ordinance of a political subdivision enacted pursuant to Title 75.

(a.1) Appeal from contempt citation or nuisance order.--There shall be a right to appeal to the Superior Court of a contempt citation issued by a municipal court judge, but the appeal shall be limited to a review of the record. There shall be a right of appeal to the Court of Common Pleas of Philadelphia County of an order issued by a municipal court judge in any action under subsection (a)(7) or (8), but the appeal shall be limited to a review of the record.

(b) Concurrent and exclusive jurisdiction.--The jurisdiction of the municipal court under this section shall be concurrent with the Court of Common Pleas of Philadelphia County except with respect to matters specified in subsection (a)(2), as to which the jurisdiction of the municipal court shall be exclusive except as otherwise prescribed by any general rule adopted pursuant to section 503.

(c) Venue and process.--The venue of the municipal court concerning matters over which jurisdiction is conferred by this section shall be as prescribed by general rule. The process of the court shall extend beyond the territorial limits of the City and County of Philadelphia to the extent prescribed by general rule.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Oct. 12, 1984, P.L.959, No.187, eff. 60 days; July 11, 1990, P.L.454, No.111, eff. 60 days; Nov. 29, 1990, P.L.574, No.147, eff. 60 days; Apr. 16, 1992, P.L.146, No.25, eff. imd.; July 9, 1992, P.L.689, No.102, eff. imd.; Dec. 14, 1992, P.L.872, No.140, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.983, No.9, eff. 60 days; Nov. 21, 1995, P.L.619, No.65, eff. 60 days; Dec. 15, 1998, P.L.949, No.126, eff. 60 days; Oct. 9, 2008, P.L.1352, No.98, eff. 60 days; Nov. 23, 2010, P.L.1137, No.114, eff. 60 days; June 19, 2013, P.L.55, No.17, eff. imd.)

2013 Amendment . Act 17 amended subsec. (a)(1) and added subsec. (a)(9).

2010 Amendment. Act 114 amended subsec. (a)(4).

2008 Amendment. Act 98 amended subsec. (a)(5) and (5.1). Section 10 of Act 98 provided that nothing in Act 98 shall be

construed or deemed to provide arraignment court magistrates with retirement benefits or rights different from those available to bail commissioners immediately prior to the effective date of Act 98.

2007 Effectuation of Repeal. The Legislative Reference Bureau effectuated the 1992 repeal.

1995 Amendments. Act 9, 1st Sp.Sess., amended subsec. (a)(1) and Act 65 amended subsecs. (a)(3) and (4) and (a.1).

1992 Amendments. Act 25 reenacted subsecs. (a)(8) and (a.1) and Act 140 amended subsec. (a)(3).

1992 Repeal. Act 102 repealed Act 147 of 1990 which amended subsecs. (a)(8) and (a.1). Section 1956 of Title 1 provides: "The repeal of an amendatory statute does not revive the corresponding provision or section of the original statute or of any prior amendment." The text of subsecs. (a)(8) and (a.1) has not been changed to give effect to the repeal.

1991 Unconstitutionality. Act 147 of 1990 was declared unconstitutional by the Supreme Court. In re Act 147 of 1990, 528 Pa. 460, 598 A.2d 985 (1991).

1990 Amendments. Act 111 added subsec. (a)(7) and (8) and Act 147 amended subsecs. (a)(8) and (a.1).

1984 Amendment. Act 187 amended subsec. (a) and added subsec. (a.1).

Special Provisions in Appendix. See section 10 of Act 142 of 1976 in the appendix to this title for special provisions relating to concurrent jurisdiction of Court of Common Pleas of Philadelphia County.

Cross References. Section 1123 is referred to in sections 1121, 1127, 5105, 62A03 of this title; section 6102 of Title 23 (Domestic Relations); section 5306 of Title 71 (State Government).

§ 1124. Lien of judgments.

Judgment recovered in the Philadelphia Municipal Court shall be a lien upon property in the same manner and to the same extent that judgment recovered in the Court of Common Pleas of Philadelphia County is a lien. All such judgments shall be indexed in the judgment index or indices of Philadelphia County in the same manner as judgments of the court of common pleas are indexed.

§ 1125. Substitute arraignment court magistrates.

The President Judge of the Philadelphia Municipal Court may appoint qualified attorneys who are court employees to act as substitute arraignment court magistrates during an emergency upon a written finding by the president judge that an emergency exists.

(Apr. 13, 1988, P.L.336, No.47, eff. imd.; Oct. 9, 2008, P.L.1352, No.98, eff. 60 days)

2008 Amendment. Section 10 of Act 98 provided that nothing in Act 98 shall be construed or deemed to provide arraignment court magistrates with retirement benefits or rights different from those available to bail commissioners immediately prior to the effective date of Act 98.

§ 1126. Masters.

The President Judge of the Philadelphia Municipal Court may appoint attorneys who are members of the Pennsylvania Bar to serve as masters in proceedings under 23 Pa.C.S. Ch. 61 (relating to protection from abuse).

(Dec. 19, 1990, P.L.1240, No.206, eff. 90 days)

1990 Amendment. Act 206 added section 1126.

Cross References. Section 1126 is referred to in section 62A03 of this title; section 6102 of Title 23 (Domestic Relations).

§ 1127. Hearing officers.

(a) Appointment.--The President Judge of the Philadelphia Municipal Court may appoint hearing officers in proceedings under section 1123(a)(9) (relating to jurisdiction and venue).

(b) Code of conduct.--The Supreme Court shall promulgate a code of conduct to govern the conduct of hearing officers and provide for regular audits of the conduct of hearing officers.

(c) Qualifications.--A hearing officer must:

(1) be an attorney at law; or

(2) prior to assuming office, complete a course of training and instruction in the duties of the office and pass an examination.

(June 19, 2013, P.L.55, No.17, eff. imd.)

2013 Amendment. Act 17 added section 1127.

SUBCHAPTER C
PITTSBURGH MAGISTRATES COURT

Sec.

1141. Pittsburgh Magistrates Court.
1142. Seat of court.
1143. Jurisdiction and venue.
1144. Lien of judgment.

Salary and Expenses. Section 24(b) of Act 142 of 1976 provided that, notwithstanding any other provisions of Act 142, the salary and expenses of the judges of the Pittsburgh Magistrates Court shall be paid by the City of Pittsburgh.

Cross References. Subchapter C is referred to in section 102 of this title.

§ 1141. Pittsburgh Magistrates Court.

The Pittsburgh Magistrates Court shall be a court not of record and shall consist of such a number of judges, not less than five nor more than eight, as shall be specified by ordinance of the City of Pittsburgh. The magistrates court shall be the police magistrates authorized to be continued in existence by section 21, Schedule to Article V of the Constitution of Pennsylvania adopted April 23, 1968. Judges of the Pittsburgh Magistrates Court shall be deemed magisterial district judges for the purposes of Chapter 33 (relating to discipline, removal and retirement of judicial officers).

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 1142. Seat of court.

The regular sessions of the Pittsburgh Magistrates Court shall be held at such locations within the City of Pittsburgh as may be designated by ordinance of the City of Pittsburgh.

§ 1143. Jurisdiction and venue.

(a) General rule.--Except as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters) the Pittsburgh Magistrates Court shall have jurisdiction of all of the following matters:

(1) Criminal complaints accusing any person of the commission of any felony or misdemeanor, where such felony

or misdemeanor has been committed within the corporate limits of the City of Pittsburgh, and to issue warrants for the arrest of such person so accused, administer oaths and hold preliminary hearings in all such cases, and commit to jail, or bind over for trial or discharge such accused person, as the evidence produced at such hearing may warrant. The court shall have power to admit to bail as prescribed by general rules.

(2) Arrests upon view, or upon complaint made and warrant issued, by the police of the City of Pittsburgh, of persons who may be found engaged in or be charged with drunkenness, disorderly conduct, selling liquor contrary to law, maintaining a disorderly house or bawdy house, lewd, indecent or lascivious behavior on the streets or elsewhere, gambling, creating riots or disturbances, vagrants, beggars, prostitutes, disturbers of the public peace, known or reputed pickpockets, burglars, thieves, watch stuffers, cheating, swindling, persons who abuse their families, and suspicious persons who can give no reasonable account of themselves, or violating any of the laws or ordinances of such city.

(3) Civil claims for the recovery of fines and penalties imposed by any ordinance of the City of Pittsburgh, or by any ordinance or regulation relating to housing and health administered and enforced by a county health department where a violation takes place in such city, and cases of summary conviction arising under the laws and ordinances of or applicable to such city and under the laws, ordinances, rules and regulations relating to housing and health administered and enforced by a county department of health where a violation takes place in such city, with full power to hear the said cases, administer oaths or affirmations therein, decide the same, enforce the penalty, collect the fine or commit to prison as the case may be according to the provisions of the law and ordinances applicable thereto.

(4) Matters within the jurisdiction of the court when sitting as the Traffic Court of Pittsburgh.

(b) Venue and process.--The venue of the Pittsburgh Magistrates Court concerning matters over which jurisdiction is conferred by subsection (a) shall be as prescribed by general rule. The process of the court shall extend beyond the territorial limits of the City of Pittsburgh to the extent prescribed by general rule.

§ 1144. Lien of judgment.

A judgment of the Pittsburgh Magistrates Court shall not operate as a lien on real property until a transcript of the record showing a final judgment of the Pittsburgh Magistrates Court has been filed in the manner prescribed by general rules in the office of the prothonotary of Allegheny County. After entry of the judgment, the judgment shall, from the date of its entry, be a lien upon real property to the same extent that judgment recovered in the court of common pleas is a lien. No transcript of the record shall be filed until 30 days after the entry of final judgment by the Pittsburgh Magistrates Court. No execution against real estate shall be issued by the Pittsburgh Magistrates Court.

(Dec. 21, 1988, P.L.1862, No.179, eff. 60 days)

1988 Amendment. Act 179 added section 1144. Section 3 of Act 179 provided that section 1144 shall apply to final judgments entered by the Pittsburgh Magistrates Court on or after the effective date of Act 179.

CHAPTER 13
TRAFFIC COURTS

Subchapter
A. General Provisions
B. Traffic Court of Philadelphia
C. Traffic Court of Pittsburgh
D. Optional Traffic Courts

Enactment. Chapter 13 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Cross References. Chapter 13 is referred to in section 5505 of Title 53 (Municipalities Generally).

SUBCHAPTER A
GENERAL PROVISIONS

Sec.
1301. Seats of traffic courts.
1302. Jurisdiction and venue.
1303. Signatures and dockets.

§ 1301. Seats of traffic courts.

The regular sessions of a traffic court shall be held at such locations within the political subdivision for which the court is established as may be approved in compliance with general rules by the president judge of the court of common pleas of the judicial district embracing such political subdivision.

§ 1302. Jurisdiction and venue.

(a) General rule.--Except as set forth in subsection (a.1) or as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), each traffic court shall have jurisdiction of all prosecutions for summary offenses arising under:

(1) Title 75 (relating to vehicles).

(2) Any ordinance of any political subdivision enacted pursuant to Title 75.

(a.1) Traffic Court of Philadelphia.--(Expired).

(b) Concurrent and exclusive jurisdiction.--The jurisdiction of a traffic court under this section shall be exclusive of the courts of common pleas and magisterial district judges, except that such jurisdiction shall be concurrent with the magisterial district judges whenever the traffic court is closed.

(c) Venue and process.--The venue of a traffic court concerning matters over which jurisdiction is conferred by this section shall be as prescribed by general rule. The process of the court shall extend beyond the territorial limits of the political subdivision for which it is established to the extent prescribed by general rule.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; June 19, 2013, P.L.55, No.17, eff. imd.)

2018 Expiration. Subsection (a.1) expired January 1, 2018. See Act 17 of 2013.

2013 Amendment . Act 17 amended subsec. (a) intro. par. and added subsec. (a.1).

2004 Amendment. Act 207 amended subsec. (b). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1978 Amendment. Act 53 amended subsec. (a).

§ 1303. Signatures and dockets.

Facsimile signatures of traffic court judges may be used for all purposes in lieu of their original signatures, except on affidavits for warrants of arrest and on the docket of the traffic court. Traffic court dockets shall contain a record of the disposition of every case and where a fine and costs are imposed shall record the amount of said fine and the amount of costs. The docket shall in all cases, where a summons has been issued, as to each case, be signed by the judge making the disposition or in his name by the clerk of the traffic court.

SUBCHAPTER B
TRAFFIC COURT OF PHILADELPHIA

Sec.

1321. Traffic Court of Philadelphia (Expired).

§ 1321. Traffic Court of Philadelphia (Expired).

2018 Expiration. Section 1321 expired January 1, 2018. See Act 17 of 2013.

SUBCHAPTER C
TRAFFIC COURT OF PITTSBURGH

Sec.

1331. Traffic Court of Pittsburgh.
1332. Operations of traffic court.

§ 1331. Traffic Court of Pittsburgh.

The Traffic Court of Pittsburgh shall be a court not of record and shall be held by such of the judges of the Pittsburgh Magistrates Court as shall be assigned thereto by the Mayor of the City of Pittsburgh, one of whom shall be designated by the mayor as the presiding magistrate of the traffic court. The court is established for the City of Pittsburgh.

§ 1332. Operations of traffic court.

The presiding magistrate shall preside over and supervise the work of the Traffic Court of Pittsburgh. In the absence of the presiding magistrate designated by the mayor, the judge then temporarily presiding shall have such supervision. The traffic court shall be open for the transaction of business at such times as shall be designated by ordinance of the City of Pittsburgh or prescribed by general rule.

SUBCHAPTER D
OPTIONAL TRAFFIC COURTS

Sec.

1341. Third class city traffic courts authorized.
1342. Operations of optional traffic courts.

Enactment. Subchapter D was added November 26, 1978, P.L.1264, No.301, effective immediately.

§ 1341. Third class city traffic courts authorized.

Any city of the third class may establish by ordinance a traffic court which shall be a court not of record. The court

shall be held by such of the magisterial district judges of the city as shall be designated by the president judge of the court of common pleas upon petition by the city. If established, the court shall be for the city so establishing it.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 1342. Operations of optional traffic courts.

The magisterial district judge designated by the president judge shall preside over and supervise the work of the traffic court. The traffic court shall be open for business at such times as shall be designated by city ordinance or prescribed by general rule.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

ARTICLE E
MAGISTERIAL DISTRICT JUDGES

Chapter

15. Magisterial District Judges

Article Heading. The heading of Article E was amended August 11, 2009, P.L.147, No.33, effective in 60 days.

CHAPTER 15
MAGISTERIAL DISTRICT JUDGES

Subchapter

A. Magisterial Districts
B. Magisterial District Judges

Enactment. Chapter 15 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Chapter Heading. The heading of Chapter 15 was amended August 11, 2009, P.L.147, No.33, effective in 60 days.

SUBCHAPTER A
MAGISTERIAL DISTRICTS

Sec.

1501. Definitions.
1502. Classification of districts.
1503. Reestablishment of districts.

Cross References. Subchapter A is referred to in section 102 of this title.

§ 1501. Definitions.

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

"Court." The Supreme Court or the court of common pleas of each judicial district under the direction of the Supreme Court.

"Political subdivision." Any municipality except the City and County of Philadelphia.

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

"Population density." The number of persons residing within a political subdivision or part thereof as determined by dividing such number by the land area expressed in square miles as determined in the official publication of the Bureau of Statistics of the Department of Commerce.

References in Text. The Department of Commerce, referred to in the def. of "population density," was renamed the Department of Community and Economic Development by Act 58 of 1996.

§ 1502. Classification of districts.

(a) Second class counties.--The classes of magisterial districts in judicial districts coextensive with 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 5,000 persons per square mile 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.

§ 1503. Reestablishment of districts.

(a) General rule.--In each year following that in which the Federal decennial census is officially reported as required by Federal law the court shall reestablish the number, boundaries and classes of magisterial districts within each judicial district except:

(1) The first judicial district.

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

The number, boundaries and classes of magisterial districts within each judicial district may be revised from time to time as required for the efficient administration of justice within each magisterial district.

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

(c) Standards for establishment of magisterial districts.--In the case of a political subdivision containing within its boundaries two or more magisterial districts, the court shall divide the political subdivision into magisterial districts as nearly equal as possible in population and area, and the court may presume that the population density of each part of a political subdivision is the same population density as for the whole political subdivision. The court in establishing the number and boundaries of magisterial districts shall not subdivide political subdivisions unless either:

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

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

(d) Compensation of magisterial district judge.--When a magisterial district is reestablished the compensation of a magisterial district judge serving therein shall not be diminished for any reason during the magisterial district judge's term or during any term to which the magisterial district judge is reelected while serving in such reestablished district.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 5, 1980, P.L.1104, No.189, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (d). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1978 Amendment. Act 53 amended subsec. (a).

Cross References. Section 1503 is referred to in sections 1102, 3152 of this title.

SUBCHAPTER B
MAGISTERIAL DISTRICT JUDGES

Sec.

1511. Magisterial district judges.
1512. Seal.
1513. Powers of magisterial district judges.
1514. Offices.
1515. Jurisdiction and venue.
1516. Lien of judgment.
1517. Salary (Repealed).
1518. Philadelphia Municipal Court (Repealed).
1519. Philadelphia Traffic Court (Repealed).

1520. Adjudication alternative program.
1521. Accelerated Rehabilitative Disposition for summary offenders (Repealed).
1522. Notice of summary cases involving juveniles.
1523. Parental or legal guardian attendance required at juvenile hearings.

Subchapter Heading. The heading of Subchapter B was amended November 30, 2004, P.L.1618, No.207, effective in 60 days.

Cross References. Subchapter B is referred to in section 102 of this title.

§ 1511. Magisterial district judges.

There shall be one magisterial district judge in each magisterial district.

(Aug. 11, 2009, P.L.147, No.33, eff. 60 days)

§ 1512. Seal.

Each magisterial district shall have a seal, which shall be in the custody of the magisterial district judge elected or appointed for such district. The official acts of the magisterial district judge shall be authenticated therewith. There shall be engraved on the seal such inscription as may be specified by general rule. A facsimile or preprinted seal may be used for all purposes in lieu of the original seal.

(June 28, 2002, P.L.518, No.86, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 1513. Powers of magisterial district judges.

Every magisterial district judge shall have power to issue every lawful process to or to be served or enforced by system and related personnel and to make such lawful orders as his official business may require. A magisterial district judge may take affidavits and acknowledgments outside his magisterial district but within this Commonwealth.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 1514. Offices.

The governing body of the county shall establish an office or offices for each magisterial district judge at such locations within the county as may be approved by the president judge of the court of common pleas of the judicial district in compliance with general rules.

(Apr. 28, 1978, P.L.202, No.53, eff 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 1515. Jurisdiction and venue.

(a) Jurisdiction.--Except as otherwise prescribed by general rule adopted pursuant to section 503 (relating to reassignment of matters), magisterial district judges shall, under procedures prescribed by general rule, have jurisdiction of all of the following matters:

(1) Summary offenses, except those arising out of the same episode or transaction involving a delinquent act for

which a petition alleging delinquency is filed under Chapter 63 (relating to juvenile matters).

(2) Matters arising under the act of April 6, 1951 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951, which are stated therein to be within the jurisdiction of a magisterial district judge.

(3) Civil claims, except claims against a Commonwealth party as defined by section 8501 (relating to definitions), wherein the sum demanded does not exceed $12,000, exclusive of interest and costs, in the following classes of actions:

(i) In assumpsit, except cases of real contract where the title to real estate may be in question.

(ii) In trespass, including all forms of trespass and trespass on the case.

(iii) For fines and penalties by any government agency.

A plaintiff may waive a portion of his claim of more than $12,000 so as to bring the matter within the monetary jurisdiction of a magisterial district judge. Such waiver shall be revoked automatically if the defendant appeals the final order of the magisterial district judge or when the judgment is set aside upon certiorari.

(4) As commissioners to preside at arraignments, fix and accept bail, except for offenses under 18 Pa.C.S. §§ 2502 (relating to murder) and 2503 (relating to voluntary manslaughter) for which the fixing and accepting of bail shall be performed by any judge of any court of common pleas, and to issue warrants and perform duties of a similar nature, including the jurisdiction of a committing magistrate in all criminal proceedings.

(5) Offenses under 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance), if the following criteria are met:

(i) The offense is the first offense by the defendant under such provision in this Commonwealth.

(ii) No personal injury (other than to the defendant) resulted from the offense.

(iii) The defendant pleads guilty.

(iv) No property damage in excess of $500 other than to the defendant's property resulted from the violation.

(v) The defendant is not subject to the provisions of Chapter 63 (relating to juvenile matters).

(vi) The arresting authority shall cause to be transmitted a copy of the charge of any violation of 75 Pa.C.S. § 3802 to the office of the clerk of the court of common pleas within five days after the preliminary arraignment.

In determining that the above criteria are met the magisterial district judge shall rely on the certification of the arresting authority. Certification that the criteria are met need not be in writing. Within ten days after the disposition, the magisterial district judge shall certify the disposition to the office of the clerk of the court of common pleas in writing.

(5.1) Offenses under 75 Pa.C.S. § 3808 (relating to illegally operating a motor vehicle not equipped with ignition interlock).

(6) (i) Offenses under Title 18 (crimes and offenses), Title 30 (fish) and Title 35 (health and safety) which are classified as misdemeanors of the third degree, if the following criteria are met:

(A) The misdemeanor is not the result of a reduced charge.

(B) Any personal injury or property damage is less than $500.

(C) The defendant pleads guilty.

(D) The defendant is not subject to the provisions of Chapter 63.

(ii) Subparagraph (i) shall not apply to any offense under the following provisions of Title 18:

Section 4303 (relating to concealing death of child born out of wedlock).

Section 4321 (relating to willful separation or nonsupport).

Section 5103 (relating to unlawfully listening into deliberations of jury).

(6.1) All offenses under Title 34 (relating to game).

(7) Matters jurisdiction of which is vested in magisterial district judges by any statute.

(b) Venue and process.--The venue of a magisterial district judge concerning matters over which jurisdiction is conferred by subsection (a) shall be as prescribed by general rule. The process of the magisterial district judge shall extend beyond the territorial limits of the magisterial district to the extent prescribed by general rule.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; July 20, 1979, P.L.157, No.52, eff. 60 days; Oct. 1, 1981, P.L.282, No.95, eff. imd.; Dec. 13, 1982, P.L.1141, No.260, eff. Jan. 1, 1983; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Dec. 19, 1984, P.L.1089, No.218, eff. imd.; July 8, 1986, P.L.442, No.93, eff. July 1, 1987; Dec. 18, 1992, P.L.1269, No.167, eff. imd.; Mar. 31, 1995, 1st Sp.Sess., P.L.983, No.9, eff. 60 days; Sept. 30, 2003, P.L.120, No.24, eff. Feb. 1, 2004; Nov. 29, 2004, P.L.1369, No.177, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Aug. 11, 2009, P.L.147, No.33, eff. 60 days; Nov. 23, 2010, P.L.1137, No.114, eff. 60 days)

2010 Amendment. Act 114 amended subsec. (a).

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1985 Partial Repeal. Section 3 of Act 60 of 1985 provided that subsec. (a)(5)(iii) and (6)(i)(C) is repealed insofar as it is inconsistent with Act 60.

References in Text. Section 4321 of Title 18 (Crimes and Offenses), referred to in subsec. (a)(6)(ii), is repealed.

Cross References. Section 1515 is referred to in sections 1522, 9702 of this title; section 3321 of Title 8 (Boroughs and Incorporated Towns); sections 103, 1106 of Title 18 (Crimes and Offenses); sections 102, 1619 of Title 75 (Vehicles).

§ 1516. Lien of judgment.

A judgment of a magisterial district judge shall not operate as a lien on real property until a transcript of the record showing a final judgment of a magisterial district judge has been filed in the manner prescribed by general rules in the office of the clerk of the court of common pleas of the county where the property is situated, or in the office of the clerk of the branch of the court of common pleas embracing such county. After such entry the judgment shall, from the date of such entry, be a lien upon real property to the same extent that judgment recovered in the court of common pleas is a lien. No such transcript shall be filed until after 30 days after the entry of final judgment by the magisterial district judge. No

execution against real estate shall be issued by a magisterial district judge.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Aug. 11, 2009, P.L.147, No.33, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Saved from Suspension. Pennsylvania Rule of Civil Procedure for District Justices No. 482, as amended June 30, 1982, provided that section 1516 shall not be deemed suspended or affected. Rules 401 through 482 relate to execution of judgments for the payment of money rendered by district justices. Act 207 of 2004 changed justices of the peace to magisterial district judges. Rule 482 can now be found in the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.

§ 1517. Salary (Repealed).

1987 Repeal. Section 1517 was repealed July 3, 1987, P.L.193, No.28, effective immediately.

§ 1518. Philadelphia Municipal Court (Repealed).

1987 Repeal. Section 1518 was repealed July 3, 1987, P.L.193, No.28, effective immediately.

§ 1519. Philadelphia Traffic Court (Repealed).

1987 Repeal. Section 1519 was repealed July 3, 1987, P.L.193, No.28, effective immediately.

§ 1520. Adjudication alternative program.

(a) General rule.--Except for cases charging offenses under Titles 75 (relating to vehicles) and 34 (relating to game), the magisterial district judge may, upon hearing the facts of a case, admit to an appropriate adjudication alternative authorized by this section persons charged with summary offenses. The defendant shall not be required to plead guilty to be accepted by the magisterial district judge into the program. Acceptance of participation in an alternative authorized by this section shall be considered a first conviction for the purpose of computing whether a subsequent conviction of an offense shall be considered a second or subsequent conviction.

(b) Public service programs and other adjudication alternatives.--A magisterial district judge may, in lieu of making a disposition, place an offender in an appropriate program in which a public service or charitable agency or organization or political subdivision agrees to assume supervisory responsibility for the offender. The program in general shall be approved by the court of common pleas having supervision over that magisterial district. This program may include work, counseling, public service, job training, education or other appropriate community service or self-improvement. The placement authorized by the magisterial district judge shall be appropriate to the offense charged and in the best interests of the community and the offender. The conditions of the program may include the imposition of costs and restitution, the imposition of a reasonable charge relating to the expense of administering the program and any other conditions agreed to by the offender.

(c) Completion of program.--The magisterial district judge shall provide written notice to the public service or charitable agency or organization or political subdivision of the placement

of the offender. Upon notification, the public service or charitable agency or organization or political subdivision shall, as a condition to agreeing to accept responsibility for supervision of the offender, make periodic reports on the fulfillment of the conditions and a final report upon the completion of the appropriate adjudication alternative as required by the supervising magisterial district judge. The magisterial district judge shall dismiss the charges and shall relieve the offender of the obligation to pay any fine or serve any sentence of imprisonment upon the successful completion of the program.

(d) Refusal to accept or complete program.--If the offender refuses to accept the conditions required by the magisterial district judge or fails to complete the program without good cause or violates any condition of the program without good cause, the magisterial district judge shall proceed on the charges as provided by law.

(e) Immunity.--A magisterial district judge and any public service or charitable agency or organization or political subdivision supervising or administering a public service program under this section shall be immune from any civil action for damages brought by a person admitted to this program. Nothing in this section shall be construed to limit or otherwise affect or preclude liability resulting from gross negligence or intentional misconduct. Reckless, willful or wanton misconduct constitutes gross negligence.

(f) Definition.--As used in this section, the term "magisterial district judge" includes a judge of the Pittsburgh Magistrates Court.

(July 1, 1987, P.L.180, No.21, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Aug. 11, 2009, P.L.147, No.33, eff. 60 days)

2009 Amendment. Act 33 amended subsec. (a).

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Prior Provisions. Former section 1520, which related to community public service programs, was added September 27, 1985, P.L.238, No.60, and repealed December 11, 1986, P.L.1521, No.165, effective immediately.

Suspension by Court Rule. Section 1520 was suspended by Pennsylvania Rule of Criminal Procedure No. 1101(3), adopted March 1, 2000, insofar as it is inconsistent with Rules 300, 301, 302 and 310 through 320 relating to Accelerated Rehabilitative Disposition.

Cross References. Section 1520 is referred to in section 6336 of this title; sections 6305, 6306.1, 6307, 6308, 6310.3, 6321, 9123 of Title 18 (Crimes and Offenses); section 925 of Title 34 (Game).

§ 1521. Accelerated Rehabilitative Disposition for summary offenders (Repealed).

1987 Repeal. Section 1521 was repealed July 1, 1987, P.L.180, No.21, effective immediately.

§ 1522. Notice of summary cases involving juveniles.

(a) General rule.--Whenever an individual who is under 18 years of age and is not emancipated is charged with a summary offense for which jurisdiction is vested in a magisterial district judge under section 1515 (relating to jurisdiction and venue), the magisterial district judge shall mail a copy of the citation, or other appropriate written notification, to the

parents or legal guardians of the individual at the time of the filing of the citation if the parents or legal guardians have not been previously notified by the police. Where the individual is not residing with a parent or legal guardian, the copy of the citation, or other appropriate written notification, shall be sent to the person with whom the individual resides if a verifiable address is available. In such cases a magisterial district judge shall not accept a plea or schedule a hearing before 72 hours has lapsed from the time of the mailing of the notice as required under this section. Failure to provide notice under this section shall not constitute grounds for dismissal of the summary offense.

(b) Vehicle offenses.--Nothing in this section shall apply to violations of Title 75 (relating to vehicles), except for 75 Pa.C.S. § 1543 (relating to driving while operating privilege is suspended or revoked).

(c) Identification of juveniles.--Pennsylvania State Police and local police shall assist magisterial district judges in complying with the requirements of this section by indicating, through conspicuous notation on citations, that the offense was committed by a juvenile and whether the police have notified the parents or legal guardian.

(Feb. 14, 1990, P.L.59, No.9, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsecs. (a) and (c). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1990 Amendment. Act 9 added section 1522.

§ 1523. Parental or legal guardian attendance required at juvenile hearings.

(a) Order to attend.--In summary proceedings before a magisterial district judge or judge of the minor judiciary involving any individual who is under 18 years of age and is not emancipated, the magisterial district judge or judge of the minor judiciary may, when the magisterial district judge or judge of the minor judiciary determines that it is in the best interest of the child, issue an order specifically requiring the parent or legal guardian or other person with whom the child resides, if other than the parent or guardian, to be present and ready to participate in the proceedings with the juvenile. No later than ten days before such proceedings, the magisterial district judge or judge of the minor judiciary shall send a notice of the order to the parent or legal guardian or person with whom the child resides if other than the parent or guardian. Nothing in this subsection shall be construed to vest in either the individual who is under 18 years of age and is not emancipated to require participation under this subsection or the parent, legal guardian or other person with whom such individual resides the right to participate under this subsection.

(b) Contempt.--A person failing to comply with an order of participation may be found in contempt of court as outlined in section 4137 (relating to contempt powers of magisterial district judges).

(c) Bench warrant.--The magisterial district judge or judge of the minor judiciary shall issue a bench warrant for any parent, guardian or person with whom the child resides, if other than the parent or guardian, who fails to appear at any proceedings. The magisterial district judge or judge of the minor judiciary may waive any fine or other punishment if the

person is found to be present and ready to participate in the proceedings with the juvenile after a bench warrant is issued. (Nov. 17, 1995, 1st Sp.Sess., P.L.1127, No.33, eff. 120 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

ARTICLE F
COURT OF JUDICIAL DISCIPLINE

Chapter
16. Court of Judicial Discipline of Pennsylvania

Enactment. Article F was added July 2, 1993, P.L.395, No.56, effective August 16, 1993.

CHAPTER 16
COURT OF JUDICIAL DISCIPLINE OF PENNSYLVANIA

Sec.
1601. Court of Judicial Discipline.
1602. Composition of court.
1603. Organization and operation.
1604. Powers of Court of Judicial Discipline.
1605. Seat of court.
1606. Official immunity.

Enactment. Chapter 16 was added July 2, 1993, P.L.395, No.56, effective August 16, 1993.

Special Provisions in Appendix. See section 10(b) of Act 56 of 1993 in the appendix to this title for special provisions relating to transfers to new board and court.

§ 1601. Court of Judicial Discipline.

In accordance with section 18 of Article V of the Constitution of Pennsylvania, the Court of Judicial Discipline shall consist of eight persons selected as provided in this chapter.

§ 1602. Composition of court.

(a) General rule.--The Court of Judicial Discipline shall consist of:

(1) Two judges of the Superior Court, the Commonwealth Court or the courts of common pleas in regular active service appointed by the Supreme Court.

(2) A magisterial district judge appointed by the Supreme Court.

(3) A nonlawyer elector appointed by the Supreme Court.

(4) A judge of the Superior Court, the Commonwealth Court or the courts of common pleas in regular active service appointed by the Governor.

(5) Two nonjudge members of the bar of this Commonwealth appointed by the Governor.

(6) One nonlawyer elector appointed by the Governor.

(b) Qualifications.--All members of the court must be residents of this Commonwealth. No more than two of the four members appointed by the Supreme Court may be registered in the same political party. No more than two of the four members appointed by the Governor may be registered in the same political party. Membership of a judge or magisterial district

judge shall terminate if the member ceases to hold the judicial position that qualified the member for the appointment. Membership shall terminate if a member attains a position that would have rendered the member ineligible for appointment at the time of the appointment. No member may serve more than four consecutive years but may be reappointed after a lapse of one year.

(c) Terms of office.--The members of the court shall serve for terms of four years, except that the member, rather than the successor of the member, shall continue to participate in any hearing in progress at the end of the term of the member.

(d) Vacancies.--A vacancy shall be filled by the respective appointing authority for the remainder of the term to which the member was appointed in the same manner in which the original appointment occurred.

(e) Restrictions on activities of members.--No member, during the member's term of service, may hold office in a political party or political organization. Except for a judicial member, no member of the court, during the term of service of the member, may hold a compensated public office or public appointment. The court shall prescribe general rules governing the conduct of members. A member may be removed by the court for a violation of the rules of conduct prescribed by the court.

(f) Expenses.--All members shall be reimbursed for expenses necessarily incurred in the discharge of their official duties. (Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsecs. (a) and (b). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Special Provisions in Appendix. See section 12 of Act 56 of 1993 in the appendix to this title for special provisions relating to terms of initial members of Court of Judicial Discipline.

§ 1603. Organization and operation.

The Court of Judicial Discipline shall appoint staff and prepare and administer its own budget as provided by law and undertake actions needed to ensure its efficient operation. All actions of the court, including disciplinary action, shall require approval by a majority vote of the members of the court. The budget request of the court shall be made as a separate item in the request by the Supreme Court on behalf of the Judicial Branch to the General Assembly.

§ 1604. Powers of Court of Judicial Discipline.

The Court of Judicial Discipline shall be a court of record with all the attendant duties and powers appropriate to its function as provided by section 18 of Article V of the Constitution of Pennsylvania. The court shall comply with the procedures set forth in section 18 of Article V.

§ 1605. Seat of court.

The regular sessions of the Court of Judicial Discipline shall be held at the seat of government and elsewhere as provided by rule of court.

§ 1606. Official immunity.

Members of the Court of Judicial Discipline and the staff of the court shall be absolutely immune from suit for all conduct in the course of their official duties, and no civil action or disciplinary complaint predicated on testimony before the court may be maintained against any witness or counsel.

SUBPART B

Chapter

17. Governance of the System
18. Compensation (Repealed)
19. Administrative Office of Pennsylvania Courts
21. Judicial Boards and Commissions
23. Personnel of the System
25. Representation of Litigants
27. Office of the Clerk of the Court of Common Pleas
29. Officers Serving Process and Enforcing Orders

CHAPTER 17
GOVERNANCE OF THE SYSTEM

Subchapter

A. General Provisions
B. Specific Powers of the Governing Authority of the System
C. Compensation

Enactment. Chapter 17 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Cross References. Chapter 17 is referred to in section 924 of Title 30 (Fish); section 6010 of Title 51 (Military Affairs); section 6306 of Title 75 (Vehicles).

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

1701. General supervisory and administrative authority of the Supreme Court.
1702. Rule making procedures.
1703. Meeting procedures.

§ 1701. General supervisory and administrative authority of the Supreme Court.

The Supreme Court shall exercise general supervisory and administrative authority over the unified judicial system and in aid thereof shall have the powers specified in Subchapter B (relating to specific powers of the governing authority of the system).

§ 1702. Rule making procedures.

(a) General rule.--Subject to the provisions of subsection (b), the Supreme Court and all agencies or units of the unified judicial system when exercising the power to adopt general rules or other orders in the nature of regulations pursuant to the authority of the Supreme Court under section 1721 (relating to delegation of powers) shall be an agency within the meaning of the act of July 31, 1968 (P.L.769, No.240), known as the "Commonwealth Documents Law," and shall be subject to all of the provisions of such act except section 205 (relating to approval as to legality). All such general rules and orders shall be published pursuant to Part II of Title 45 (relating to publication and effectiveness of Commonwealth Documents).

(b) Scope.--The provisions of subsection (a) shall apply only to a rule or order adopted pursuant to the following provisions of this title or which is otherwise based in whole or in part upon authority conferred by any provision of this title or by other statutory authority:

Section 503 (relating to reassignment of matters).
Section 1722(b) (relating to enforcement and effect of orders and process).
Section 1722(c) (relating to time limitations).
Section 1725 (relating to establishment of fees and charges).
Section 1726 (relating to establishment of taxable costs).
Section 1728 (relating to recognition of related organizations).

The provisions of subsection (a) shall also apply to other rules and orders to the extent prescribed by general rule.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (a).

§ 1703. Meeting procedures.

The Supreme Court and all other agencies and units of the unified judicial system when exercising the powers to recommend or adopt general rules or other orders in the nature of regulations shall be an agency within the meaning of the act of July 19, 1974 (P.L.486, No.175), referred to as the Public Agency Open Meeting Law.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 added section 1703.

Constitutionality. Section 1703 was declared unconstitutional on November 14, 1978, by the Supreme Court of Pennsylvania in a letter to the Governor and the General Assembly. See In re 42 Pa.C.S. § 1703, 482 Pa. 522, 394 A.2d 444.

References in Text. The act of July 19, 1974, P.L.486, No.175, referred to as the Public Agency Open Meeting Law, referred to in this section, was repealed by the act of July 3, 1986, P.L.388, No.84, known as the Sunshine Act. The Sunshine Act was repealed by the act of October 15, 1998, P.L.729, No.93. The subject matter is now contained in Chapter 7 of Title 65 (relating to open meetings).

SUBCHAPTER B
SPECIFIC POWERS OF THE GOVERNING AUTHORITY OF THE SYSTEM

Sec.

1721. Delegation of powers.
1722. Adoption of administrative and procedural rules.
1723. General supervisory and administrative authority.
1724. Personnel of the system.
1725. Establishment of fees and charges.
1725.1. Costs.
1725.2. Assumption of summary conviction costs by county.
1725.3. Criminal laboratory and paramedic user fee.
1725.4. Fee increases and automation fee.
1725.5. Booking center fee.
1725.6. Countywide booking center plan.
1725.7. Petition for expungement or order for limited access fee.
1726. Establishment of taxable costs.
1726.1. Forensic examination costs for sexual offenses.
1726.2. Criminal prosecutions involving domestic violence.
1727. Budget and financial matters.
1728. Recognition of related organizations.

1729. Conferences and institutes.
1730. Boards, councils, commissions and committees.

Cross References. Subchapter B is referred to in section 1701 of this title.

§ 1721. Delegation of powers.

(a) General rule.--The Supreme Court may from time to time delegate to any agency or unit of the unified judicial system such of the supervisory and administrative powers of the court, including the powers specified in this subchapter, as may be specified by general rule.

(b) Exception.--Any power based in whole or in part upon authority conferred by any provision of this title or other statutory authority shall not be delegated by the Supreme Court to any agency or unit other than:

(1) A Statewide council which meets the requirements of section 3529(d) (relating to definition).

(2) The Court Administrator of Pennsylvania.

(3) Any other government unit within the system created by the Constitution of Pennsylvania or by statute. A body created pursuant to section 1730 (relating to boards, councils, commissions and committees), other than the council specified by paragraph (1), shall not be deemed to be created by statute for the purposes of this paragraph.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

Cross References. Section 1721 is referred to in sections 102, 1702 of this title; section 1122 of Title 16 (Counties); section 1306 of Title 23 (Domestic Relations).

§ 1722. Adoption of administrative and procedural rules.

(a) General rule.--The governing authority shall have the power to prescribe and modify general rules governing:

(1) Practice, procedure and the conduct of all courts, magisterial district judges and all officers serving process or enforcing orders of any court or magisterial district judge and for admission to the bar and to practice law, and the administration of all courts and the supervision of all officers of the judicial branch, if such rules are consistent with the Constitution of Pennsylvania and neither abridge, enlarge nor modify the substantive rights of any litigant, nor affect the right of the General Assembly to determine the jurisdiction of any court or magisterial district judge, nor suspend nor alter any statute of limitation or repose. All statutes shall be suspended to the extent that they are inconsistent with rules prescribed under this paragraph.

(2) The prescription of canons of ethics applicable to judges and magisterial district judges and the prescription of rules or canons applicable to the activities of all other personnel of the system.

(3) Procedure under section 18 of Article V of the Constitution of Pennsylvania.

(4) Procedure under section 18 of Article V of the Constitution of Pennsylvania for the suspension, removal, discipline and compulsory retirement of magisterial district judges.

(5) Any matter which is specifically authorized by statute to be governed by general rules.

A governing authority other than the Supreme Court shall not have power to prescribe general rules for assignment or reassignment of classes of matters among the several courts and magisterial district judges under section 503 (relating to reassignment of matters) or otherwise.

(b) Enforcement and effect of orders and process.--To the extent, if any, that such powers shall not be conferred by the provisions of subsection (a)(1) and (5), the governing authority shall have power to prescribe and modify general rules, consistent with this title and any other applicable unrepealed statute, governing:

(1) The effect of judgments and other orders of, and the right to and effect of attachments and other process issuing out of, a tribunal, and the manner of the enforcement of any thereof, including the time during which and the property with respect to which they shall be a lien, the relative priority of liens and other claims, stays of execution which may or shall be granted, satisfaction of judgments and dissolution of attachments, and all other matters relating to judgments and other orders and attachments and other process which have been regulated heretofore by statute.

(2) The powers and duties of system and related personnel serving process or enforcing orders, insofar as such powers and duties relate to the custody of and the judicial sale or other disposition of property of judgment debtors and other property within the jurisdiction of a tribunal. Any such system or related personnel who shall comply with the provisions of such rules shall be free from all liability to any person with respect to action in pursuance of such rules.

A statute shall be repealed for the purposes of this subsection only if it has been expressly repealed absolutely or insofar as inconsistent with general rules prescribed pursuant to this subsection.

(c) Time limitations.--The governing authority shall have power to prescribe and modify general rules:

(1) On any subject covered by Subchapter D of Chapter 55 (relating to appeals).

(2) Specifying the time within which a matter must be commenced under section 708 (relating to improvident administrative appeals and other matters) or otherwise objecting to a determination of a government unit.

The provisions of Chapter 55 (relating to limitation of time) and all other statutes shall be suspended to the extent that they are inconsistent with rules prescribed under this subsection. The intention of this subsection is to authorize the governing authority to develop and maintain uniformity in time periods within the scope of this subsection by eliminating statutory time limitations which are inconsistent with the general pattern of similar time limitations then in effect. (July 20, 1979, P.L.157, No.52, eff. 60 days; July 2, 1993, P.L.395, No.56, eff. Aug. 16, 1993; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Loan Interest and Protection Law. Section 11 of Act 142 of 1976 provided that nothing in section 1722(b) of this title or in any other provision of Act 142 shall in any way repeal, modify or otherwise affect the act of January 30, 1974, P.L.13, No.6, referred to as the Loan Interest and Protection Law.

Cross References. Section 1722 is referred to in sections 1702, 4302, 4303, 5504, 5573 of this title; section 702 of Title 44 (Law and Justice).

§ 1723. General supervisory and administrative authority.

The governing authority shall exercise general supervisory and administrative authority over all courts and magisterial district judges.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 1724. Personnel of the system.

(a) General rule.--Except as provided in subsection (b), the governing authority shall exercise general supervisory and administrative authority over the personnel of the system, including the power to:

(1) Standardize the qualifications for employment, and all titles, salaries and wages of appointed personnel of the system. In establishing such standards the governing authority may:

(i) Take into consideration the location of the work and the conditions under which the service is rendered.

(ii) Establish different standards for different kinds, grades and classes of similar work or service.

(iii) Adopt by reference in whole or in part the then current regulations of the Executive Board promulgated under section 709(a) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," and the related personnel rules.

(2) Approve or disapprove the establishment of sections, bureaus, offices and other administrative units within the system, to investigate duplication of work of the several administrative units within the system and offices employing related personnel and the efficiency of the organization and administration thereof, and to adopt measures applicable to personnel of the system for the better coordination of the work of the unified judicial system and other government units.

(3) Approve or disapprove the number and grade of authorized positions within the personnel of the system, except such positions the compensation of which is fixed by statute.

(4) Approve or disapprove, in like manner as the Executive Board, the payment of extra compensation to personnel of the system who are employed at fixed compensation.

(5) Determine, from time to time, the hours when the office of the clerk and the administrative and central offices of the system shall open and close.

(6) Approve or disapprove extensions of leaves of absence, with pay, for personnel of the system.

(7) Promulgate rules and regulations defining the expenses for which the personnel of the system and members of advisory committees may be reimbursed.

(8) Approve or disapprove recommendations for the bonding of the personnel of the system, to fix the amounts of the bonds of all such personnel required to give such bond, and to require any bond to be executed by a surety.

(9) Approve or disapprove the establishment of offices by any administrative unit within the personnel of the system at any place other than the facilities specified in section 3701 (relating to Pennsylvania Judicial Center) and section 3721 (relating to county judicial center).

(10) Regulate the employment of and the charges made by official court reporters for transcript and similar services when such official court reporters are employed by the unified judicial system.

(b) Exception.--Nothing in subsection (a) shall apply to county staff or shall affect the existing powers of the salary boards of the several counties of this Commonwealth.

Cross References. Section 1724 is referred to in sections 1905, 2123 of this title.

§ 1725. Establishment of fees and charges.

(a) General rule.--(Repealed).

(b) Procedure.--(Repealed).

(c) Counties of the first class.--

(1) The following fees shall be received by the clerks of orphans' courts of counties of the first class:

(i) The following fees shall be charged for the filing of accounts of guardians and trustees based upon the size of the estate:

Estate not exceeding $1,000	$14.00
Each additional $1,000 or fraction thereof over $1,000, but not exceeding $10,000	7.00
Over $10,000, but not exceeding $25,000 ..	140.00
Over $25,000, but not exceeding $100,000	279.00
Over $100,000, but not exceeding $500,000	419.00
Over $500,000, but not exceeding $1,000,000	559.00
Each additional $500,000 or fraction thereof over $1,000,000	300.00

(ii) The following fees shall be charged for the indicated activity or function:

Affidavit	$3.00
Appeal to Supreme Court	35.00
Attachment	3.00
Auditor's report	14.00
Bond	7.00
Bond, refunding	7.00
Claim of creditor	7.00
Copy of any record, per page	3.00
Disclaimer	7.00
Docket entries, per page	8.00
Election to take under or against will ..	7.00
Exceptions to adjudication, opinion and decree or master's or auditor's report	14.00
Execution of deed by clerk	14.00
Excerpt from schedule and certification ..	7.00
Exemplification of any record	7.00
Exemption, petition for	7.00
Family settlement:	
not exceeding three pages	25.00
each additional page	6.00
Guardian, appointment of:	
not exceeding $2,500	14.00
exceeding $2,500	35.00
Inventory, guardian's	3.00
Marriage license	5.00
(Plus $10.00 surcharge for Commonwealth of Pennsylvania)	
Consent of parent or guardian	3.00
Appointment of temporary guardian	3.00
Master's report	13.00

Petition and decree 14.00
Petition and decree for citation 28.00
Pleading (other than petition):
answer to preliminary objections or exceptions 7.00
Preliminary objections 14.00
Satisfaction of award, each 3.00
Short certificate 3.00
Stipulation 14.00
Subpoena 3.00

(iii) The clerk of orphans' courts of counties of the first class are authorized to establish fees for services required by statute or rule of court which are not specifically provided for in this paragraph. Any such additional fees shall be the same as those imposed for similar services. The clerks shall not be required to perform any service until the requisite fee is paid.

(2) The fees to be received by the Prothonotary on behalf of the Trial Division and as Clerk of the Family Division of the Court of Common Pleas in counties of the first class shall be as follows:

(i) Appeals:

The filing of an appeal to the Supreme, Superior or the Commonwealth Court, including all services $161.00

The filing of any other appeal, including, but not limited to, an appeal from an award in compulsory arbitration, an appeal from administrative agencies, petition for a writ of certiori, appeals from the Municipal Court, appeals from the Board of View and the Board of Revision of Taxes 86.00

(This appeal fee is exclusive of any jury listing fee set forth in this act. This fee does not include the costs of compensation of arbitrators. (See Pa.R.C.P. No.1308))

(ii) Certifications:

Any certification or certificate $27.00
Any exemplification 54.00
If the same involves more than one page, for each additional page 3.00

(A certificate or certification is defined as the authentication of any record by affixing the seal of the court. Includes letters rogatory and interrogatories to commissioners.)

(iii) Commencement of actions:

Commencement of any civil action..... 172.00

(Commencement of action includes the institution of any civil action, divorce or adoption action by writ of summons, complaint, petition or report of intent to adopt, the filing of any partnership or association agreements or any billing pursuant to the Bulk Sale Act.)

(iv) Automation maintenance fee:

Parties - to be paid at time of commencement of action, appeal or defendant's first filing $5.00

Nonparty - providing docket entries for a nonparty per docket entry each 5.00

The funds generated by this computer service charge shall be set aside by the prothonotary and remitted monthly to the First Judicial District procurement on behalf of the Court of Common Pleas of the First Judicial District. This fund shall be maintained in a dedicated account which shall be used for the development and implementation of effective and efficient automation within the Office of the Prothonotary as well as civil computer hardware, services and programs in the First Judicial District.

(v) Custody:

Custody, partial custody or visitation..... $32.00

Respondent's first responsive filing 16.00

Other motions and petitions - (See petitions and motions)

Thirteen percent of the funds generated by the charge under this subparagraph shall be transmitted by the prothonotary to the Administrative Office to pay for the implementation of section 1904 (relating to availability of criminal charge information in child custody proceedings).

(vi) Defendant's first filing:

The filing by or on behalf of any defendant (or additional defendant) of an entry of appearance, answer, preliminary objections, writ to join (with entry of appearance) or complaint against additional defendant or any paper not otherwise provided for in this paragraph. A pleading, appearance or other paper not otherwise provided for in this act filed on behalf of more than one defendant shall require only one fee. The filing of separate initial pleadings by a defendant require a separate fee $86.00

(vii) Divorce:

Commencement of action - (See commencement of actions)

Defendant's first filing - (See defendant's first filing)

Other petitions and motions - (See petitions and motions)

Praecipe to transmit: $43.00

Motion for appointment of permanent master 322.00

(viii) Eminent domain:

Commencement of action by declaration of taking or petition for a board of view - (See commencement of actions)

(ix) (Deleted by amendment)

(x) Judicial education fee $1.00

There shall be added to every commencement of action fee and defendant's first filing fee the additional sum of $1.00 for the purpose of providing funding for the continuing judicial education and training for members of the judiciary of the First Judicial District. The funds generated by this charge shall be set aside by the prothonotary and remitted monthly to the First Judicial District procurement to be maintained in a separate account and used for judicial education and training.

(xi) Judgments:

Judgment by confession or complaint in confession of judgment (See Pa.R.C.P. Nos.2950-2974) $54.00

Entry of judgment from other jurisdiction 54.00

(xii) Liens and reimbursement agreements:

The filing of any Federal tax lien, Commonwealth and municipal tax liens, mechanics' lien or waiver of mechanics' lien and any other lien not specifically covered under this act $21.00

(Mechanics' lien fee does not include commencement of action fee when complaint is filed.)

(xiii) Petitions and motions:

The filing of any petition or motion, excluding commencement of action (See commencement of actions) $27.00

(xiv) Name search $38.00

(xv) Subpoena:

Issuance of subpoena as authorized by Pa.R.C.P. No.234.2 ..... $5.00

Producing a record in response to subpoena based on four-hour service or fraction thereof $43.00

Service beyond four hours, per hour or fraction thereof 11.00

For each mile traveled (round trip) for service out of county 00.365

(xvi) Trial listing/jury demand $161.00

(xvii) Record retention fee $1.00

A record retention fee shall be added to every motion or petition, excluding a motion or petition which constitutes an initial filing, the additional sum of $1.00 for the purpose of providing funding to establish and maintain a record retention program for the First Judicial District. The funds generated by this charge shall be set aside by the Prothonotary and remitted monthly to the First Judicial District procurement to be maintained in a separate account and used for record retention purposes.

(xviii) Prothonotary automation development fee $5.00

In addition to any other fee authorized by law, an automation fee may be charged and collected by the prothonotary upon

initiation of any action or legal proceeding. The automation fee shall be deposited into a special prothonotary automation fund established for and maintained by the First Judicial District of Pennsylvania. Moneys deposited into the special prothonotary automation fund and any interest accrued thereon shall be used solely for the purpose of prothonotary automation, including automation updates.

(xix) The prothonotary is authorized, with the approval of the President Judge, to establish fees for services required by statute or general rule which are not specifically provided for in this paragraph. Any fees so established shall be the same as those imposed for similar services. The prothonotary shall not be required to receive any paper or perform any service until the proper fee is paid.

(xx) Refunds:

There will be no refund of any amount less than $15. The jury fee when paid shall not be refunded.

(xxi) (Deleted by amendment).

(xxii) Special court administration fee $5.00

There shall be added to every commencement of action fee and defendant's first filing fee the additional sum of $5.00 for the purpose of providing funding for the administration of gun and zone courts in the First Judicial District. The funds generated by this charge shall be set aside by the prothonotary and remitted monthly to the First Judicial District special gun and zone court fund. The money in the fund and any interest accrued thereon shall be used solely for the purpose of administration of gun and zone courts.

(xxiii) The fees enumerated in this paragraph shall be exclusive of any tax, law library surcharge or any other surcharge or assessment existing or hereafter levied.

(3) The fees to be received by the prothonotary on behalf of the Philadelphia Municipal Court in civil actions shall be as follows:

(i) Commencement of civil action $0 to $2,000 ..... $20.00

(ii) Commencement of civil actions $2,001 to $12,000 ..... $40.00

(iii) Commencement of landlord and tenant civil actions $0 to $2,000 ..... $20.00

(iv) Commencement of landlord and tenant actions $2,001 to $10,000 ..... $40.00

(v) Commencement of landlord and tenant civil actions over $10,000 ..... $60.00

(vi) Indexing $5.00

(vii) Writ of possession $4.00

(viii) Motions (petitions) $10.00

(ix) Additional defendant filing shall be same as initial filing

(x) Counterclaim shall be same as initial filing

(xi) Cross-claim shall be same as initial filing

(xii) Setoffs shall be same as initial filing

(xiii) Subpoena $3.00

(xiv) Writ of revival $6.00

(xv) Record retention fee $1.00

There shall be added to every motion the additional sum of $1 for the purpose of providing funding for establishing and maintaining a record retention program for the First Judicial District. The funds generated by this charge shall be set aside by the prothonotary and remitted monthly to the First Judicial District procurement to be maintained in a separate account and used for record retention purposes.

(xvi) Automation fee:

(A) Initial pleading in all civil actions and landlord tenant actions $5.00

(B) All civil petitions and motions .. $2.00

The funds generated by this automation fee shall be set aside by the prothonotary and remitted monthly to the First Judicial District.

(xvii) The fees enumerated in this paragraph do not cover any costs for services performed by the sheriff or other writ server. Service of initial process shall be $27. All other fees of the sheriff or other writ server shall be in accordance with the sheriff's fee bill applicable to Philadelphia County.

(xviii) The commencement of any action or proceeding as well as complaints and all writs shall be exempt from any library fee or taxes.

(4) Beginning on January 1, 2008, and each January 1 thereafter, the prothonotary may, with the approval of the president judge of the applicable court, periodically increase any fee or charge imposed as of the effective date of this paragraph pursuant to paragraphs (2) or (3). However, no such fee or charge may be increased more than once in any three-year period, and the amount of any increase may not be greater than the percentage of increase in the Consumer Price Index for Urban Workers for the immediate three years preceding the last increase in the fee or charge.

(5) The First Judicial District of Pennsylvania may impose a charge for the production of records produced pursuant to a subpoena served on the First Judicial District or its employees as follows:

(i) Producing a record in response to a subpoena based on four-hour service or fraction thereof $43.00

(ii) Service beyond four hours, per hour or fraction thereof 11.00

(iii) For each mile traveled (round trip) for service out of county 00.365

(6) (i) In counties of the first class, there shall be charged and set apart by the officers receiving the fees fixed under this section an amount equal to 20% of the filing fees at the time in effect for the probate of wills, the issue of letters testamentary, the issue of

letters of administration and the filing of accounts with the register of wills, the filing of accounts of trustees and guardians, and of all filings in the office of the prothonotary of the court of common pleas of the county.

(ii) The provisions of this paragraph shall not apply to any actions taken or initiated by any political subdivision.

(iii) The funds set aside shall be remitted monthly to the First Judicial District and deposited into a family court facility fund, which is to be established and used by the First Judicial District to fund the lease, purchase and maintenance of appropriate family court facilities and for related purposes.

(d) Counties of the second class.--In counties of the second class, the prothonotary and the clerk of the orphans' court division shall set apart from the fees fixed in this subsection or under any other statute and collected by them on the following actions, proceedings and appeals and remit monthly the total collected to the county treasurer for the exclusive use and benefit of the public law library in the county:

(1) The sum of $1 for appeals to the court of common pleas from any administrative agency, independent agency, government unit, government agency or Commonwealth agency.

(2) The sum of $1 for appeals that are filed with or are to be heard by the court of common pleas which appeals are not specifically set forth in paragraph (1), including, but not limited to, appeals from magisterial district judges, the Pittsburgh Magistrates Court and the Traffic Court of Pittsburgh.

(3) The sum of $1 for appointments of Boards of View.

(4) The sum of $1 for certiorari to magisterial district judges and the Pittsburgh Magistrates Court and the Traffic Court of Pittsburgh.

(5) The sum of $1 for the commencement of a civil action or proceeding.

(6) The sum of $1 for the filing of a praecipe for and issuance of a writ of execution or attachment.

(7) The sum of $1 for the entry of a judgment by confession or otherwise.

(8) The sum of $1 for the filing of adversary and amicable scire facias proceedings.

(9) The sum of $1 for every filing with respect to fictitious names, whether individual or corporate.

(10) The sum of $1 for the probate of a will, the issuance of letters of administration or a petition for disposition of decedents estates independent of the issuance of letters testamentary or of administration.

(11) The sum of $1 for the filing of an account of fiduciary in the office of the clerk of the orphans' court division or in the office of the prothonotary.

(12) The sum of $1 for the filing of a petition for a writ of habeas corpus for the custody of a minor child or a petition for the award of custody of a minor child.

(13) The sum of $1 for the filing of a praecipe for the issuance of miscellaneous writs, for the filing of a petition for a citation or for the filing of a caveat not specifically provided for in this subsection.

(e) Counties of the second class A.--In counties of the second class A, the prothonotary, the register of wills and the clerk of the court shall set apart from the fees fixed in this

subsection or under any other statute and collected by them on the following actions and proceedings and remit monthly the total collected to the county treasurer for the exclusive use and benefit of the public law library in the county if the county commissioners so request and in the amount they so request:

(1) The sum of not less than $5 nor more than $40 for the commencement of any civil action or proceeding.

(2) The sum of not less than $5 nor more than $40 for the probate of a will, the issuance of letters of administration or any petition for disposition of decedents estates independent of the issuance of letters testamentary or of administration.

(3) The sum of not less than $5 nor more than $40 for each misdemeanor or felony case processed by the clerk of courts.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 14, 1992, P.L.872, No.140, eff. 60 days; Oct. 7, 1996, P.L.691, No.119, eff. 120 days; June 8, 2001, P.L.123, No.18, eff. July 1, 2001; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; July 7, 2006, P.L.378, No.81, eff. 7 days; July 7, 2011, P.L.207, No.30, eff. imd.)

2011 Amendment. Act 30 amended subsec. (c)(3)(ii).

2006 Amendment. Act 81 amended subsec. (c)(2) and added subsec. (c)(3), (4), (5) and (6). Section 5 of Act 81 provided that Act 81 shall apply to all actions instituted on or after the effective date of Act 81.

2004 Amendment. Act 207 amended subsec. (d)(2) and (4). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1992 Amendment. Act 140 repealed subsecs. (a) and (b) and added subsecs. (c), (d) and (e).

Special Provisions in Appendix. See section 24 of Act 142 of 1976 in the appendix to this title for special provisions relating to financial matters.

Cross References. Section 1725 is referred to in sections 1702, 1725.1, 1904, 3542, 3571 of this title.

§ 1725.1. Costs.

(a) Civil cases.--Subject to subsection (f), the costs to be charged by magisterial district judges in every civil case, except as otherwise provided in this section, shall be as follows:

(1) Actions involving $500 or less.....	$30.00
(2) Actions involving more than $500 but not more than $2,000.....	$40.00
(3) Actions involving more than $2,000 but not more than $4,000.....	$50.00
(4) Actions involving more than $4,000 but not more than $12,000.....	$75.00
(5) Landlord-tenant actions involving less than $2,000.....	$45.00
(6) Landlord-tenant actions involving more than $2,000 but not more than $4,000.....	$55.00
(7) Landlord-tenant actions involving more than $4,000 but not more than $12,000.....	$75.00
(8) Order of execution.....	$22.50
(9) Objection to levy.....	$10.00
(10) Reinstatement of complaint.....	$ 5.00

Such costs shall include all charges except the costs of a magisterial district judge's transcript of every proceeding on appeal or certiorari (including affidavit and certificate) which

shall be $2.50 per transcript. Said costs shall not include, however, the cost of postage and registered mail which shall be borne by the plaintiff.

(a.1) Custody cases.--Except as provided in section 1725(c)(2)(v) (relating to establishment of fees and charges) and subject to subsection (f), in a custody case, the court of common pleas shall, in addition to the cost provided by general rule, assess a cost of $5.00. Eighty percent of the funds generated by the charge under this subsection shall be transmitted by the prothonotary to the Administrative Office to pay for the implementation of section 1904 (relating to availability of criminal charge information in child custody proceedings).

(b) Criminal cases.--Subject to subsection (f), the costs to be charged by the minor judiciary or by the court of common pleas where appropriate in every criminal case, except as otherwise provided in this section, shall be as follows:

(1) Summary conviction, except motor vehicle cases..... $28.50

(2) Summary conviction, motor vehicles cases, other than paragraph (3)..... $22.50

(3) Summary conviction, motor vehicle cases, hearing demanded..... $27.50

(4) Misdemeanor..... $32.50

(5) Felony..... $37.50

Such costs shall include all charges including the costs of giving a magisterial district judge's transcript to the prosecutor or defendant, or both, if requested. Such costs shall not include, however, the cost of postage and registered mail which shall be paid by the defendant upon conviction.

(c) Unclassified costs or charges.--Subject to subsection (f), the costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

(1) Entering transcript of judgment from another member of the minor judiciary..... $ 5.00

(2) Marrying each couple, making record thereof, and certificate to the parties..... $25.00

(3) Granting emergency relief pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse)..... $10.00

(4) Issuing a search warrant (except as provided in subsection (d))..... $10.00

(5) Any other issuance not otherwise provided for in this subsection..... $10.00

(d) Search warrants.--In every case where a search warrant is requested by a police officer, constable or other peace officer engaged as such in the employ or service of the Commonwealth or any of its political subdivisions, no cost or charge shall be assessed against such officer, the Commonwealth or political subdivision for the issuance of such search warrant.

(e) Fish and boating offenses.--

(1) Except as provided in paragraph (2), any person convicted of a summary offense under Title 30 (relating to fish) shall, in addition to the fine imposed, be sentenced to pay $10 as costs of the issuing authority which costs shall include all charges including, when called for, the costs of postage and registered or certified mail and the costs of giving a transcript to the prosecutor or defendant, or both, if requested.

(2) Where the person charged with a summary offense under Title 30 demands a hearing, the costs of the issuing authority shall be $15, which costs shall include all charges including the charges specified in paragraph (1).

(f) Annual increase in costs.--

(1) Except as provided in paragraph (2), beginning on January 1, 1994, and each January 1 thereafter, the costs under subsections (a), (b) and (c) shall be increased by the percentage of increase in the Consumer Price Index for Urban Workers for the immediate preceding calendar year which shall be published in the Pennsylvania Bulletin annually by the Supreme Court on or before the preceding November 30. This subsection shall expire January 1, 2025.

(2) For the cost increase to be effective for calendar year 2002 only, the costs under subsections (a), (b) and (c) shall be increased by the percentage of increase in the Consumer Price Index for Urban Workers for calendar year 2000 which shall be published by the Supreme Court in the Pennsylvania Bulletin as soon as possible after enactment. The increase for calendar year 2002 only shall be effective one month after publication in the Pennsylvania Bulletin.

(July 20, 1979, P.L.157, No.52, eff. 60 days; July 10, 1980, P.L.513, No.106, eff. imd.; Dec. 13, 1982, P.L.1141, No.260, eff. Jan 1, 1983; Dec. 20, 1982 P.L.1409, No.326, eff. 60 days; Dec. 19, 1990, P.L.1240, No.206, eff. 90 days; Dec. 18, 1992, P.L.1269, No.167, eff. imd.; Oct. 7, 1996, P.L.691, No.119, eff. 120 days; Dec. 17, 2001, P.L.944, No.113, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Oct. 27, 2010, P.L.949, No.96, eff. 60 days; July 7, 2011, P.L.207, No.30, eff. imd.)

2011 Amendment . Act 30 amended subsec. (a)(4) and (7).

2010 Amendment. Act 96 reenacted and amended subsec. (f)(1). Section 4(1) of Act 96 provided that the reenactment and amendment of subsec. (f)(1) shall apply to costs imposed on or after the effective date of section 4(1).

2004 Amendment. Act 207 amended subsecs. (a) and (b). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

2001 Amendment. Act 113 reenacted and amended the entire section, retroactive to January 1, 2001.

1992 Amendment. See sections 5 and 6 of Act 167 in the appendix to this title for special provisions relating to increases in court costs and revision of official revenue estimate.

Cross References. Section 1725.1 is referred to in sections 1725.2, 1904, 3571 of this title; section 925 of Title 34 (Game); sections 3111, 4309, 4581 of Title 75 (Vehicles).

§ 1725.2. Assumption of summary conviction costs by county.

(a) Division of costs.--In every case of summary conviction in which the evidence is not sufficient to convict and the defendant is dismissed, there shall be no costs imposed if the prosecutor is a police officer engaged as such in the employ of this Commonwealth or of any of its political subdivisions. In all other cases, the costs may be imposed on the prosecutor or by the defendant if so permitted by law.

(b) Costs where default occurs.--In every case of summary conviction in which the defendant is convicted and sentenced to jail in default of the payment of the fine and costs imposed, the costs of prosecution shall be borne by the county.

(c) County of the second class.--In any case before a salaried magistrate where costs are borne by a county of the

second class, the costs chargeable to the county shall be one-half of the costs set forth in section 1725.1(b) (relating to costs).
(July 20, 1979, P.L.157, No.52, eff. 60 days)

1979 Amendment. Act 52 added section 1725.2.

Cross References. Section 1725.2 is referred to in section 3571 of this title.

§ 1725.3. Criminal laboratory and paramedic user fee.

(a) Imposition.--A person who is placed on probation without verdict pursuant to section 17 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or who receives Accelerated Rehabilitative Disposition or who pleads guilty to or nolo contendere to or who is convicted of a crime as defined in 18 Pa.C.S. § 106 (relating to classes of offenses) or 75 Pa.C.S. § 1543(b)(1.1) (relating to driving while operating privilege is suspended or revoked) or 3802 (relating to driving under influence of alcohol or controlled substance) or 3735 (relating to homicide by vehicle while driving under influence) or 3735.1 (relating to aggravated assault while driving under the influence) or 3808(a)(2) (relating to illegally operating a motor vehicle not equipped with ignition interlock) or a violation of The Controlled Substance, Drug, Device and Cosmetic Act shall, in addition to any fines, penalties or costs, in every case where laboratory services were required to prosecute the crime or violation, be sentenced to pay a criminal laboratory or paramedic user fee which shall include, but not be limited to, the cost of sending a laboratory technician or paramedic to court proceedings.

(b) Amount of user fee.--

(1) The director or similar officer of the county laboratory or emergency medical services agency that has provided services in the prosecution shall determine the actual cost of the laboratory or paramedic services provided in the prosecution and transmit a statement for services rendered to the court.

(2) If a Pennsylvania State Police laboratory has provided services in the prosecution, the director or similar officer of the Pennsylvania State Police laboratory shall determine the actual cost of the laboratory services provided in the prosecution and transmit a statement for services rendered to the court.

(c) Disposition of fees.--

(1) The criminal laboratory user fee for criminal laboratory services provided by a county shall be paid to the county and shall be used solely for operation and maintenance of the county laboratory. The criminal laboratory user fee for criminal laboratory services provided by the Pennsylvania State Police laboratory shall be paid into the Criminal Laboratory User Fee Fund created under paragraph (2).

(2) A special nonlapsing fund of the State Treasury is hereby established and shall be known as the Criminal Laboratory User Fee Fund. Money in the Criminal Laboratory User Fee Fund is hereby appropriated to the Pennsylvania State Police and shall be used solely for operation and maintenance of Pennsylvania State Police criminal laboratories.

(3) The paramedic user fee for laboratory services provided by a paramedic shall be paid to the emergency

medical services agency and shall be used solely for the provision of criminal laboratory services.

(d) Other laws.--The criminal laboratory and paramedic user fee shall be imposed notwithstanding any other provision of law to the contrary.

(Dec. 14, 1992, P.L.872, No.140; Sept. 30, 2003, P.L.120, No.24, eff. Feb. 1, 2004; Dec. 18, 2013, P.L.1187, No.112, eff. 60 days; Nov. 3, 2016, P.L.1094, No.142, eff. 90 days)

1992 Amendment. Act 140 added section 1725.3, effective January 1, 1994, as to subsecs. (b)(2) and (c)(2) and immediately as to the remainder of the section. Section 6 of Act 140 provided that section 1725.3 shall apply to offenses committed on or after the effective date of Act 140.

§ 1725.4. Fee increases and automation fee.

(a) Increasing existing fees.--

(1) In counties of the second class A and the third through eighth class, including home rule counties of the same class, the clerk of courts may increase any fee or charge that exists as of the effective date of this section with the approval of the president judge. The amount of any increase may not be greater than the aggregate of the consumer price index from the month in which the fee was last established through June 1998.

(2) The amount of any fee or charge increased pursuant to paragraph (1) may be increased every three years, provided that the amount of the increase may not be greater than the percentage of increase in the Consumer Price Index for Urban Workers for the immediate three years preceding the last increase in the fee or charge.

(b) Automation fee for clerk of courts office.--In addition to any other fee authorized by law, an automation fee of not more than $5 may be charged and collected by the clerk of courts of counties of the second class A and the third through eighth class, including home rule counties of the same class, for the initiation of any action or legal proceeding. The automation fee shall be deposited into a special clerk of courts automation fund established in each county. Moneys in the special fund shall be used solely for the purpose of automation and continued automation update of the office of the clerk of courts.

(June 22, 2000, P.L.333, No.36, eff. 60 days)

2000 Amendment. Act 36 added section 1725.4.

§ 1725.5. Booking center fee.

(a) Imposition.--Following the adoption of a countywide booking center plan, a person may, in addition to any other fines, penalties or costs imposed by law, be required by the court to pay a booking center fund fee of no more than $300 if the person:

(1) Is placed on probation without verdict pursuant to section 17 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(2) Receives Accelerated Rehabilitative Disposition for, pleads guilty to or nolo contendere to or is convicted of a crime under the following:

(i) 18 Pa.C.S. § 106(a) (relating to classes of offenses).

(ii) 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).

(iii) 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance).

(iv) A violation of The Controlled Substance, Drug, Device and Cosmetic Act.

(b) Disposition.--The fee under subsection (a) shall be paid to the county and deposited into a special central or regional booking center fund established in the county. Moneys in the special fund shall be used solely for the implementation of a countywide booking center plan under section 1725.6 (relating to countywide booking center plan) and the start-up, operation or maintenance of a booking center.

(c) Other laws.--The booking center fee shall be imposed notwithstanding any other provision of law to the contrary. (Sept. 25, 2008, P.L.1026, No.81, eff. 180 days)

2008 Amendment. Act 81 added section 1725.5.

Cross References. Section 1725.5 is referred to in section 1725.6 of this title.

§ 1725.6. Countywide booking center plan.

(a) Development.--

(1) A court in a county that has developed and adopted a countywide booking center plan may impose the fee established under section 1725.5 (relating to booking center fee).

(2) A county with a criminal justice advisory board shall develop the plan in conjunction with the criminal justice advisory board.

(3) A county that does not have a criminal justice advisory board shall develop the plan in conjunction with the district attorney, local police departments and municipalities within the county.

(b) Requirements.--The plan adopted under subsection (a) shall do all of the following:

(1) Ensure coordination and collaboration of all criminal justice agencies within the county.

(2) Comply with all applicable Federal and State technology standards for the collection and transmission of offender identification information.

(3) Make recommendations regarding the number, funding and operations of booking centers within the county. The plan shall prioritize the recommendations.

(c) Submission.--

(1) The plan shall be submitted to the Pennsylvania Commission on Crime and Delinquency for review and certification that the plan complies with the requirements of subsection (b)(2).

(2) The Pennsylvania Commission on Crime and Delinquency shall provide a list of all certified county plans to the Administrative Office of Pennsylvania Courts upon each county's certification. The Pennsylvania Commission on Crime and Delinquency shall update this list and provide it to the Administrative Office of Pennsylvania Courts whenever a county is added or subtracted from the list.

(d) Duties of commission.--The Pennsylvania Commission on Crime and Delinquency shall do all of the following:

(1) Determine and certify if a countywide booking center plan submitted by a county criminal justice advisory board or the county commissioners complies with subsection (b)(2).

(2) Adopt guidelines within 90 days of the effective date of this section relating to technology standards for the collection and transmission of offenders' identification. The guidelines shall be published in the Pennsylvania Bulletin.

(e) Implementation.--Following certification by the Pennsylvania Commission on Crime and Delinquency under subsection (d), the county may appropriate moneys in the special central or regional booking center fund to implement the plan to the greatest extent possible.

(f) Limitation.--No more than 5% of moneys in the special central or regional booking center fund may be appropriated by the county for the county's administrative costs related to the collection of the fee under section 1725.5.

(g) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Booking center." A facility utilized for the processing and identification of individuals arrested, charged or accused of a crime.

"County criminal justice advisory board." A county criminal justice planning board which meets the minimum standard for those boards established by the Pennsylvania Commission on Crime and Delinquency.

"Countywide booking center plan." A written plan that includes a comprehensive strategy to improve the collection, transfer and maintenance of electronic offender identification information.

(Sept. 25, 2008, P.L.1026, No.81, eff. 180 days)

2008 Amendment. Act 81 added section 1725.6.

Cross References. Section 1725.6 is referred to in section 1725.5 of this title.

§ 1725.7. Petition for expungement or order for limited access fee.

(a) General rule.--In addition to any other fee authorized by law, a person who files a petition for expungement under 18 Pa.C.S. § 9122 (relating to expungement) or a petition for an order for limited access under 18 Pa.C.S. § 9122.1 (relating to order for limited access) shall pay a fee of $132 to the clerk of courts at the time of filing.

(b) Distribution.--The clerk of courts shall ensure that the fee is distributed as follows:

(1) One-quarter to the Administrative Office of Pennsylvania Courts.

(2) One-quarter to the Pennsylvania State Police.

(3) One-quarter to the district attorney of the county.

(4) One-quarter to the clerk of courts.

(Feb. 16, 2016, P.L.10, No.5, eff. 270 days)

2016 Amendment. Act 5 added section 1725.7.

§ 1726. Establishment of taxable costs.

(a) Standards for costs.--The governing authority shall prescribe by general rule the standards governing the imposition and taxation of costs, including the items which constitute taxable costs, the litigants who shall bear such costs, and the discretion vested in the courts to modify the amount and responsibility for costs in specific matters. All system and related personnel shall be bound by such general rules. In prescribing such general rules, the governing authority shall be guided by the following considerations, among others:

(1) Attorney's fees are not an item of taxable costs except to the extent authorized by section 2503 (relating to right of participants to receive counsel fees).

(2) The prevailing party should recover his costs from the unsuccessful litigant except where the:

(i) Costs relate to the existence, possession or disposition of a fund and the costs should be borne by the fund.

(ii) Question involved is a public question or where the applicable law is uncertain and the purpose of the litigants is primarily to clarify the law.

(iii) Application of the rule would work substantial injustice.

(3) The imposition of actual costs or a multiple thereof may be used as a penalty for violation of general rules or rules of court.

(b) Private collection agencies.--The governing authority shall have the option of turning over delinquent accounts to private collection agencies which shall be selected through the competitive bidding process.

(Dec. 18, 1992, P.L.1269, No.167, eff. imd.)

Cross References. Section 1726 is referred to in sections 1702, 3542 of this title; section 3345.1 of Title 75 (Vehicles).

§ 1726.1. Forensic examination costs for sexual offenses.

The cost of a forensic rape examination or other physical examination conducted for the purpose of gathering evidence in any criminal investigation and prosecution under 18 Pa.C.S. Ch. 31 (relating to sexual offenses) and the cost to provide medications prescribed to the victim therein shall not be charged to the victim. If appropriate insurance is unavailable, reimbursement may be sought pursuant to the provisions of section 477.9 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(Sept. 26, 1995, 1st Sp.Sess., P.L.1056, No.20, eff. 60 days)

1995 Amendment. Act 20, 1st Sp.Sess., added section 1726.1.

References in Text. Section 477.9 of the act of April 9, 1929, P.L.177, No.175, known as The Administrative Code of 1929, referred to in this section, was repealed by the act of November 24, 1998, P.L.882, No.111, known as the Crime Victims Act. The subject matter is now contained in Act 111.

§ 1726.2. Criminal prosecutions involving domestic violence.

(a) General rule.--In any criminal prosecution of an offense related to an incident involving domestic violence, of any type or grade, whether the charges were filed by private criminal complaint, by the police or by the district attorney, no fees, costs or fines associated with the filing of the criminal charges, the issuance or service of a warrant, protection order or subpoena and other generated costs shall be charged to the victim.

(b) Definition.--For purposes of this section, an offense related to an incident involving domestic violence shall be defined as any of the offenses or crimes set forth in Title 18 (relating to crimes and offenses), where the alleged perpetrator and victim have one of the relationships set forth in the definition of "family or household member" in 23 Pa.C.S. § 6102 (relating to definitions) or are persons who reside or resided temporarily or permanently in the same dwelling.

(Sept. 26, 1995, 1st Sp.Sess., P.L.1056, No.20, eff. 60 days)

1995 Amendment. Act 20, 1st Sp.Sess., added section 1726.2.

§ 1727. Budget and financial matters.

The governing authority shall have power to:

(1) Review the tentative budget request of the system prepared by the Administrative Office pursuant to section 3522 (relating to preparation of tentative budget request),

to make such modifications therein as in its judgment are necessary or desirable, and to approve a final budget request of the system pursuant to Subchapter B of Chapter 35 (relating to Judicial Department budget and finance).

(2) Approve or disapprove requests for the purchase from funds appropriated to the system of goods or services by personnel of the system, including the rental of space, and requests for the construction or modification of Commonwealth facilities to be utilized by the system.

§ 1728. Recognition of related organizations.

(a) General rule.--The governing authority shall have power on application to identify the several conferences or associations which are the most broadly representative of each of the following groups:

(1) Judges of the courts of common pleas, community courts and Philadelphia Municipal Court.

(2) Magisterial district judges.

(3) Members of the bar of this Commonwealth.

If the governing authority shall approve the organic law of the conference or association insofar as it relates to matters affecting the system, the governing authority may by general rule designate the applicant as the recognized conference or association of such group for the purposes of this title and any other provision of law.

(b) Changes in recognition.--The governing authority may transfer recognition from one conference or association of a group to another such conference or association whenever the governing authority shall find that the circumstances warrant such change and shall revoke the designation of any conference or association if it shall find that such conference or association would not be designated a recognized conference or association if then making application therefor.

(c) Expenses.--The governing authority may authorize the payment of the expenses of personnel of the system incident to participation in the work of a recognized conference or association and may make grants for the support of the work thereof.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Cross References. Section 1728 is referred to in section 1702 of this title.

§ 1729. Conferences and institutes.

The governing authority shall have power by general rule or by order to provide for the organization and convening on a regular or special basis of a Judicial Conference of Pennsylvania, institutes and joint councils on sentencing, and such other informational and educational conferences and institutes as the governing authority may find to be necessary or desirable for the prompt, fair and efficient administration of justice, and to require the attendance of such personnel of the system as shall be designated by or pursuant to such general rules or orders. The governing authority may cooperate with other states and the Federal Government in the convening, organization and maintenance of conferences and institutes authorized by this section.

§ 1730. Boards, councils, commissions and committees.

The governing authority shall have power by general rules or by order to establish and discontinue boards, councils,

commissions, committees or other bodies composed of personnel of the system and other persons to consider, report or take action on any subject specified in such general rules or order affecting the organization or operation of the unified judicial system and the offices related to and serving the system.

Existing Boards, Etc. See section 14 of Act 142 of 1976 in the appendix to this title for special provisions relating to the continuation of existing judicial boards, commissions and committees.

Cross References. Section 1730 is referred to in section 1721 of this title.

SUBCHAPTER C
COMPENSATION

Sec.

1741. Compensation of judges.
1742. Exclusive jurisdiction of Supreme Court.

Enactment. Subchapter C was added July 13, 2007, P.L.92, No.30, effective immediately.

§ 1741. Compensation of judges.

(a) Base salaries.--Notwithstanding any other provision of law to the contrary:

(1) A person who is elected or appointed to a term as a justice of the Supreme Court, judge of the Superior Court, judge of the Commonwealth Court, judge of a court of common pleas, judge of the Philadelphia Municipal Court, judge of the Philadelphia Traffic Court or magisterial district judge after the effective date of this section shall receive a salary that is equal to the salary payable to persons who held that particular judicial office on the day prior to the effective date of this section, plus $1 and any applicable cost-of-living adjustment or adjustments under subsection (b).

(2) A person who serves a term as a justice of the Supreme Court, judge of the Superior Court, judge of the Commonwealth Court, judge of a court of common pleas, judge of the Philadelphia Municipal Court, judge of the Philadelphia Traffic Court or magisterial district judge on the effective date of this section shall receive a salary that is equal to the salary payable to persons holding that particular judicial office on the day prior to the effective date of this section, plus $1 and any applicable cost-of-living adjustment or adjustments under subsection (b).

(b) Cost-of-living adjustments.--

(1) For the 12-month period beginning January 1, 2008, and each January 1 thereafter, the annual salaries for persons subject to subsection (a)(1) or (2) shall be increased by the percentage change, if any, in the Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area for the most recent 12-month period for which figures are officially reported by the United States Department of Labor, Bureau of Labor Statistics, immediately prior to the date the adjustment is due to take effect.

(2) In no event shall deflation result in a negative cost-of-living adjustment to a salary under subsection (a)(1) or (2).

(c) Limitation.--

(1) No justice of the Supreme Court shall receive any annual salary insofar as that salary is based on any increase in the base salary of a circuit court judge of the United States Court of Appeals that occurs after the effective date of this section.

(2) No judge of the Superior Court or Commonwealth Court shall receive any annual salary insofar as that salary is based on any increase in the base salary of a judge of the United States District Court that occurs after the effective date of this section.

(3) No judge of a court of common pleas or Philadelphia Municipal Court, Philadelphia Traffic Court or magisterial district judge shall receive any annual salary insofar as that annual salary is based on any increase in the base salary of a United States magistrate judge that occurs after the effective date of this section.

2020 Partial Repeal. Section 4(2) of Act 79 of 2020 provided that subsec. (b) is repealed insofar as it is inconsistent with the amendment of section 2.1 of the act of September 30, 1983, P.L.160, No.39, known as the Public Official Compensation Law.

§ 1742. Exclusive jurisdiction of Supreme Court.

The Pennsylvania Supreme Court shall have exclusive jurisdiction to hear any challenge to or to render a declaratory judgment concerning the constitutionality of this subchapter. The Supreme Court is authorized to take such action as it deems appropriate, consistent with the Supreme Court retaining jurisdiction over such a matter, to find facts or to expedite a final judgment in connection with such a challenge or request for declaratory relief.

CHAPTER 18
COMPENSATION
(Repealed)

2007 Repeal. Chapter 18 (§§ 1801 - 1810) was repealed July 13, 2007, P.L.92, No.30, effective immediately. Similar subject matter is now contained in Subchapter C of Chapter 17.

2005 Repeal. Chapter 18 (§§ 1801 - 1810) was added July 7, 2005, P.L.201, No.44, and repealed November 16, 2005, P.L.385, No.72, effective immediately. The repeal was declared unconstitutional at 905 A.2d 918 (2006).

CHAPTER 19
ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

Sec.

1901. Court Administrator of Pennsylvania.
1902. Administrative Office of Pennsylvania Courts.
1903. Staff.
1904. Availability of criminal charge information in child custody proceedings.
1905. County-level court administrators.
1906. Senior judge operational support grants (Expired).
1906.1. Senior judge operational support grant program.
1907. Deteriorated real property education and training program for judges.

Enactment. Chapter 19 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

§ 1901. Court Administrator of Pennsylvania.

The Supreme Court shall appoint and may remove a Court Administrator of Pennsylvania.

Cross References. Section 1901 is referred to in section 102 of this title; section 101 of Title 2 (Administrative Law and Procedure).

§ 1902. Administrative Office of Pennsylvania Courts.

A reference in any statute to the Administrative Office of Pennsylvania Courts shall be deemed a reference to the Court Administrator of Pennsylvania who shall, either personally, by deputy, by other duly authorized personnel of the system, or by duly authorized agent, exercise the powers and perform the duties by statute vested in and imposed upon the Administrative Office.

Cross References. Section 1902 is referred to in section 102 of this title.

§ 1903. Staff.

The Supreme Court may appoint such subordinate administrators and staff as may be necessary and proper for the prompt and proper disposition of the business of all courts and magisterial district judges.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 1904. Availability of criminal charge information in child custody proceedings.

(a) Establishment of criminal charge information system.--The Administrative Office shall establish and maintain an information system to enable a parent who is a party to a custody proceeding or order to have access to information about the criminal charges filed against the other parent to the custody proceeding or order. The criminal charge information that shall be available for access under this section is limited to the information requested by those parents involved in a custody proceeding or order and for which an application has been filed and verified for access as provided for in this section.

(b) Criminal charges enumerated.--The criminal charge information that shall be available on the information system shall be limited to the offenses listed in 23 Pa.C.S. § 5329(a) (relating to consideration of criminal conviction).

(c) Application for access to criminal charge information.--To obtain information about charges covered in 23 Pa.C.S. § 5329(a), a parent who has been awarded custody or partial custody or who is a party to a custody proceeding must file an application for access to the information with the office of the prothonotary in the county where the proceeding or order was filed.

(1) A person who knowingly gives false information with the intent to gain information provided for under this section commits an offense under 18 Pa.C.S. § 4904(a) (relating to unsworn falsification to authorities).

(2) The application must be filed with the prothonotary by one of the following methods:

(i) In person, at the office of the prothonotary, by the parent who is filing the application. The applicant must have a valid form of photoidentification available for the inspection of the prothonotary.

(ii) By mailing a notarized application using first class mail.

(iii) By including the application with the original complaint, initial response or any other pleading or motion filed with the prothonotary.

(3) The Administrative Office shall develop the application for access to the criminal charge information system. The following information shall be included in the application:

(i) Docket number of original court filing.

(ii) Date of filing.

(iii) Date of birth of all children involved in the custody proceeding or order.

(iv) A personal access code.

(v) A notice to the parent that additional information relating to criminal history record information is available, as provided for in 18 Pa.C.S. Ch. 91 (relating to criminal history record information).

(vi) A statement verifying that:

(A) the person who is filing for access to the criminal charge information system is the actual person listed on the application;

(B) to the best of the applicant's knowledge and belief, all the information included in the application is true and correct; and

(C) the applicant is a party to the custody proceeding or order that is listed on the application.

(vii) A warning as to the penalty under 18 Pa.C.S. § 4904.

(viii) Any additional information that it is determined to be necessary to expedite the verification of the application and to provide access to the system, as determined by the Administrative Office.

(4) Applications shall be made available through county prothonotaries.

(d) Verification of application.--The prothonotary shall verify and transmit the application to the Administrative Office within six business days.

(1) Verification consists of checking court records to determine whether there exists an active custody proceeding or valid custody order remaining in effect.

(2) The Administrative Office shall determine how the application is to be transmitted.

(e) Access.--

(1) Except as provided in this subsection, the charge information system shall be accessible by telephone during regular business hours to parents who have filed a verified application and have been entered into the system. Information relating to the regular business hours of the Administrative Office shall be included with the application.

(2) The Administrative Office may interrupt the system for necessary maintenance, the processing and updating of information and the removal of names upon the termination of a custody order.

(3) Personal access codes shall remain valid until the youngest child involved in the custody proceeding or order reaches the age of 18.

(f) Time for providing access.--The Administrative Office shall provide for access to the criminal charge information system for each qualified individual within one business day of its receipt of the application. Access to the criminal charge information system shall be provided by a telephone service which requires an established fee to be paid by the caller at a cost not to exceed 50¢ per minute.

(g) Funds generated.--Funds transmitted to the Administrative Office under sections 1725(c)(2) (relating to establishment of fees and charges) and 1725.1(a.1) (relating to costs) for the implementation of this section and telephone tolls collected under subsection (f) shall be utilized in the following order of priority:

(1) To annually operate the system under this section.

(2) To build a surplus fund of $50,000 to deal with emergencies and computer upgrading in the operation of the system under this section.

(3) To repay to the General Fund appropriations made to operate the system under this section.

(4) To the General Fund for use under section 2333(b) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(h) Information available to parent.--

(1) After applying and qualifying to obtain the criminal charge information provided by the system, a parent may request information by telephone as to whether the other parent has been charged with any offense listed in 23 Pa.C.S. § 5329(a).

(2) The parent shall also be entitled to criminal history record information as provided for in 18 Pa.C.S. Ch. 91, and the parent shall be informed of the availability.

(3) Criminal charge information shall be retained on the system for the period of time as provided for the retention of criminal charges and records under 18 Pa.C.S. Ch. 91 and then only until the youngest child involved in the custody proceeding or order reaches 18 years of age. At no time shall information be retained on the system beyond what is permitted under 18 Pa.C.S. Ch. 91.

(i) Information available to counsel and the court.--Information available under this act shall be available to counsel for either parent and to judges who are presiding over custody proceedings involving either parent.

(j) Imposition of cost prohibited.--No cost shall be assessed for applying for or acquiring information under this section, except:

(1) The cost of telephone toll charges shall be assessed.

(2) Costs shall be assessed as provided for in 18 Pa.C.S. Ch. 91.

(k) Disclosure restricted.--The contents of all applications and the inquiries made by all parents shall be confidential and shall only be disclosed as authorized in this section.

(l) Definition.--As used in this section, the term "parent" means a party to a custody proceeding who has been granted custody, partial custody or visitation with a child or who is a party to a custody proceeding.

(Oct. 7, 1996, P.L.691, No.119, eff. 120 days; Nov. 23, 2010, P.L.1106, No.112, eff. 60 days)

2010 Amendment. Act 112 amended subsecs. (b), (c) and (h).

1996 Amendment. Act 119 added section 1904.

Cross References. Section 1904 is referred to in sections 1725, 1725.1 of this title; section 5330 of Title 23 (Domestic Relations).

§ 1905. County-level court administrators.

(a) Transition.--Effective on a date established by the Supreme Court, the offices of district court administrators, deputy court administrators, special courts administrators, associate and assistant court administrators and similar positions as currently designated by the Administrative Office of Pennsylvania Courts upon the advice of the respective president judges of the courts of common pleas shall be included within the State judicial personnel system, and the individuals holding such offices shall be compensated by the Commonwealth through the Administrative Office of Pennsylvania Courts from funds appropriated for such purpose. On the established date, individuals holding such offices shall become State employees, and their status as employees of the respective counties shall cease.

(b) Compensation.--The Administrative Office of Pennsylvania Courts shall establish salaries and other compensation for those individuals entering the State judicial personnel system pursuant to subsection (a).

(c) Compensation plan.--The Administrative Office of Pennsylvania Courts, with the approval of the Supreme Court, shall, consistent with section 1724 (relating to personnel of the system), establish a plan for use on an ongoing basis for compensation of those individuals entering the State judicial personnel system pursuant to subsection (a) and their successors.

(d) Vacancies.--

(1) If a vacancy occurs in an office included in the State judicial personnel system pursuant to subsection (a), the vacancy shall be filled by the president judge or, in districts where there are administrative judges, by the president judge after consultation with the administrative judges.

(2) The Court Administrator of Pennsylvania, with the approval of the Supreme Court, shall establish standards and qualifications for individuals appointed to fill vacancies under paragraph (1).

(e) Reports to appropriations committees.--Consistent with the requirements of section 3531 (relating to budget implementation data), the Court Administrator of Pennsylvania shall make monthly reports to the Chairman and Minority Chairman of the Appropriations Committee of the Senate and the Chairman and Minority Chairman of the Appropriations Committee of the House of Representatives of expenditures for compensation and related expenditures for individuals who are compensated by the Commonwealth pursuant to this section.

(June 22, 1999, P.L.75, No.12, eff. imd.)

1999 Amendment. Act 12 added section 1905. See the preamble and sections 18, 19, 20, 21, 22, 24 and 28 of Act 12 in the appendix to this title for special provisions relating to legislative intent, applicability to county court administrators, required membership in State Employees' Retirement System, membership terms and conditions, notification of transfer and certification of credited service, termination of employment and continuation of contributions in county retirement system, transfer of inactive participants or contributors or employees on leave and nonseverability or invalidation.

Cross References. Section 1905 is referred to in sections 2392, 2397 of this title; sections 5102, 5301, 5302, 5303.1, 5507, 5903, 5906, 5907, 5953.5 of Title 71 (State Government).

§ 1906. Senior judge operational support grants (Expired).

2017 Expiration. Section 1906 expired June 30, 2017. See Act 79 of 2012.

§ 1906.1. Senior judge operational support grant program.

(a) Continuation.--The Court Administrator of Pennsylvania shall continue the program to defray the costs imposed on counties by the rules of judicial administration for facilities and staff for senior judges assigned to the courts of common pleas.

(b) Availability.--Grants shall be made available to counties based on the level of operational support provided by a county to:

(1) Senior judges formerly of the judicial district in which the county is situated who are regularly or periodically assigned in that county or who are assigned under section 4544 (relating to convening multicounty investigating grand jury).

(2) Visiting senior judges.

(c) Purpose.--Grants shall reimburse counties for operational support provided by the county during the preceding calendar year. Grants shall be calculated based on use of judicial chambers, utilization of the services of a law clerk and utilization of the services of a secretary, which chambers or services are deemed adequate and appropriate by the Administrative Office as follows:

(1) Use of judicial chambers shall be reimbursed at the rate of $60 per day, billable in one-half-day increments.

(2) Utilization of services of a law clerk shall be reimbursed at $20 per hour.

(3) Utilization of services of a secretary shall be reimbursed at $12 per hour.

(d) Reimbursement.--

(1) Counties shall be reimbursed upon timely application by the board of commissioners or, in the absence of a board of commissioners, the executive authority of the county or, in the case of a county which is coterminous with a city of the first class, the mayor of the city of the first class.

(2) The application shall be certified by the president judge of the judicial district in which the county is situated and shall include such documentation as may be required by the Administrative Office.

(3) The due dates for applications for operational support provided during each calendar year shall be established by the Court Administrator of Pennsylvania.

(e) Minimum standards.--The Administrative Office shall set forth minimum standards regarding adequacy, appropriateness and quality of judicial chambers and services required to qualify for reimbursement.

(f) Reduction.--In the event that the total reimbursement qualifying for payment for any calendar year exceeds the amount appropriated by the General Assembly for such purpose, the Court Administrator of Pennsylvania shall proportionally reduce the grant for each county so that the total of all grants does not exceed the amount appropriated.

(g) Limit on grant amount.--No county shall receive more than 20% of the amount appropriated for senior judge operational support grants in any fiscal year.

(h) Report.--Not later than 60 days following payment of grants for any year, the Court Administrator of Pennsylvania shall make a report to the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives setting forth the payments made to counties and the services provided.
(Oct. 30, 2017, P.L.802, No.49, eff. imd.)

2017 Amendment. Act 49 added section 1906.1. See section 3 of Act 49 in the appendix to this title for special provisions relating to applicability.

§ 1907. Deteriorated real property education and training program for judges.

The Administrative Office of Pennsylvania Courts may develop and implement annual and ongoing education and training programs for judges, including magisterial district judges, regarding the laws of this Commonwealth relating to deteriorated real property and the economic impact that such properties have upon municipalities. The education and training program shall include, but not be limited to:

(1) The importance and connection of code violations and crime.

(2) Time-in-fact violations as they relate to code violations.

(3) Conduct of witnesses in prosecuting code violations.

(4) Limiting continuances in code violations.

(5) Use of indigency hearings in the prosecution of code violations.

(Oct. 27, 2010, P.L.875, No.90, eff. 180 days)

2010 Amendment. Act 90 added section 1907.

CHAPTER 21
JUDICIAL BOARDS AND COMMISSIONS

Subchapter

A. Judicial Conduct Board
B. Judicial Qualifications Commission (Reserved)
C. Jury Selection Commissions
D. Minor Judiciary Education Board
E. Boards of Viewers
F. Pennsylvania Commission on Sentencing
G. Pennsylvania Board of Law Examiners

Enactment. Chapter 21 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBCHAPTER A
JUDICIAL CONDUCT BOARD

Sec.

2101. Judicial Conduct Board.
2102. Composition of board.
2103. Organization.
2104. Staff and operations.
2105. Powers and duties.
2106. Official immunity.

Enactment. Subchapter A was added July 2, 1993, P.L.395, No.56, effective August 16, 1993.

Prior Provisions. Former Subchapter A, which related to the Judicial Inquiry and Review Board, was added July 9, 1976, P.L.586, No.142, and repealed July 2, 1993, P.L.395, No.56, effective August 16, 1993.

Special Provisions in Appendix. See section 10 of Act 56 of 1993 in the appendix to this title for special provisions relating to transition provisions.

§ 2101. Judicial Conduct Board.

(a) General rule.--In accordance with section 18 of Article V of the Constitution of Pennsylvania, the Judicial Conduct Board shall be an independent board within the Judicial Branch and shall consist of 12 persons selected as provided in this subchapter.

(b) Seal.--The Judicial Conduct Board shall have a seal engraved with its name and such other inscription as may be specified by board rule. A facsimile or preprinted seal may be used for all purposes in lieu of the original seal.

§ 2102. Composition of board.

(a) General rule.--The Judicial Conduct Board shall consist of:

(1) A judge of the Superior Court or the Commonwealth Court in regular active service appointed by the Supreme Court.

(2) A magisterial district judge, who need not be a member of the bar of this Commonwealth, appointed by the Supreme Court.

(3) A nonjudge member of the bar of this Commonwealth appointed by the Supreme Court.

(4) Three nonlawyer electors appointed by the Supreme Court.

(5) A judge of the courts of common pleas in regular active service appointed by the Governor.

(6) Two nonjudge members of the bar of this Commonwealth appointed by the Governor.

(7) Three nonlawyer electors appointed by the Governor.

(b) Qualifications.--All members of the board must be residents of this Commonwealth. No more than three of the six members appointed by the Supreme Court may be registered in the same political party. No more than three of the six members appointed by the Governor may be registered in the same political party. Membership of a judge or magisterial district judge shall terminate if the member ceases to hold the judicial position that qualified the member for the appointment. Membership shall terminate if a member attains a position that would have rendered the member ineligible for appointment at the time of the appointment. No member may serve more than four consecutive years but may be reappointed after a lapse of one year.

(c) Terms of office.--The members of the board shall serve for terms of four years.

(d) Vacancies.--A vacancy shall be filled by the respective appointing authority for the remainder of the term to which the member was appointed.

(e) Restrictions on activities of members.--No member of the board, during the member's term, may hold office in a political party or political organization. Except for a judicial member, no member of the board, during the member's term, may hold a compensated public office or public appointment. The board shall prescribe general rules governing the conduct of

members. A member may be removed by the board for a violation of the rules governing the conduct of members.

(f) Expenses.--All members shall be reimbursed for expenses necessarily incurred in the discharge of their official duties.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsecs. (a) and (b). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Special Provisions in Appendix. See section 11 of Act 56 of 1993 in the appendix to this title for special provisions relating to terms of initial members of Judicial Conduct Board.

§ 2103. Organization.

Annually, the Judicial Conduct Board shall elect a chairperson. The board shall act only with the concurrence of a majority of its members.

§ 2104. Staff and operations.

The Judicial Conduct Board shall appoint a chief counsel and other staff, prepare and administer its own budget as provided by law, exercise supervisory and administrative authority over all board staff and board functions, establish and promulgate its own rules of procedure, prepare and disseminate an annual report and take other actions as are necessary to ensure its efficient operation. The budget request of the board shall be made by the board as a separate item in the request submitted by the Supreme Court on behalf of the Judicial Board to the General Assembly.

§ 2105. Powers and duties.

The Judicial Conduct Board shall exercise the powers and perform the duties vested in and imposed upon the board by section 18 of Article V of the Constitution of Pennsylvania and Chapter 33 (relating to discipline, removal and retirement of judicial officers) and any other powers and duties vested in and imposed upon the board by law.

§ 2106. Official immunity.

Members of the Judicial Conduct Board and its chief counsel and staff shall be absolutely immune from suit for all conduct in the course of their official duties. No civil action or disciplinary complaint predicated upon the filing of a complaint or other documents with the board or testimony before the board may be maintained against any complainant, witness or counsel.

SUBCHAPTER B
JUDICIAL QUALIFICATIONS COMMISSION
(Reserved)

SUBCHAPTER C
JURY SELECTION COMMISSIONS

Sec.
2121. Jury selection commissions.
2122. Composition of jury selection commissions.
2123. Expenses, staff and quarters.
2124. Powers and duties.

§ 2121. Jury selection commissions.

Except in the first judicial district, the jury selection commission in each county shall consist of three persons selected as provided in this subchapter or as provided by home rule charter.
(June 26, 1980, P.L.266, No.78, eff. imd.)

§ 2122. Composition of jury selection commissions.

(a) General rule.--Except in the first judicial district and other home rule charter counties, the jury selection commission shall consist of two jury commissioners elected as provided in this section and the president judge of the court of common pleas of the judicial district embracing the county. The president judge may from time to time assign another judge of court to perform his duties temporarily. The president judge or his assigned replacement shall be chairman.

(b) Election of commissioners.--The jury commissioners shall be elected as provided in this subsection and, to the extent not inconsistent with this subsection, as provided by the act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code" and the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," as the case may be, and the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code." Any jury commissioner shall be eligible for reelection for any number of terms. The two persons elected as jury commissioners shall not be of the same political party. The candidate for the office who receives the highest number of votes shall be one of the jury commissioners, and the other shall be that candidate not being of the same political party as the first who receives the next highest number of votes.

(c) Filling of vacancy.--In case of the inability of a jury commissioner, by sickness, death, or other unavoidable cause, to discharge the duties of his office, or in case of neglect or refusal to serve, the president judge of the court of common pleas of the judicial district shall appoint a suitable person of the same political party as the jury commissioner whose place is to be filled to perform the duties of the office during the period of inability.

(d) Philadelphia.--In the first judicial district, the jury selection board shall constitute the jury selection commission. The clerk of the board shall be the commissioner, the assistant clerk of the board shall be the deputy commissioner and the masters, not to exceed four, shall be the assistant commissioners.

(e) Quorum.--A jury selection commission may act by a majority of its members.

(June 26, 1980, P.L.266, No.78, eff. imd.; Oct. 21, 1988, P.L.1045, No.118, eff. imd.)

1988 Amendment. Act 118 amended subsec. (c).

§ 2123. Expenses, staff and quarters.

The expenses, staff and quarters shall be provided for the jury selection commission in accordance with sections 1724 (relating to personnel of the system), 3721 (relating to county judicial center or courthouse) and 3722 (relating to general facilities and services furnished by county).

(June 26, 1980, P.L.266, No.78, eff. imd.)

§ 2124. Powers and duties.

Each jury selection commission shall exercise the powers and perform the duties vested in and imposed upon such commissions by Subchapter B of Chapter 45 (relating to selection and custody of jurors) and any other powers and duties vested in and imposed upon such commissions by law.

SUBCHAPTER D
MINOR JUDICIARY EDUCATION BOARD

Sec.

2131. Minor Judiciary Education Board.
2132. Composition of board.
2133. Organization.
2134. Staff.
2135. Powers and duties.

Transfer of Board. Section 15 of Act 142 of 1976 transferred the Minor Judiciary Education Board to the unified judicial system.

Cross References. Subchapter D is referred to in sections 3111, 3113 of this title.

§ 2131. Minor Judiciary Education Board.

(a) General rule.--The Minor Judiciary Education Board shall consist of such members as provided in this subchapter.

(b) Seal.--The Minor Judiciary Education Board shall have a seal engraved with its name and such other inscription as may be specified by general rule. A facsimile or preprinted seal may be used for all purposes in lieu of the original seal.

(Nov. 29, 1990, P.L.574, No.147, eff. 60 days; July 9, 1992, P.L.689, No.102, eff. imd.; Oct. 9, 2008, P.L.1352, No.98, eff. 60 days)

2008 Amendment. Act 98 reenacted and amended the entire section.

2007 Effectuation of Repeal. The Legislative Reference Bureau effectuated the 1992 repeal.

1992 Repeal. Act 102 repealed Act 147 of 1990 which amended the entire section. Section 1956 of Title 1 provides: "The repeal of an amendatory statute does not revive the corresponding provision or section of the original statute or of any prior amendment." The text of subsec. (a) has not been changed to give effect to the repeal.

1991 Unconstitutionality. Act 147 of 1990, which amended the entire section, was declared unconstitutional by the Supreme Court. In re Act 147 of 1990, 528 Pa. 460, 598 A.2d 985 (1991).

§ 2132. Composition of board.

(a) General rule.--The Minor Judiciary Education Board shall consist of the following appointed by the Supreme Court:

(1) Three persons who shall be judges of the Traffic Court of Philadelphia or magisterial district judges.

(2) Three members of the bar of this Commonwealth.

(3) One lay elector.

(b) Terms of office.--The members of the board shall serve for terms of three years and until a successor has been appointed. A vacancy on the board shall be filled for the balance of the term.

(c) Compensation.--Members of the board shall receive such fees as shall be fixed by the Supreme Court.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Nov. 29, 1990, P.L.574, No.147, eff. 60 days; July 9, 1992, P.L.689, No.102, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Oct. 9, 2008, P.L.1352, No.98, eff. 60 days)

2008 Amendment. Act 98 reenacted and amended the entire section.

2007 Effectuation of Repeal. The Legislative Reference Bureau effectuated the 1992 repeal.

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1992 Repeal. Act 102 repealed Act 147 of 1990 which amended the entire section. Section 1956 of Title 1 provides: "The repeal of an amendatory statute does not revive the corresponding provision or section of the original statute or of any prior amendment." The text of the introductory paragraph of subsec. (a) has not been changed to give effect to the repeal.

1991 Unconstitutionality. Act 147 of 1990, which amended the def. of "officer enforcing orders," was declared unconstitutional by the Supreme Court. In re Act 147 of 1990, 528 Pa. 460, 598 A.2d 985 (1991).

Special Provisions in Appendix. See section 15 of Act 142 of 1976 in the appendix to this title for special provisions relating to minor judiciary education board.

§ 2133. Organization.

The Supreme Court shall appoint a chairman and other officers of the board, who shall hold office at the pleasure of the Supreme Court. The board shall act only with the concurrence of a majority of its members.

(Oct. 9, 2008, P.L.1352, No.98, eff. 60 days)

§ 2134. Staff.

Subject to the approval of the Supreme Court, the Minor Judiciary Education Board shall appoint a director and shall authorize such other staff positions as may be necessary.

(Oct. 9, 2008, P.L.1352, No.98, eff. 60 days)

§ 2135. Powers and duties.

The Minor Judiciary Education Board shall exercise the powers and perform the duties vested in and imposed upon the board by Subchapter B of Chapter 31 (relating to qualifications of certain minor judiciary) and any other powers and duties vested in and imposed upon the board by law.

SUBCHAPTER E
BOARDS OF VIEWERS

Sec.

2141. Boards of viewers.
2142. Composition of boards.
2143. Staff.
2144. Powers and duties.

Cross References. Subchapter E is referred to in section 8854 of Title 53 (Municipalities Generally).

§ 2141. Boards of viewers.

The boards of viewers in each county of this Commonwealth shall consist of three or more persons selected as provided in this subchapter.

§ 2142. Composition of boards.

(a) General rule.--The court of common pleas of the judicial district embracing the county shall appoint to the board of viewers of the county such a number of persons as shall be necessary for the proper performance of the duties imposed upon the board. At least one-third of the members of the board of viewers shall be members of the bar of this Commonwealth and each member shall be a resident of the county unless the court is unable to complete the membership of the board from residents of the county, in which event the court may appoint residents of adjacent counties. In the City and County of Philadelphia the board of viewers may be appointed from among the Board of Revision of Taxes. Additional qualifications for membership on

boards of viewers may be established by general rule or rule of court.

(b) Terms of office.--The members of boards of viewers shall serve for a term of not less than three nor more than six years, as stated in the appointment, whether such appointment is for an original or partly expired term. All appointments shall be subject to the power of the court of common pleas to remove members of the board without cause and to appoint successors.

(c) Vacancy.--In case of a vacancy in viewers appointed in any specific matter before final action has been taken by them, the court may fill the vacancy by appointing another member of the board of viewers.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (a) and added subsec. (c).

Appointments and Removals. Section 16 of Act 142 of 1976 provided that appointments and removals of persons as members of the county board of viewers pursuant to section 2142 shall be made by a majority of the judges of the court of common pleas of the appropriate judicial district.

§ 2143. Staff.

Each board of viewers shall be provided with such staff as may be necessary.

§ 2144. Powers and duties.

Each board of viewers shall exercise the powers and perform the duties vested in and imposed upon such boards by law.

SUBCHAPTER F
PENNSYLVANIA COMMISSION ON SENTENCING

Sec.

2151. Pennsylvania Commission on Sentencing (Repealed).
2151.1. Definitions.
2151.2. Commission.
2152. Composition of commission.
2153. Powers and duties of commission.
2154. Adoption of guidelines for sentencing.
2154.1. Adoption of guidelines for restrictive conditions.
2154.2. Adoption of guidelines for State intermediate punishment(Repealed).
2154.3. Adoption of guidelines for fines.
2154.4. Adoption of guidelines for resentencing.
2154.5. Adoption of guidelines for parole.
2154.6. Adoption of recommitment ranges following revocation of parole by board.
2154.7. Adoption of risk assessment instrument.
2155. Publication of guidelines for sentencing, resentencing and parole, risk assessment instrument and recommitment ranges following revocation.
2156. Severability of subchapter.

Enactment. Subchapter F was added October 5, 1980, P.L.693, No.142, effective in 60 days.

§ 2151. Pennsylvania Commission on Sentencing (Repealed).

2004 Repeal. Section 2151 was repealed November 19, 2004, P.L.855, No.112, effective in 180 days.

§ 2151.1. 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:

"Board." The Pennsylvania Parole Board.

"Commission." The Pennsylvania Commission on Sentencing established in section 2151.2 (relating to commission).

"Department." The Department of Corrections of the Commonwealth.

(Nov. 19, 2004, P.L.855, No.112, eff. 180 days; Sept. 25, 2008, P.L.1026, No.81, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended the def. of "board."

2008 Amendment. Act 81 added the defs. of "board" and "department."

2004 Amendment. Act 112 added section 2151.1.

§ 2151.2. Commission.

(a) Continuation.--The commission is continued as an agency of the General Assembly.

(b) Seal.--The commission shall have a seal engraved with the commission's name and such other inscription as may be specified by regulation of the commission.

(Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 added present section 2151.2.

2019 Repeal. Act 15 repealed former section 2151.2.

Cross References. Section 2151.2 is referred to in section 2151.1 of this title; section 3025 of Title 18 (Crimes and Offenses).

§ 2152. Composition of commission.

(a) Members.--The commission shall consist of the following:

(1) One individual selected by the Speaker of the House of Representatives, who shall be a district attorney.

(2) One individual selected by the President pro tempore of the Senate, who shall be a defense attorney.

(3) Two judges of courts of record selected by the Chief Justice of Pennsylvania.

(4) Two judges of courts of record, one of whom shall be selected by the President Judge of Commonwealth Court and one of whom shall be selected by the President Judge of Superior Court.

(5) One individual selected by the Chief Justice of Pennsylvania, who shall be a professor of law knowledgeable in criminal sentencing.

(6) One member of the Senate selected by the President pro tempore of the Senate.

(7) One member of the Senate selected by the Minority Leader of the Senate.

(8) One member of the House of Representatives selected by the Majority Leader of the House of Representatives.

(9) One member of the House of Representatives selected by the Minority Leader of the House of Representatives.

(b) Ex officio members.--The Secretary of Corrections and the chairperson of the board, during their tenure in their respective positions, shall serve as ex officio nonvoting members of the commission.

(c) Terms of office.--The members of the commission shall serve for terms of two years and until a successor has been selected and qualified. A vacancy on the commission shall be filled for the balance of the term.

(d) Chairperson and Executive Director.--The commission shall select a chairperson from its members and an Executive Director. The chairperson shall:

(1) Preside at meetings of the commission.

(2) Direct the preparation of requests for appropriations for the commission and the use of funds made available to the commission.

(e) Meetings and quorum.--

(1) The commission shall meet at least four times a year and not less than semiannually to establish the commission's general policies and rules.

(2) The commission shall be deemed an "agency" within the meaning of and shall be subject to the provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings).

(3) Seven commissioners shall constitute a quorum for the purpose of adopting proposed initial and subsequent guidelines. A majority of commissioners shall constitute a quorum for all other purposes.

(4) Minutes of meetings shall be kept by the Executive Director and filed at the executive office of the commission.

(f) Records of action.--Except as otherwise provided by law, the commission shall maintain and make available for public inspection a record of the final vote of each member on any action taken by the commission.

(g) Expenses.--Each commissioner shall be entitled to reimbursement for each commissioner's accountable expenses incurred while engaged in the business of the commission.

(h) Competency to testify.--In a judicial, administrative or similar proceeding, a commissioner or commission staff shall not be competent to testify and may not be required to produce records or other discovery as to any statement, conduct, decision or deliberation occurring during the course of official business, to the same extent as a legislator or legislative staff of this Commonwealth acting in a legislative capacity. (Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 added present section 2152.

2019 Repeal. Act 15 repealed former section 2152.

§ 2153. Powers and duties of commission.

(a) Powers and duties.--The commission, in accordance with the rules and regulations of the commission, shall have the powers to:

(1) Establish general policies and promulgate such rules and regulations for the commission as are necessary to administer this subchapter and Chapter 97 (relating to sentencing).

(2) Utilize, with the consent of Federal, State, local and private agencies and instrumentalities, the services, equipment, personnel, information and facilities of the Federal, State, local and private agencies and instrumentalities with or without reimbursement.

(3) Enter into and perform such contracts, leases, cooperative agreements and other transactions as may be necessary in the conduct of the functions of the commission, with any public agency or with any person, firm, association, corporation, educational institution or nonprofit organization.

(4) Request such information, data and reports from any officer or agency of the Commonwealth as the commission may from time to time require and as may be produced consistent with any other Federal or State law.

(5) Arrange with the head of any government unit for the performance by the government unit of any function of the commission, with or without reimbursement.

(6) Issue invitations requesting the attendance and testimony of witnesses and the production of any evidence that relates directly to a matter with respect to which the commission or any member thereof is empowered to make a determination under this subchapter.

(7) Establish a research and development program within the commission for the purpose of:

(i) Serving as a clearinghouse and information center for the collection, preparation and dissemination of information on Commonwealth sentencing, resentencing and parole practices.

(ii) Assisting and serving in a consulting capacity to the board, State courts, departments and agencies in the development, maintenance and coordination of sound sentencing, resentencing and parole practices.

(8) Collect systematically the data obtained from studies, research and the empirical experience of public and private agencies concerning the sentencing processes.

(9) Publish data concerning the sentencing and parole processes.

(10) Collect systematically and disseminate information concerning parole dispositions and sentences actually imposed, including initial sentences and any subsequent modification of sentences or resentences following revocation or remand, and parole and reparole decisions by the board and any other parole authority.

(11) Collect systematically and disseminate information regarding effectiveness of parole dispositions and sentences imposed.

(12) Make recommendations to the General Assembly concerning modification or enactment of sentencing, parole and correctional statutes which the commission finds to be necessary and advisable to carry out an effective, humane and rational sentencing, resentencing and parole policy.

(13) Establish a plan and timetable to collect and disseminate information relating to incapacitation, recidivism, deterrence and overall effectiveness of sentences and parole dispositions imposed.

(14) Establish a program to systematically monitor compliance with the guidelines, with the risk assessment instrument, with recommitment ranges and with mandatory sentencing laws to document eligibility for a release in accordance with a county reentry plan, to document eligibility for and imposition of recidivism risk reduction incentive minimum sentences and to document all parole and reparole decisions by the board and any other paroling authority by:

(i) Promulgating forms which document the application of sentencing, resentencing and parole guidelines, mandatory sentencing laws, risk assessment instrument, releases in accordance with a county reentry plan, recommitment ranges and recidivism risk reduction incentive minimum sentences and collecting information on all parole and reparole decisions by the board and any other paroling authority.

(ii) Requiring the timely completion and electronic submission of such forms to the commission.

(15) Prior to adoption of changes to guidelines for sentencing, resentencing and parole, risk assessment

instrument and recommitment ranges following revocation, use a correctional population simulation model to determine:

(i) Resources that are required under current guidelines, risk assessment instruments and ranges.

(ii) Resources that would be required to carry out any proposed changes to the guidelines, risk assessment instruments and ranges.

(16) Report to the General Assembly on:

(i) implementation of revisions to the guidelines under sections 2154 (relating to adoption of guidelines for sentencing) and 2154.1 (relating to adoption of guidelines for restrictive conditions);

(ii) implementation and outcomes of justice reinvestment funding to county probation;

(iii) use of court-imposed sanctions for violation of probation under section 9771.1 (relating to court-imposed sanctions for violating probation);

(iv) in consultation with the Office of the Budget and the Department of Corrections, implementation of short sentence parole under 61 Pa.C.S. § 6137.1 (relating to short sentence parole), use of the State Drug Treatment Program under 61 Pa.C.S. Ch. 41 (relating to State drug treatment program) and use of sanctions for technical parole violations under 61 Pa.C.S. § 6138(c)(1.2) (relating to violation of terms of parole); and

(v) evaluations of the effectiveness and cost-benefit of various criminal justice interventions and programming, including restrictive conditions of probation, recidivism risk reduction incentive programs, the State Drug Treatment Program, the State Motivational Boot Camp Program, pretrial diversion programs, prisoner treatment programs and prison reentry programs. For evaluations of the effectiveness and cost-benefit of a program in reducing recidivism, the commission shall report on:

(A) The number of individuals eligible for the program, the number of individuals participating in the program and the number of individuals who successfully completed the program during the period under study.

(B) The recidivism rates for participants of the program and for a comparison group of individuals who did not participate in the program.

(C) Potential changes in the program that the commission believes would make the program more effective.

(D) Any other information the commission deems relevant.

(b) Annual reports.--The commission shall report annually to the Governor, the General Assembly and the Administrative Office of Pennsylvania Courts on the activities of the commission.

(c) Additional powers and duties.--The commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this subchapter or as may be provided under any other provision of State law and may delegate to any commissioner or designated person such powers as may be appropriate other than the power to establish general policies, guidelines, rules and factors under subsection (a)(1).

(Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 added present section 2153.

2019 Repeal. Act 15 repealed former section 2153.

Cross References. Section 2153 is referred to in sections 2154.6, 9721 of this title; section 9122.5 of Title 18 (Crimes and Offenses); sections 6131, 6134.1, 6137, 6171 of Title 61 (Prisons and Parole).

§ 2154. Adoption of guidelines for sentencing.

(a) General rule.--The commission shall adopt guidelines for sentencing within the limits established by law which shall be considered by the sentencing court in determining the appropriate sentence for defendants who plead guilty or nolo contendere to, or who were found guilty of, felonies and misdemeanors. In adopting guidelines, the commission shall recommend confinement that is consistent with the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and the community and the rehabilitative needs of the offender.

(b) Factors.--The guidelines shall address the following retributive factors:

(1) Seriousness of the offense, by specifying the range of sentences applicable to crimes of a given degree of gravity.

(2) Criminal history, by specifying a range of sentences of increased severity or intensity of intervention for offenders previously convicted of or adjudicated delinquent for one or more misdemeanor or felony offenses committed prior to the current offense. The commission may exclude or reduce the valuation of less serious offenses and increase the valuation of offenses committed while under supervision or in a temporal or offense pattern.

(3) Criminal behavior, by specifying a range of sentences of increased severity or intensity of intervention for offenders with increased culpability, including those who possessed or used a deadly weapon or inflicted substantial harm during the commission of the current conviction offense.

(4) Aggravated and mitigated ranges, by specifying variations from the range of sentences applicable on account of aggravating or mitigating circumstances.

(5) The impact of any amendments to section 9756 (relating to sentence of total confinement).

(c) Adjustments.--The guidelines shall include the following risk-related adjustments:

(1) Incapacitation of serious violent offenders.

(2) Modifications to criminal history to reflect risk to reoffend and substantial risk to public safety to adjust the length of total confinement for more serious criminal history.

(d) Probation guidelines.--The guidelines shall address the use of county intermediate punishment programs as restrictive conditions of probation and the duration of terms of probation.

(e) Interactive information.--The guidelines shall include interactive information to support decisions with risk and recidivism information.

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Possessed." On a defendant's person or within the defendant's immediate physical control.

"Previously convicted of or adjudicated delinquent." Any finding of guilt or adjudication of delinquency, whether or not

sentence has been imposed or disposition ordered prior to the commission of the current offense.
(Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Sept. 25, 2008, P.L.1026, No.81, eff. 60 days; Oct. 27, 2010, P.L.931, No.95, eff. imd.; Dec. 18, 2019, P.L.776, No.115, eff. 60 days)

Initial Sentencing Guidelines. Section 218(b) of Act 142 of 1980 provided that the Pennsylvania Commission on Sentencing shall adopt and publish in the Pennsylvania Bulletin pursuant to 42 Pa.C.S. § 2155(a)(2) the initial sentencing guidelines within 18 months of the first meeting of the commission. The provisions of 18 Pa.C.S. § 1386 (redesignated by Act 142 as 42 Pa.C.S. § 9781) shall take effect upon the effective date of such initial sentencing guidelines pursuant to 42 Pa.C.S. § 2155(c). The initial sentencing guidelines, as revised, were adopted January 5, 1982, and became effective July 22, 1982.

Cross References. Section 2154 is referred to in sections 2153, 2154.7, 9711.1, 9720.4, 9720.5, 9720.7, 9720.8, 9721, 9754, 9763 of this title; sections 2505, 3024, 3133, 3502, 3503, 3702, 6105 of Title 18 (Crimes and Offenses); sections 3732, 3732.1, 3804 of Title 75 (Vehicles).

§ 2154.1. Adoption of guidelines for restrictive conditions.

(a) General rule.--The commission shall adopt guidelines to identify offenders who would be eligible and appropriate for restrictive conditions of probation. These guidelines shall be considered by the sentencing court in determining whether to impose restrictive conditions pursuant to section 9763 (relating to conditions of probation). The guidelines shall give primary consideration to reducing recidivism for the protection of the public safety.

(1) (Deleted by amendment).

(2) (Deleted by amendment).

(b) Compliance.--The commission shall certify compliance by each county with guidelines adopted by the commission for county intermediate punishment or for imposing restrictive conditions of probation and with related statutory requirements and section 9728(g.1) (relating to collection of restitution, reparation, fees, costs, fines and penalties) and report the results to the Pennsylvania Commission on Crime and Delinquency.
(Dec. 19, 1990, P.L.1196, No.201, eff. July 1, 1991; Nov. 19, 2004, P.L.855, No.112, eff. 180 days; Dec. 18, 2019, P.L.776, No.115, eff. 60 days)

Cross References. Section 2154.1 is referred to in sections 2153, 9721, 9754, 9763, 9804, 9810 of this title.

§ 2154.2. Adoption of guidelines for State intermediate punishment (Repealed).

2019 Repeal. Section 2154.2 was repealed December 18, 2019, P.L.776, No.115, effective in 60 days.

§ 2154.3. Adoption of guidelines for fines.

The commission shall adopt guidelines for fines or other lawful economic sanctions, within the limits established by law, which shall be considered by the sentencing court in determining the appropriate sentence for defendants who plead guilty or nolo contendere to or who are found guilty of felonies and misdemeanors. The guidelines shall do all of the following:

(1) Specify the range of fines or other lawful economic sanctions, applicable to crimes of a given degree of gravity.

(2) Specify a range of fines or other lawful economic sanctions of increased amount for defendants previously convicted or adjudicated delinquent for one or more

misdemeanor or felony offenses committed prior to the current offense. For purposes of this paragraph, the term "previously convicted or adjudicated delinquent" shall include any finding of guilt or adjudication of delinquency whether or not sentence has been imposed or disposition ordered prior to the commission of the current offense.

(3) Prescribe variations from the range of fines applicable on account of aggravating or mitigating circumstances.

(4) Prescribe community service alternatives which may be imposed in lieu of all or part of the fines where the sentencing court finds the defendant lacks the ability to pay all or part of the fine.

(July 17, 2007, P.L.123, No.37, eff. 120 days)

2007 Amendment. Act 37 added section 2154.3.

Cross References. Section 2154.3 is referred to in section 9721 of this title.

§ 2154.4. Adoption of guidelines for resentencing.

The commission shall adopt guidelines that shall be considered by the court when resentencing an offender following revocation of probation, county intermediate punishment or State intermediate punishment. The guidelines shall take into account:

(1) Factors considered in adopting the sentencing guidelines.

(2) The seriousness of the violation.

(3) The rehabilitative needs of the defendant.

(Sept. 25, 2008, P.L.1026, No.81, eff. 60 days; Aug. 11, 2009, P.L.147, No.33, eff. 60 days)

Cross References. Section 2154.4 is referred to in section 9721 of this title.

§ 2154.5. Adoption of guidelines for parole.

(a) Adoption.--The commission shall adopt guidelines that shall be considered by the board and any other paroling entity when exercising its power to parole and reparole all persons sentenced by any court in this Commonwealth to imprisonment in any correctional institution. The guidelines shall do all of the following:

(1) Give primary consideration to the protection of the public and to victim safety.

(2) Provide for due consideration of victim input.

(3) Be designed to encourage inmates and parolees to conduct themselves in accordance with conditions and rules of conduct set forth by the department or other prison facilities and the board.

(4) Be designed to encourage inmates and parolees to participate in programs that have been demonstrated to be effective in reducing recidivism, including appropriate drug and alcohol treatment programs.

(5) Provide for prioritization of incarceration, rehabilitation and other criminal justice resources for offenders posing the greatest risk to public safety.

(6) Use validated risk assessment tools, be evidence based and take into account available research relating to the risk of recidivism, minimizing the threat posed to public safety and factors maximizing the success of reentry.

(b) Discretionary authority.--Notwithstanding any other provision of law, this section shall not remove the discretionary parole authority of the board and any other paroling entity when exercising its power to parole and reparole.

(Sept. 25, 2008, P.L.1026, No.81, eff. 60 days; Aug. 11, 2009, P.L.147, No.33, eff. 60 days)

Cross References. Section 2154.5 is referred to in section 9721 of this title; sections 6134.1, 6137 of Title 61 (Prisons and Parole).

§ 2154.6. Adoption of recommitment ranges following revocation of parole by board.

(a) Recommitment ranges.--The commission shall adopt recommitment ranges that shall be considered by the board when exercising its power to reparole, commit and recommit for violations of parole any person sentenced by a court in this Commonwealth to imprisonment in any correctional institution. The recommitment ranges shall take into account the seriousness of the initial conviction offense, the level of seriousness of the violation and the rehabilitative needs of the defendant. At the end of the recommittal period, the parole violator shall be reviewed for parole or, without further review, shall be reparoled.

(b) Deviation.--In every case in which the board deviates from the recommitment ranges, the board shall provide a contemporaneous written statement of the reasons for the deviation from the recommitment ranges to the commission as established under section 2153(a)(14) (relating to powers and duties).

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Recommitment range." A range of time within which a parole violator may be recommitted to serve an additional part of the term the parole violator would have been compelled to serve had the parole violator not been paroled.

(Sept. 25, 2008, P.L.1026, No.81, eff. 60 days; Aug. 11, 2009, P.L.147, No.33, eff. 60 days)

Cross References. Section 2154.6 is referred to in section 6137 of Title 61 (Prisons and Parole).

§ 2154.7. Adoption of risk assessment instrument.

(a) General rule.--The commission shall adopt a sentence risk assessment instrument for the sentencing court to use to help determine the appropriate sentence within the limits established by law for defendants who plead guilty or nolo contendere to or who were found guilty of felonies and misdemeanors. The risk assessment instrument may be used as an aide in evaluating the relative risk that an offender will reoffend and be a threat to public safety.

(b) Sentencing guidelines.--The risk assessment instrument may be incorporated into the sentencing guidelines under section 2154 (relating to adoption of guidelines for sentencing).

(c) Presentence investigation report.--Subject to the provisions of the Pennsylvania Rules of Criminal Procedure, the sentencing court may use the risk assessment instrument to determine whether a more thorough assessment is necessary and to order a presentence investigation report.

(d) Alternative sentencing.--Subject to the eligibility requirements of each program, the risk assessment instrument may be an aide to help determine:

(1) for persons under supervision, intensity of intervention, use of restrictive conditions and duration of supervision; and

(2) appropriate candidates for alternative sentencing, including the recidivism risk reduction incentive, State drug treatment programs and State motivational boot camps.

(e) Definition.--As used in this section, the term "risk assessment instrument" means an empirically based worksheet which uses factors that are relevant in predicting recidivism. (Oct. 27, 2010, P.L.931, No.95, eff. imd.; Dec. 18, 2019, P.L.776, No.115, eff. 60 days)

2019 Amendment. Act 115 amended subsec. (d).

2010 Amendment. Act 95 added section 2154.7.

§ 2155. Publication of guidelines for sentencing, resentencing and parole, risk assessment instrument and recommitment ranges following revocation.

(a) General rule.--The commission shall:

(1) Prior to adoption, publish in the Pennsylvania Bulletin all proposed sentencing guidelines, resentencing guidelines following revocation of probation, guidelines for restrictive conditions of probation, parole guidelines, risk assessment instrument and recommitment ranges following revocation by the board of paroles granted, and hold public hearings not earlier than 30 days and not later than 60 days thereafter to afford an opportunity for the following persons and organizations to testify:

(i) Pennsylvania District Attorneys Association.

(ii) Chiefs of Police Associations.

(iii) Fraternal Order of Police.

(iv) Public Defenders Organization.

(v) Law school faculty members.

(vi) Pennsylvania Parole Board.

(vii) Department of Corrections.

(viii) Pennsylvania Bar Association.

(ix) Pennsylvania Wardens Association.

(x) Pennsylvania Association on Probation, Parole and Corrections.

(xi) Pennsylvania Conference of State Trial Judges.

(xii) Any other interested person or organization.

(2) Publish in the Pennsylvania Bulletin sentencing guidelines, resentencing guidelines following revocation of probation, county intermediate punishment and State intermediate punishment, parole guidelines, risk assessment instrument and recommitment ranges following revocation by the board of paroles granted as adopted by the commission.

(b) Rejection by General Assembly.--Subject to gubernatorial review pursuant to section 9 of Article III of the Constitution of Pennsylvania, the General Assembly may by concurrent resolution reject in their entirety any guidelines, risk assessment instrument or recommitment ranges adopted by the commission within 90 days of their publication in the Pennsylvania Bulletin pursuant to subsection (a)(2).

(c) Effective date.--

(1) Sentencing guidelines, resentencing guidelines following revocation of probation, county intermediate punishment and State intermediate punishment, parole guidelines, risk assessment instrument and recommitment ranges following revocation by the board of paroles granted, adopted by the commission shall become effective 90 days after publication in the Pennsylvania Bulletin pursuant to subsection (a)(2) unless disapproved pursuant to subsection (b) and shall apply to sentences and resentences and parole decisions made after the effective date of the guidelines.

(2) If not disapproved, the commission shall conduct training and orientation for trial court judges and board members prior to the effective date of the guidelines, risk assessment instrument and recommitment ranges.

(July 10, 1980, P.L.513, No.106, eff. imd.; Mar. 22, 1988, P.L.240, No.26, eff. imd.; Sept. 25, 2008, P.L.1026, No.81, eff. 60 days; July 5, 2012, P.L.1050, No.122, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (a)(1) intro. par. and (vi).

1988 Amendment. See section 2 of Act 26 in the appendix to this title for special provisions relating to legislative review of sentencing guidelines.

Cross References. Section 2155 is referred to in section 9721 of this title.

§ 2156. Severability of subchapter.

The provisions of this subchapter are severable. If any provision of this subchapter or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this subchapter which can be given effect without the invalid provision or application.

(Apr. 30, 1986, P.L.135, No.41, eff. May 1, 1986)

1986 Amendment. Act 41 added section 2156.

SUBCHAPTER G

PENNSYLVANIA BOARD OF LAW EXAMINERS

Sec.

2161. Criminal history record checks.

Enactment. Subchapter G was added May 6, 2014, P.L.644, No.43, effective in 60 days.

§ 2161. Criminal history record checks.

(a) Authorization.--The Pennsylvania Board of Law Examiners may require that persons applying for admission to the bar and the practice of law in this Commonwealth be subject to:

(1) A Federal criminal history record check through the Federal Bureau of Investigation.

(2) A State criminal history record check through the Pennsylvania State Police.

(b) Fingerprints required.--All applicants as required under subsection (a) shall submit fingerprints to the Pennsylvania State Police for the purpose of obtaining criminal history record checks, and the Pennsylvania State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions.

(c) Use of information.--Any information relating to an applicant and obtained under this section by the Pennsylvania Board of Law Examiners may be interpreted and used by the Pennsylvania Board of Law Examiners only to determine the applicant's character, fitness and suitability for admission to the bar and the practice of law in this Commonwealth.

(d) Inapplicability.--The provisions of 18 Pa.C.S. § 9121(b)(2) (relating to general regulations) shall not apply if a request for a criminal history record check is submitted pursuant to this section.

CHAPTER 23

PERSONNEL OF THE SYSTEM

Subchapter

A. General Provisions
B. through I. (Reserved)
J. Transferred County-Level Court Administrator Leave and Benefits

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

2301. Appointment of personnel.
2302. Maintenance of adequate county staff.

Enactment. Chapter 23 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Subchapter Heading. The heading of Subchapter A was added June 22, 1999, P.L.75, No.12, effective immediately.

§ 2301. Appointment of personnel.

(a) General rule.--Subject to any inconsistent general rules or statutory provisions each:

(1) Judge and magisterial district judge may appoint and fix the duties of necessary personal staff.

(2) Court may appoint and fix the compensation and duties of necessary administrative staff and fix the compensation of personal staff.

(3) Other agency or unit of the unified judicial system may appoint and fix the compensation and duties of necessary central staff and personal staff.

(b) Oath of office.--Each member of a judicial board or commission and each other person who is appointed to an office shall, before entering upon the duties of his office, take and subscribe the oath or affirmation specified in section 3151 (relating to oath of office).

(c) County staff unaffected.--The provisions of subsection (a) are intended solely to codify and consolidate former statutory provisions on the same subject and nothing in such subsection shall be construed to limit, modify or deny the existing powers or prerogatives of county staff or other officers, other than judges, elected by the electorate of a county, to appoint and to fix the reasonable compensation of such classes of personnel as such county officers have heretofore been authorized to do by law.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a)(1). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Special Provisions in Appendix. See sections 12, 17 and 18 of Act 142 of 1976 in the appendix to this title for special provisions relating to Allegheny County appointments, landlord and tenant officers and writ servers and traffic court writ servers.

Cross References. Section 2301 is referred to in section 325 of this title.

§ 2302. Maintenance of adequate county staff.

Whenever necessary, it shall be the duty of county officers to appoint or detail such county staff as shall enable the

judges of the courts embracing the county to properly transact the business before their respective courts.

SUBCHAPTERS B THROUGH I
(Reserved)

Enactment. Subchapters B through I (Reserved) were added June 22, 1999, P.L.75, No.12, effective immediately.

SUBCHAPTER J
TRANSFERRED COUNTY-LEVEL COURT ADMINISTRATOR LEAVE AND BENEFITS

Sec.

2391. Short title of subchapter.
2392. Definitions.
2393. Holidays.
2394. Sick leave and annual leave.
2395. Other leave.
2396. Leave following transfer.
2397. County payments for certain leave.

Enactment. Subchapter J was added June 22, 1999, P.L.75, No.12, effective immediately.

Special Provisions in Appendix. See section 28 of Act 12 of 1999 in the appendix to this title for special provisions relating to nonseverability or invalidation.

§ 2391. Short title of subchapter.

This subchapter shall be known and may be cited as the Unified Judicial System Transferred County-Level Administrator Leave Benefit Act.

§ 2392. 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:

"Date of transfer." The date established pursuant to section 1905 (relating to county-level court administrators) for transfer of designated administrators from employment by their employing county to employment by the State government of the Commonwealth through the Administrative Office of Pennsylvania Courts.

"Employing county." The county by which a designated administrator is employed on the day immediately preceding the designated administrator's date of transfer.

"Fund." The Unified Judicial System Transferred County-Level Administrator Leave Fund established under section 2397 (relating to county payments for certain leave).

"State judicial personnel policies." Those personnel policies and procedures established and amended by or through a process created by the Pennsylvania Supreme Court and applicable to personnel of the unified judicial system.

"Transferred administrator." Personnel designated under section 1905 (relating to county-level court administrators).

"Unified judicial system." The various courts and offices enumerated in Article V of the Constitution of Pennsylvania.

§ 2393. Holidays.

On and after the date of transfer to the State judicial personnel system, transferred administrators shall be eligible for those paid holidays specified in State judicial personnel policies.

§ 2394. Sick leave and annual leave.

(a) Accrued sick leave and annual leave to be transferred.--Subject to the provisions of subsection (b), sick leave and annual leave accrued by a transferred administrator prior to the date of transfer shall be transferred based upon the accrued sick leave and annual leave balances credited to the transferred administrator by the employing county as of the day immediately preceding the transferred administrator's date of transfer.

(b) Accrued sick leave and annual leave to be credited.--Credit for the sick leave and annual leave transferred under subsection (a) shall not exceed the maximum amount permitted for sick leave and annual leave carryover leave allowances from calendar year to calendar year by State judicial personnel policies in effect on the date of transfer. Accrued sick leave or annual leave transferred under this section shall be used by the transferred administrator only as a credit toward sick leave or annual leave, as the case may be, to be taken in the future. The sick leave or annual leave credited under this subsection shall not, at the time of transfer, be reimbursed to the transferred administrator in the form of a lump sum payout or other leave payout or in any other form which may be permitted by the personnel policies of the employing county in effect on the day immediately preceding the date of transfer. In the event a transferred administrator has accrued leave that is eligible for transfer and that under the employing county's personnel policies in effect on the day immediately preceding the date of transfer could be used by the transferred administrator as either sick leave or annual leave, such leave shall be credited to the transferred administrator with one-half of the leave designated as sick leave and one-half of the leave designated as annual leave.

(c) Excess leave.--Credit for accrued sick leave or annual leave which exceeds the maximum allowed by subsection (b) shall be subject to leave policies in effect in the employing county on the day immediately preceding the date of transfer. Any lump sum payments or other sick leave payments or annual leave payments made pursuant to this subsection are and shall remain the financial responsibility of the employing county.

Cross References. Section 2394 is referred to in sections 2395, 2396, 2397 of this title.

§ 2395. Other leave.

With the exception of leave specified in section 2394 (relating to sick leave and annual leave), a transferred administrator may receive a lump sum payment or other payment for other accrued leave as permitted by the personnel policies of the employing county in effect on the day immediately preceding the date of transfer. Any lump sum payment or other leave payments made pursuant to this section are and shall remain the financial responsibility of the employing county. For purposes of this section, the term "other accrued leave" shall not include accrued sick leave and accrued annual leave and shall include accrued disability leave, accrued personal leave, accrued compensatory leave and other types of accrued leave encompassed within the employing county's personnel policies on the day immediately preceding the date of transfer.

§ 2396. Leave following transfer.

(a) Leave accrual following date of transfer.--On and after the date of transfer, leave shall be accrued by transferred administrators as provided by State judicial personnel policies. For purposes of determining the accrual rate for annual leave,

the term "service" shall mean State and county service which is creditable for retirement purposes, excluding any nonstate or noncounty service which may be creditable for State or county retirement purposes.

(b) Leave carryover following date of transfer.--On and after the date of transfer, a transferred administrator shall be permitted to carry accrued leave from calendar year to calendar year as provided by State judicial personnel policies.

(c) Leave eligible for payment.--If a transferred administrator terminates active service with the unified judicial system, such transferred administrator shall be paid for sick leave and annual leave transferred and credited under section 2394 (relating to sick leave and annual leave) and for sick, annual and other leave accrued on and after the date of transfer as permitted by State judicial personnel policies in effect on the transferred administrator's date of termination.

Cross References. Section 2396 is referred to in section 2397 of this title.

§ 2397. County payments for certain leave.

(a) County payments.--Each employing county shall provide payment to the Commonwealth for the accrued sick leave and annual leave transferred and credited pursuant to section 2394 (relating to sick leave and annual leave). Within 30 days of the date specified in section 1905(a) (relating to county-level court administrators), each employing county shall provide, in writing, to the Administrative Office of Pennsylvania Courts, all leave information requested by the Court Administrator of Pennsylvania for those individuals designated in section 1905(a). The payment to be made by each employing county shall be determined based upon an actuarial evaluation performed by an actuary appointed by the Court Administrator of Pennsylvania from a list of three actuaries to be submitted by the Secretary of the Budget within 30 days of the effective date of this subchapter. The actuarial evaluation shall be based upon assumptions determined by the actuary to be appropriate under the circumstances to arrive at a fair and reasonable determination of an actuarially equivalent value of the accrued sick leave and annual leave transferred and credited under section 2394. The actuary shall submit the actuarial evaluation to the Administrative Office of Pennsylvania Courts within 60 days of the receipt of all information necessary to prepare such evaluation. If any employing county fails to provide the information required by this section, the county shall be subject to a penalty of $100 per day for each transferred employee until the required information is provided. Such penalties shall be paid into the fund.

(b) Notice of payment due and payment method.--Following receipt of the actuarial evaluation required by subsection (a), the Administrative Office of Pennsylvania Courts shall notify in writing each employing county of the actuarial value attributable to that county for accrued sick leave and annual leave transferred and credited under section 2394. Each employing county shall be obligated to the Commonwealth for payment of the actuarial value of the accrued sick leave and annual leave transferred and credited under section 2394. Payment shall be made to the Commonwealth by each employing county within 90 days of the date of the written notice from the Administrative Office of Pennsylvania Courts to the employing county, which date is referred to for purposes of this section as the payment due date. Any payment not received from an employing county by the payment due date shall be

subject to the imposition of interest from the day following the payment due date at the rate determined by the Secretary of Revenue for interest payments on overdue taxes or the refund of taxes as provided in sections 806 and 806.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, and any subsequent amendments to those sections, plus 2% until paid in full.

(c) Recoupment of employing county arrearages.--If an employing county fails to submit a payment by the payment due date established under subsection (b), the Administrative Office of Pennsylvania Courts shall withhold and withdraw such payment, plus applicable interest, if any, from moneys next due to be paid to the employing county in the form of grants, subsidies or other payments to counties which are made by the Administrative Office of Pennsylvania Courts. Any moneys withheld or withdrawn under this subsection or received under subsection (b) shall be transferred to and deposited in the fund created under subsection (d) and credited to the employing county's financial obligation under this subchapter.

(d) Establishment of fund.--There is hereby created a special nonlapsing fund in the State Treasury to be known as the Unified Judicial System Transferred County-Level Administrator Leave Fund. All moneys received from employing counties under this section and all investment income earned on those moneys shall be deposited in the fund. All moneys placed in the fund and the investment income it accrues are hereby appropriated on a continuing basis to the Administrative Office of Pennsylvania Courts, upon requisition by the Court Administrator of Pennsylvania, to be applied solely to the cost of leave payments made under section 2396(c) (relating to leave following transfer). The requisition authority granted with regard to the fund is in addition to the requisition authority contained in section 1501 of The Fiscal Code.

(e) Fund deficiency.--If money in the fund is not adequate to provide for full payment of the counties' share of leave payments, the amount necessary to fully fund the counties' share of leave payments shall become an obligation of the unified judicial system.

(f) Fund surplus.--When all leave payments for transferred administrators required to be made under this subchapter have been made, any surplus remaining in the fund shall be transferred to and is hereby appropriated to the General Fund.

Cross References. Section 2397 is referred to in section 2392 of this title.

CHAPTER 25
REPRESENTATION OF LITIGANTS

Subchapter

A. General Provisions
B. Attorneys and Counsellors

Enactment. Chapter 25 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

2501. Appearance in person or by counsel.
2502. Certain persons not to appear as counsel.
2503. Right of participants to receive counsel fees.
2504. Letters of attorney.

§ 2501. Appearance in person or by counsel.

(a) Civil matters.--In all civil matters before any tribunal every litigant shall have a right to be heard, by himself and his counsel, or by either of them.

(b) Criminal matters.--In all criminal prosecutions the accused has a right to be heard by himself and his counsel.

§ 2502. Certain persons not to appear as counsel.

(a) General rule.--Except as otherwise prescribed by general rule, an attorney at law who is an employee of a court shall not appear as counsel in such court. An attorney at law shall not appear in any court or in any matter in violation of any general rule relating to the practice of law or the conduct of courts, magisterial district judges and officers serving process or enforcing orders of courts.

(b) Law clerks.--Except as otherwise prescribed by general rules, a law clerk serving on the personal staff of a judge of a court of common pleas may appear in such court as an attorney at law before other judges of such court notwithstanding the provisions of subsection (a).

(Apr. 6, 1980, P.L.100, No.38, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 2503. Right of participants to receive counsel fees.

The following participants shall be entitled to a reasonable counsel fee as part of the taxable costs of the matter:

(1) The holder of bonds of a private corporation who successfully recovers due and unpaid interest, the liability for the payment of which was denied by the corporation.

(2) A garnishee who enters an appearance in a matter which is discontinued prior to answer filed.

(3) A garnishee who is found to have in his possession or control no indebtedness due to or other property of the debtor except such, if any, as has been admitted by answer filed.

(4) A possessor of property claimed by two or more other persons, if the possessor interpleads the rival claimants, disclaims all interest in the property and disposes of the property as the court may direct.

(5) The prevailing party in an interpleader proceeding in connection with execution upon a judgment.

(6) Any participant who is awarded counsel fees as a sanction against another participant for violation of any general rule which expressly prescribes the award of counsel fees as a sanction for dilatory, obdurate or vexatious conduct during the pendency of any matter.

(7) Any participant who is awarded counsel fees as a sanction against another participant for dilatory, obdurate or vexatious conduct during the pendency of a matter.

(8) Any participant who is awarded counsel fees out of a fund within the jurisdiction of the court pursuant to any general rule relating to an award of counsel fees from a fund within the jurisdiction of the court.

(9) Any participant who is awarded counsel fees because the conduct of another party in commencing the matter or otherwise was arbitrary, vexatious or in bad faith.

(10) Any other participant in such circumstances as may be specified by statute heretofore or hereafter enacted.

Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 3159(b)(6), adopted April 20, 1998, provided that section 2503(2) and (3) shall not be deemed suspended or affected by Rules 3101 through 3149 relating to enforcement of money judgments for the payment of money.

Cross References. Section 2503 is referred to in section 1726 of this title; sections 1508, 1512, 1554, 5508, 5512 of Title 15 (Corporations and Unincorporated Associations).

§ 2504. Letters of attorney.

(a) General rule.--All letters of attorney authorizing acts relating to instruments or judgments may, if duly acknowledged, be filed in the office of the clerk of the court of common pleas of any county. Such filing shall be deemed a recording for the purposes of section 6106 (relating to certified exemplifications of records).

(b) Duration.--A letter of attorney shall remain in effect until a written revocation by the grantor thereof is filed in such office, but this subsection shall not prevent the prior termination by operation of law of the agency evidenced thereby. (Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 added section 2504.

SUBCHAPTER B
ATTORNEYS AND COUNSELLORS

Sec.

2521. Office of attorney at law.
2522. Oath of office.
2523. Persons specially admitted by local rules.
2524. Penalty for unauthorized practice of law.
2525. Unauthorized solicitation prohibited.

§ 2521. Office of attorney at law.

Persons admitted to the bar of the courts of this Commonwealth and to practice law pursuant to general rules shall thereby hold the office of attorney at law.

§ 2522. Oath of office.

Before entering upon the duties of his office, each attorney at law shall take and subscribe the following oath or affirmation before a person authorized to administer oaths:

"I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that I will discharge the duties of my office with fidelity, as well to the court as to the client, that I will use no falsehood, nor delay the cause of any person for lucre or malice."

Any person refusing to take the oath or affirmation shall forfeit his office.

§ 2523. Persons specially admitted by local rules.

Any person specially admitted to practice law on or before April 23, 1968 may continue to practice in the court of common pleas or in that division of the court of common pleas and the Philadelphia Municipal Court which substantially includes the practice for which such person was previously specially admitted.

§ 2524. Penalty for unauthorized practice of law.

(a) General rule.--Except as provided in subsection (b), any person, including, but not limited to, a paralegal or legal assistant, who within this Commonwealth shall practice law, or who shall hold himself out to the public as being entitled to practice law, or use or advertise the title of lawyer, attorney at law, attorney and counselor at law, counselor, or the equivalent in any language, in such a manner as to convey the impression that he is a practitioner of the law of any jurisdiction, without being an attorney at law or a corporation complying with 15 Pa.C.S. Ch. 29 (relating to professional corporations), commits a misdemeanor of the third degree upon a first violation. A second or subsequent violation of this subsection constitutes a misdemeanor of the first degree.

(b) Practice by associations.--

(1) An association does not violate subsection (a) if it provides legal services only through officers, employees or agents who are duly admitted to practice law. The association may employ persons not admitted to practice law, but those persons shall not render any legal services rendered or to be rendered by the association.

(2) This subsection shall not be interpreted to preclude the use of clerks, secretaries, administrators, bookkeepers, technicians and other assistants who are not usually and ordinarily considered by law, custom and practice to be rendering legal services nor to preclude the use of any other person who performs all his employment under the direct supervision and control of a person duly admitted to practice law. A person shall not, under the guise of employment, render legal services unless duly admitted to practice law.

(3) Notwithstanding any other provision of law, an association may charge for the legal services of its officers, employees and agents, may collect those charges and may compensate those who render the professional services.

(c) Injunction.--In addition to criminal prosecution, unauthorized practice of law may be enjoined in any county court of common pleas having personal jurisdiction over the defendant. The party obtaining such an injunction may be awarded costs and expenses incurred, including reasonable attorney fees, against the enjoined party. A violation of subsection (a) is also a violation of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law.

(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989; Dec. 7, 1994, P.L.703, No.106, eff. 60 days; July 11, 1996, P.L.607, No.104, eff. 60 days)

1996 Amendment. Act 104 amended subsec. (a) and added subsec. (c).

§ 2525. Unauthorized solicitation prohibited.

(a) Offense defined.--Any person not an attorney at law who shall solicit or procure through solicitation a retainer, power of attorney or any agreement, written or oral, authorizing an attorney at law to perform or render legal services, or who shall solicit any person in this Commonwealth to institute any action or proceeding for damages in which the compensation of any attorney at law for instituting or prosecuting such suit, shall directly or indirectly, depend upon the amount of the recovery therein, commits a misdemeanor of the third degree.

(b) Exception.--Subsection (a) shall not prohibit any bona fide labor organization from giving legal advice to its members

in matters arising out of their employment or prohibit any person from engaging in any associational activity which is protected under the Constitution of the United States.

CHAPTER 27
OFFICE OF THE CLERK OF THE COURT OF COMMON PLEAS

Subchapter

A. General Provisions
B. Prothonotaries
C. Clerks of the Courts
D. Clerks of Orphans' Court Divisions

Enactment. Chapter 27 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Cross References. Chapter 27 is referred to in section 102 of this title.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

2701. Scope and purpose of chapter.
2702. Place of filing of documents.
2703. Notice of transfer of functions and duties.
2704. Responsibility for entry, maintenance and certification of data and certification of amicable judgments.
2705. Responsibility for reports to executive agencies.

§ 2701. Scope and purpose of chapter.

(a) Purpose.--The purpose of this chapter is to facilitate the prompt, fair and efficient administration of justice by specifying the respective powers and duties of prothonotaries, clerks of the courts and clerks of orphans' court divisions.

(b) Effect of other provisions of law.--The provisions of this chapter shall be subject to any inconsistent statute, home rule charter or optional plan of government, and to any inconsistent general rule or rule of court heretofore or hereafter adopted pursuant to and subject to the limitations of constitutional authority.

§ 2702. Place of filing of documents.

Where jurisdiction of any matter is by law vested in a court of common pleas or in the Philadelphia Municipal Court, all applications for relief or other documents relating to the matter shall be filed in or transferred to the office of the clerk of the court of common pleas and handled by the appropriate office specified by or pursuant to this chapter.

§ 2703. Notice of transfer of functions and duties.

Whenever pursuant to section 2756(b)(2) (relating to exceptions) a clerk of the courts files a waiver of any functions and duties ordinarily incident to his office, the order of court appointing another officer or other person to perform such functions and duties entered pursuant to this chapter shall not be valid for any purpose until filed in the Administrative Office. The Administrative Office shall cause all such orders to be published in the Pennsylvania Code.

§ 2704. Responsibility for entry, maintenance and certification of data and certification of amicable judgments.

The prothonotary, clerk of the courts and clerk of the orphans' court division shall:

(1) Be responsible for the accurate and timely creation, maintenance and certification of the record of matters pending before or determined by the courts of common pleas and the Philadelphia Municipal Court, including data and reports relating thereto.

(2) Within 30 days after the entry of any money judgment, other than upon a verdict or after decision by a court, deliver to the authorities who assess for county tax purposes in the county where the judgment was entered a written report of the docket number where the judgment was entered, the date the judgment was entered, the amount of the judgment, the names of all parties to the proceeding in which the judgment was entered, the addresses of the persons in favor of whom the judgment was entered and the names and addresses of all assignees of the judgment. Failure to perform the duties imposed by this paragraph shall not impair the validity of any judgment or the lien thereof.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

§ 2705. Responsibility for reports to executive agencies.

(a) Community Affairs.--The office of clerk of the court of common pleas shall certify to the Department of Community Affairs a copy of any order of court incorporating, merging, dissolving, annexing any territory from or to, confirming the adoption, amendment or repeal of any home rule charter or optional plan of government, or otherwise affecting the corporate status of any municipality.

(b) Insurance Department.--The prothonotary and the clerk of the orphans' court division shall make to the Insurance Department such periodic or special reports concerning matters commenced against any person subject to the supervision of the Insurance Department as the department may specify by regulation.

(c) Department of Justice.--The prothonotary and the clerk of the courts shall make to the Department of Justice such periodic or special reports concerning criminal matters as the department may specify by regulation.

(d) Department of Labor and Industry.--The clerk of the courts shall notify the Department of Labor and Industry of every conviction under the act of May 18, 1937 (P.L.665, No.176), known as the "Industrial Homework Law," if the department is not a party to the proceedings.

(e) Department of Transportation.--The office of the clerk of the court of common pleas shall comply with the reporting requirements of Title 75 (relating to vehicles).

(e.1) Department of Revenue.--The clerk of the courts shall report to the Department of Revenue, for the purposes of an audit of tax returns, the name of any person convicted of selling, distributing, delivering or manufacturing or possessing with intent to sell, distribute, deliver or manufacture any controlled substance or designer drug under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, when the value of the controlled substance or the designer drug, or combination thereof, amounts to $1,000 or more. As used in this subsection, the term "convicted" includes having pleaded guilty or nolo contendere.

(f) Superseding administrative office procedures and standards.--The manner of making any informational report required by or pursuant to subsections (a) through (e) or by or pursuant to any other similar statute by the office of the clerk of the court of common pleas may be modified by procedures

and standards prescribed pursuant to section 4301 (relating to establishment and maintenance of judicial records) with the approval of the Department of Justice.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 22, 1989, P.L.726, No.98, eff. 60 days)

1989 Amendment. Act 98 added subsec. (e.1).
1978 Amendment. Act 53 added section 2705.
Transfer of Functions. Section 301(a)(16) of Act 58 of 1996 provided that all other powers and duties delegated to the Department of Community Affairs not otherwise expressly transferred elsewhere by Act 58 and currently performed by the Department of Community Affairs under section 2705 are transferred to the Department of Community and Economic Development.
References in Text. The Department of Community Affairs, referred to in subsec. (a), was abolished by Act 58 of 1996 and its functions were transferred to the Department of Community and Economic Development.

SUBCHAPTER B
PROTHONOTARIES

Sec.
2731. Prothonotary.
2732. Selection of prothonotary.
2733. Seal.
2734. Office of the prothonotary.
2735. Staff.
2736. Matters or documents filed in the office of the prothonotary.
2737. Powers and duties of the office of the prothonotary.
2737.1. Incorrect debtor identified.
2738. Criminal, probate, estates and fiduciary matters.

Cross References. Subchapter B is referred to in section 102 of this title.

§ 2731. Prothonotary.
(a) General rule.--In each county of this Commonwealth there shall be one prothonotary for the court of common pleas, who shall be known as the "Prothonotary of (the respective) County."
(b) Multicounty judicial districts.--In multicounty judicial districts the prothonotary shall be the prothonotary of the branch of the court of common pleas established for the county.
(c) Philadelphia.--In the first judicial district there shall be one prothonotary for the Court of Common Pleas of Philadelphia County and the Philadelphia Municipal Court, who shall be known as the "Prothonotary of Philadelphia."

§ 2732. Selection of prothonotary.
(a) General rule.--The prothonotary of each county shall be selected, and may be removed, in the manner provided by the act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code," or the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," as the case may be.
(b) Philadelphia.--The Prothonotary of Philadelphia shall be appointed by the Court of Common Pleas of Philadelphia County.

§ 2733. Seal.
The prothonotary shall have custody of a counterpart of the seal of the court or courts for which he is the prothonotary.

§ 2734. Office of the prothonotary.

(a) General rule.--There shall be an office of the prothonotary in each county of this Commonwealth, which shall be supervised by the prothonotary of the county who shall, either personally, by deputy or by other duly authorized employees or agents of the office, exercise the powers, and perform the duties by law vested in and imposed upon the prothonotary or the office of the prothonotary.

(b) Facilities and services.--The office of the prothonotary shall be provided with all necessary accommodations, goods and services pursuant to section 3722 (relating to general facilities and services furnished by county).

§ 2735. Staff.

(a) General rule.--The prothonotary may appoint and remove such deputies and other administrative staff of the office of the prothonotary as may be necessary.

(b) Solicitor.--The prothonotary may appoint and remove a solicitor, who shall be a member of the bar of this Commonwealth. The solicitor shall advise upon all legal matters that may be submitted by the prothonotary to him, and shall conduct any litigation when required to do so by the prothonotary.

(c) Compensation and duties.--The prothonotary, except as otherwise provided by statute or home rule charter or optional plan of government, may fix the compensation and duties of the staff of the office of the prothonotary. Where the compensation of the staff of the office of the prothonotary is fixed by a county salary board, the prothonotary shall be a member of the salary board for such purpose.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (b).

§ 2736. Matters or documents filed in the office of the prothonotary.

All matters or documents required or authorized to be filed in the office of the clerk of the court of common pleas shall be filed in the office of the prothonotary except:

(1) Matters or documents specified in section 2756 (relating to matters or documents filed in the office of the clerk of the courts).

(2) Matters or documents specified in section 2776 (relating to matters or documents filed in the office of the clerk of the orphans' court division).

§ 2737. Powers and duties of the office of the prothonotary.

The office of the prothonotary shall have the power and duty to:

(1) Administer oaths and affirmations and take acknowledgments pursuant to section 327 (relating to oaths and acknowledgments), but shall not be compelled to do so in any matters not pertaining to the proper business of the office.

(2) Affix and attest the seal of the court or courts to all the process thereof and to the certifications and exemplifications of all documents and records pertaining to the office of the prothonotary and the business of the court or courts of which it is the prothonotary.

(3) Enter all civil judgments, including judgments by confession.

(4) Enter all satisfactions of civil judgments.

(5) Exercise the authority of the prothonotary as an officer of the court.

(6) Exercise such other powers and perform such other duties as may now or hereafter be vested in or imposed upon the office by law, home rule charter, order or rule of court, or ordinance of a county governed by a home rule charter or optional plan of government.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended par. (3).

Cross References. Section 2737 is referred to in section 2737.1 of this title.

§ 2737.1. Incorrect debtor identified.

(a) Procedure.--A creditor that files for a judgment by confession under section 2737(3) (relating to powers and duties of the office of the prothonotary) shall comply with the Pennsylvania Rules of Civil Procedure regarding confession of judgment, including any notice provisions. A debtor who has been incorrectly identified and had a confession or judgment entered against him may petition the court for costs and reasonable attorney fees as determined by the court.

(b) Effect on judgment.--A judgment shall not be stricken or opened because of a creditor's failure to provide a correctly identified debtor with instructions pursuant to this section regarding procedures to follow to strike a judgment or regarding any rights available to an incorrectly identified debtor.

(Dec. 20, 2000, P.L.742, No.105, eff. 60 days; Nov. 29, 2004, P.L.1364, No.176, eff. imd.)

2004 Amendment. Section 3 of Act 176 provided that the addition of subsec. (b) is intended to clarify and confirm the original intent of the General Assembly in adding section 2737.1 in Act 105 of 2000. Section 3 further provided that to the extent necessary to clarify the meaning and interpretation of section 2737.1, the addition of subsection (b) shall apply retroactively to causes of action which arose on or before the effective date of section 3.

§ 2738. Criminal, probate, estates and fiduciary matters.

(a) General rule.--The personnel of the office of the prothonotary shall exercise the powers and perform the duties vested in or imposed upon the office of the clerk of the court of common pleas by:

(1) Subchapter C (relating to clerks of the courts) where no separate clerk of the courts is authorized for the county.

(2) Subchapter D (relating to clerks of orphans' court divisions) where no separate clerk of the orphans' court division is authorized for the county.

(b) Criminal matters.--Except as provided in subsection (a)(1), the office of the prothonotary shall not exercise the powers and perform the duties of the office of the clerk of the courts.

(c) Probate, estates and fiduciary matters.--Except as provided in subsection (a)(2), the office of the prothonotary shall not exercise the powers and perform the duties of the office of the clerk of the orphans' court division.

SUBCHAPTER C
CLERKS OF THE COURTS

Sec.

2751. Clerk of the courts.
2752. Selection of clerk of the courts.

2753. Seal.
2754. Office of the clerk of the courts.
2755. Staff.
2756. Matters or documents filed in the office of the clerk of the courts.
2757. Powers and duties of the office of the clerk of the courts.

Cross References. Subchapter C is referred to in sections 102, 2738 of this title.

§ 2751. Clerk of the courts.

(a) General rule.--In each county of this Commonwealth there shall be a clerk of the courts for the court of common pleas who shall be known as the "Clerk of the Courts of (the respective) County."

(b) Multicounty judicial districts.--In multicounty judicial districts the clerk of the courts shall be the clerk of the courts of the branch of the court of common pleas established for the county.

(c) Philadelphia.--In the first judicial district there shall be a clerk of the courts for the Court of Common Pleas of Philadelphia County and the Philadelphia Municipal Court, who shall be known as the "Clerk of Quarter Sessions of Philadelphia."

§ 2752. Selection of clerk of the courts.

(a) General rule.--The clerk of the courts of each county shall be selected, and may be removed, in the manner provided by the act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code" or the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," as the case may be. The office shall be combined with another county office when so provided by statute.

(b) Philadelphia.--The Clerk of Quarter Sessions of Philadelphia shall be selected, and may be removed, in the manner provided by statute or home rule charter.

§ 2753. Seal.

The clerk of the courts shall have custody of a counterpart of the seal of the court or courts for which he is the clerk of the courts.

§ 2754. Office of the clerk of the courts.

(a) General rule.--There shall be an office of the clerk of the courts in each county of this Commonwealth, which shall be supervised by the clerk of the courts of the county who shall, either personally, by deputy, or by other duly authorized employees or agents of the office, exercise the powers and perform the duties by law vested in and imposed upon the clerk of the courts or the office of the clerk of the courts.

(b) Facilities and services.--The office of the clerk of the courts shall be provided with all necessary accommodations, goods and services pursuant to section 3722 (relating to general facilities and services furnished by county).

§ 2755. Staff.

(a) General rule.--The clerk of the courts may appoint and remove such deputies and other administrative staff of the office of the clerk of the courts as may be necessary.

(b) Solicitor.--The clerk of the courts may appoint and remove a solicitor, who shall be a member of the bar of this Commonwealth. The solicitor shall advise upon all legal matters that may be submitted by the clerk of the courts to him, and shall conduct any litigation when required to do so by the clerk of the courts.

(c) Compensation and duties.--The clerk of the courts, except as otherwise provided by statute or home rule charter or optional plan of government, may fix the compensation and duties of the staff of the office of the clerk of the courts. Where the compensation of the staff of the office of the clerk of the courts is fixed by a county salary board, the clerk of the courts shall be a member of the salary board for such purpose.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (b).

§ 2756. Matters or documents filed in the office of the clerk of the courts.

(a) General rule.--All applications for relief or other documents relating to the following matters shall be filed in or transferred to the office of the clerk of the courts:

(1) Criminal matters including all related motions and filings.

(2) Road, liquor, municipal and other miscellaneous civil matters formerly within the jurisdiction of the Courts of Oyer and Terminer, General Jail Delivery, and Quarter Sessions of the Peace.

(3) Other matters to the extent provided by law or the local ordinance or resolution creating or recognizing the cause of action.

(b) Exceptions.--

(1) Subsection (a)(2) and (3) shall not be applicable in the fifth judicial district.

(2) The clerk of the courts of any county may file in the office of the prothonotary of the county and in the Administrative Office a written waiver of all or any part of subsection (a)(2) and (3), whereupon the provisions so waived shall not be applicable in the county.

Cross References. Section 2756 is referred to in sections 2703, 2736 of this title.

§ 2757. Powers and duties of the office of the clerk of the courts.

The office of the clerk of the courts shall have the power and duty to:

(1) Administer oaths and affirmations and take acknowledgments pursuant to section 327 (relating to oaths and acknowledgments), but shall not be compelled to do so in any matter not pertaining to the proper business of the office.

(2) Affix and attest the seal of the court or courts to all the process thereof and to the certifications and exemplifications of all documents and records pertaining to the office of the clerk of the courts and the business of the court or courts of which it is the clerk of the courts.

(3) Enter all criminal judgments and judgments entered by confession.

(4) Exercise the authority of the clerk of the courts as an officer of the court.

(5) Exercise such other powers and perform such other duties as may now or hereafter be vested in or imposed upon the office by law, home rule charter, order or rule of court, or ordinance of a county governed by a home rule charter or optional plan of government.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended par. (3).

SUBCHAPTER D
CLERKS OF ORPHANS' COURT DIVISIONS

Sec.
2771. Clerk of the orphans' court division.
2772. Selection of clerk of the orphans' court division.
2773. Seal.
2774. Office of the clerk of the orphans' court division.
2775. Staff.
2776. Matters or documents filed in the office of the clerk of the orphans' court division.
2777. Powers and duties of the office of the clerk of the orphans' court division.

Cross References. Subchapter D is referred to in sections 102, 2738 of this title.

§ 2771. Clerk of the orphans' court division.

(a) General rule.--In each county of this Commonwealth there shall be one clerk of the orphans' court division, who shall be known as the "Clerk of the Orphans' Court Division of the Court of Common Pleas of (the respective) County."

(b) Multicounty judicial districts.--In multicounty judicial districts the clerk of the orphans' court division shall be the clerk of the orphans' court division of the branch of the court of common pleas established for the county.

§ 2772. Selection of clerk of the orphans' court division.

(a) General rule.--The clerk of the orphans' court division of each county shall be selected, and may be removed, in the manner provided by the act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code," or the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," as the case may be. The office shall be combined with another county office when so provided by statute.

(b) Philadelphia.--The Register of Wills of Philadelphia shall serve ex officio as Clerk of the Orphans' Court Division of the Court of Common Pleas of Philadelphia County.

§ 2773. Seal.

The clerk of the orphans' court division shall have custody of a counterpart of the seal of the court for which he is the clerk of the orphans' court division.

§ 2774. Office of the clerk of the orphans' court division.

(a) General rule.--There shall be an office of the clerk of the orphans' court division in each county of this Commonwealth, which shall be supervised by the clerk of the orphans' court division of the county who shall, either personally, by deputy, or by other duly authorized employees or agents of the office, exercise the powers, and perform the duties by law vested in and imposed upon the clerk of the orphans' court division or the office of the clerk of the orphans' court division.

(b) Facilities and services.--The office of the clerk of the orphans' court division shall be provided with all necessary accommodations, goods and services pursuant to section 3722 (relating to general facilities and services furnished by county).

§ 2775. Staff.

(a) General rule.--The clerk of the orphans' court division, with the consent and approval of the court, may appoint and remove such deputies and other administrative staff of the office as may be necessary.

(b) Solicitor.--The clerk of the orphans' court division, with the consent and approval of the court, may appoint and remove a solicitor, who shall be a member of the bar of this Commonwealth. The solicitor shall advise upon all legal matters that may be submitted by the clerk of the orphans' court division to him, and shall conduct any litigation when required to do so by the clerk of the orphans' court division.

(c) Compensation and duties.--The clerk of the orphans' court division, except as otherwise provided by statute or home rule charter or optional plan of government, may fix the compensation and duties of the staff of the office of the clerk of the orphans' court division. Where the compensation of the staff of the office of the clerk of the orphans' court division is fixed by a county salary board, the clerk of the orphans' court division shall be a member of the salary board for such purpose.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

§ 2776. Matters or documents filed in the office of the clerk of the orphans' court division.

All matters to be heard or determined in the orphans' court division of a court of common pleas shall be filed in or transferred to the office of the clerk of the orphans' court division.

Cross References. Section 2776 is referred to in section 2736 of this title.

§ 2777. Powers and duties of the office of the clerk of the orphans' court division.

The office of the clerk of the orphans' court division shall have the power and duty to:

(1) Administer oaths and affirmations and take acknowledgments pursuant to section 327 (relating to oaths and acknowledgments), but shall not be compelled to do so in any matter not pertaining to the proper business of the office.

(2) Affix and attest the seal of the court to all the process thereof and to the certifications and exemplifications of all documents and records pertaining to the office of the clerk of the orphans' court division and the business of the division.

(3) Enter all orders of the court determined in the division, including judgments by confession.

(4) Enter all satisfactions of judgments entered in the office.

(5) Exercise the authority of the clerk of the orphans' court division as an officer of the court.

(6) Exercise such other powers and perform such other duties as may now or hereafter be vested in or imposed upon the office by law, home rule charter, order or rule of court, or ordinance of a county governed by a home rule charter, or optional plan of government.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended par. (3).

CHAPTER 29
OFFICERS SERVING PROCESS AND ENFORCING ORDERS

Subchapter

A. General Provisions (Reserved)

B. Sheriffs
C. Constables (Repealed)

Enactment. Chapter 29 was added April 28, 1978, P.L.202, No.53, effective in 60 days.

SUBCHAPTER A
GENERAL PROVISIONS
(Reserved)

SUBCHAPTER B
SHERIFFS

Sec.
2921. Powers and duties of the sheriff.

§ 2921. Powers and duties of the sheriff.

The sheriff, either personally or by deputy, shall serve process and execute orders directed to him pursuant to law.

SUBCHAPTER C
CONSTABLES
(Repealed)

2009 Repeal. Subchapter C (§§ 2941 - 2950) was added June 15, 1994, P.L.265, No.44, and repealed October 9, 2009, P.L.494, No.49, effective in 60 days. The subject matter is now contained in Chapter 71 of Title 44 (Law and Justice).

PART III
SELECTION, RETENTION AND REMOVAL
OF JUDICIAL OFFICERS

Chapter
31. Selection and Retention of Judicial Officers
33. Discipline, Removal and Retirement of Judicial Officers

Enactment. Part III was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

CHAPTER 31
SELECTION AND RETENTION OF JUDICIAL OFFICERS

Subchapter
A. Qualifications Generally
B. Qualifications of Certain Minor Judiciary
C. Selection of Judicial Officers
D. Tenure and Compensation

Enactment. Chapter 31 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBCHAPTER A
QUALIFICATIONS GENERALLY

Sec.
3101. Qualifications of judicial officers generally.

§ 3101. Qualifications of judicial officers generally.

(a) General rule.--Judges and magisterial district judges shall be citizens of this Commonwealth. Judges, except judges of the Pittsburgh Magistrates Court and the Traffic Court of Philadelphia, shall be members of the bar of this Commonwealth. Judges of the Supreme, Superior and Commonwealth Courts, for a period of one year preceding their election or appointment and during their continuance in office, shall reside within this Commonwealth. Other judges and magisterial district judges, for a period of one year preceding their election or appointment and during their continuance in office, shall reside within their respective districts, except when temporarily assigned to another district pursuant to law. Judges and magisterial district judges shall be at least 21 years of age.

(b) Mental health review officers.--Mental health review officers shall be members of the bar of this Commonwealth without restriction as to county of residence and where possible should be familiar with the field of mental health. Judges of the Philadelphia Municipal Court may be appointed mental health review officers.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; May 27, 1994, P.L.250, No.37, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Cross References. Section 3101 is referred to in sections 3131, 4121 of this title.

SUBCHAPTER B
QUALIFICATIONS OF CERTAIN MINOR JUDICIARY

Sec.
3111. Definitions.
3112. Course of instruction and examination required.
3113. Content of course of instruction and examination.
3114. Admission of interested persons.
3115. Certification of successful completion of course of training.
3116. Effect of failure to obtain certificate.
3117. Expenses.
3118. Continuing education requirement.
3119. Rules and regulations.

Existing Judges and Justices. Section 19 of Act 142 of 1976 provided that Subchapter B shall not apply to any judge or district justice in office on the effective date of Act 142 (60 days from April 28, 1978).

Cross References. Subchapter B is referred to in section 2135 of this title.

§ 3111. Definitions.

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

"Bail commissioner." An arraignment court magistrate of the Philadelphia Municipal Court.

"Board." The board existing under Subchapter D of Chapter 21 (relating to Minor Judiciary Education Board).

"Judge." A judge of the Traffic Court of Philadelphia.
(Oct. 12, 1984, P.L.959, No.187, eff. 60 days; Oct. 9, 2008, P.L.1352, No.98, eff. 60 days)

2008 Amendment. Act 98 amended the defs. of "bail commissioner" and "judge." Section 10 of Act 98 provided that nothing in Act 98 shall be construed or deemed to provide arraignment court magistrates with retirement benefits or rights different from those available to bail commissioners immediately prior to the effective date of Act 98.

§ 3112. Course of instruction and examination required.

Magisterial district judges, bail commissioners and judges who are not members of the bar of this Commonwealth shall complete a course of training and instruction in the duties of their respective offices and pass an examination prior to assuming office.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 12, 1984, P.L.959, No.187, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 3113. Content of course of instruction and examination.

(a) General rule.--Subject to the approval of the Supreme Court, the board shall prescribe and approve the subject matter and the examination for the course of training and instruction required by this subchapter. The staff authorized by Subchapter D of Chapter 21 (relating to minor judiciary education board) shall, subject to the direction of the board, administer the course of training and instruction and conduct the examination. The staff shall conduct the course of training and examination at such times, at such places and in such manner as the regulations of the board may prescribe. The board shall make the course of training and instruction available at such times so as to insure that any magisterial district judge, arraignment court magistrate or judge elected or appointed may qualify to assume office as soon as possible.

(b) Content of course.--The course of training and instruction shall not exceed four weeks in duration and shall consist of a minimum of 40 hours of class instruction in civil and criminal law, including evidence and procedure, summary proceedings, motor vehicles and courses in judicial ethics, in the case of all such officials except arraignment court magistrates, in which case the course of training shall consist of a minimum of 30 hours of class instruction in criminal law, search and seizure, arrest and bail practices and procedures, and except judges of the Traffic Court of Philadelphia, in which case the course of training shall consist of a minimum of 20 hours of class instruction in summary proceedings and laws relating to motor vehicles.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; July 20, 1979, P.L.157, No.52, eff. 60 days; Oct. 12, 1984, P.L.959, No.187, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Oct. 9, 2008, P.L.1352, No.98, eff. 60 days)

2008 Amendment. Section 10 of Act 98 provided that nothing in Act 98 shall be construed or deemed to provide arraignment court magistrates with retirement benefits or rights different from those available to bail commissioners immediately prior to the effective date of Act 98.

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 3114. Admission of interested persons.

In addition to those required by this subchapter to complete the course of training and instruction and successfully pass an examination prior to assuming office, any interested person may apply to the board to be enrolled in the course of training and instruction and take the examination. Any such interested person who successfully completes the course of training and passes the examination, and who subsequently is elected or appointed to the office of magisterial district judge, arraignment court magistrate or judge may secure a certificate from the Administrative Office as provided in section 3115 (relating to certification of successful completion of course of training) without again taking the course of training and instruction and passing the examination required by this subchapter prior to assuming such office.

(Oct. 12, 1984, P.L.959, No.187, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Oct. 9, 2008, P.L.1352, No.98, eff. 60 days)

2008 Amendment. Section 10 of Act 98 provided that nothing in Act 98 shall be construed or deemed to provide arraignment court magistrates with retirement benefits or rights different from those available to bail commissioners immediately prior to the effective date of Act 98.

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 3115. Certification of successful completion of course of training.

Upon the successful completion of the course of training and instruction and examination, the Administrative Office shall issue to a person elected or appointed as a magisterial district judge, arraignment court magistrate or judge a certificate in the form prescribed by the board, certifying that such person is qualified to perform his duties as required by the Constitution of Pennsylvania. Such certificate shall be filed in the office of the clerk of the court of common pleas of the judicial district embracing the district to be served by the magisterial district judge, arraignment court magistrate or judge.

(Oct. 12, 1984, P.L.959, No.187, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Oct. 9, 2008, P.L.1352, No.98, eff. 60 days)

2008 Amendment. Section 10 of Act 98 provided that nothing in Act 98 shall be construed or deemed to provide arraignment court magistrates with retirement benefits or rights different from those available to bail commissioners immediately prior to the effective date of Act 98.

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Cross References. Section 3115 is referred to in sections 3114, 3116 of this title.

§ 3116. Effect of failure to obtain certificate.

In the event that any magisterial district judge or judge fails to file the certificate provided for by section 3115 (relating to certification of successful completion of course of training) in the manner therein provided within nine months

after the magisterial district judge's or judge's election or appointment, that office shall become vacant, and such vacancy shall be filled as provided in this chapter.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Oct. 9, 2008, P.L.1352, No.98, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 3117. Expenses.

The course of training and instruction required by this subchapter shall be provided at the expense of the Commonwealth.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

§ 3118. Continuing education requirement.

(a) Magisterial district judges.--

(1) Every magisterial district judge shall complete a continuing education program each year equivalent to not less than 32 hours per year in such courses or programs as are approved by the board. One such course must be in the identification and reporting of suspected child abuse as defined by 23 Pa.C.S. Ch. 63 (relating to child protective services) and court proceedings involving children. At least every six years, the program shall include the identification of mental illness, intellectual disabilities and autism and the availability of diversionary options for individuals with mental illness, intellectual disabilities or autism.

(2) If a magisterial district judge fails to meet these continuing education requirements, such judge shall be subject to suspension by the Supreme Court until such time as evidence of compliance with such requirements is submitted by the board, but in no event longer than six months at which time the failure to meet the continuing education requirements shall be grounds for the Supreme Court, after a hearing, to declare a vacancy in that district.

(b) Arraignment court magistrates.--Every arraignment court magistrate shall complete a continuing education program each year equivalent to not less than 20 hours per year in such courses or programs as are approved by the board.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; July 20, 1979, P.L.157, No.52, eff. 60 days; Oct. 12, 1984, P.L.959, No.187, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Oct. 9, 2008, P.L.1352, No.98, eff. 60 days; July 10, 2015, P.L.138, No.25, eff. 60 days; July 14, 2020, P.L.624, No.59, eff. 60 days)

2020 Amendment. Act 59 amended subsec. (a)(1).

2015 Amendment. Act 25 amended subsec. (a).

2008 Amendment. Section 10 of Act 98 provided that nothing in Act 98 shall be construed or deemed to provide arraignment court magistrates with retirement benefits or rights different from those available to bail commissioners immediately prior to the effective date of Act 98.

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 3119. Rules and regulations.

The board shall have the power to promulgate, with the approval of the Supreme Court, such rules and regulations as are necessary to carry out its duties under this subchapter.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 9, 2008, P.L.1352, No.98, eff. 60 days)

SUBCHAPTER C
SELECTION OF JUDICIAL OFFICERS

Sec.
3131. Selection of judicial officers for regular terms.
3132. Vacancies in office.
3132.1. Reappointment of magisterial district judge.
3133. Commonwealth Court judges.
3134. Community court judges.
3135. Increase in number of judges.

§ 3131. Selection of judicial officers for regular terms.

(a) Judges and magisterial district judges generally.--Except as provided in subsection (d) judges and magisterial district judges shall be elected for a regular term of office at the municipal election next preceding the commencement of their respective regular terms of office by the electors of this Commonwealth or the respective districts in which they are to serve. A candidate for judge or magisterial district judge shall not be placed upon a ballot in any primary or municipal election unless that person will meet the qualifications set forth in section 3101 (relating to qualifications of judicial officers generally) as of the beginning of the term of office for which the candidate runs.

(b) Retention election after transfer or appointment.--Any of the following may file a declaration for candidacy for retention election with the Secretary of the Commonwealth on or before the first Monday of January of the year preceding the year in which his term of office expires:

(1) a person elected to the Philadelphia Municipal Court pursuant to this section, or corresponding provisions of prior law, who becomes a judge of the Community Court of Philadelphia County pursuant to section 3321(b)(1) (relating to establishment of community courts);

(2) a person elected to the Community Court of Philadelphia County pursuant to this section who becomes a judge of the Philadelphia Municipal Court pursuant to section 3322(b) (relating to discontinuance of community courts); or

(3) a person appointed to the Commonwealth Court who:

(i) shall have held office as an elected judge of a court of common pleas and shall not have been defeated for reelection or retention election;

(ii) shall hold an appointive term on the Commonwealth Court which when added to his other service as a judge of a court of common pleas and/or the Philadelphia Municipal Court (whether or not continuously or on the same court and whether by election or appointment) shall aggregate at least ten years as of the date of expiration of such appointive term on the Commonwealth Court; and

(iii) shall have been appointed to the Commonwealth Court pursuant to any executive order then in effect relating to the selection and screening of qualified nominees for appointment to the court.

If no declaration is filed, a vacancy shall exist upon the expiration of the term of office of such judge, to be filled by election under subsection (c). If a judge files a declaration, his name shall be submitted to the electors without party designation, as a separate judicial question or in a separate column or line on voting machines, at the municipal election immediately preceding the expiration of the term of

office of the judge, to determine only the question whether he shall be retained in office. If a majority is against retention, a vacancy shall exist upon the expiration of his term of office, to be filled by appointment under section 3132(a) (relating to vacancies in office). If a majority favors retention, the judge shall serve for a regular term of office provided for in section 3152 (relating to tenure of judicial officers), unless sooner removed or retired. At the expiration of such regular term such judge shall be eligible for retention as provided in section 3153 (relating to retention elections after regular term), subject only to the retirement provisions of this part. Section 3133 (relating to Commonwealth Court judges) shall not be applicable to an election conducted pursuant to this subsection.

(c) Other elections.--Except as provided in subsection (b) judges and magisterial district judges shall be elected as provided in the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code."

(d) Pittsburgh Magistrates Court.--The judges of the Pittsburgh Magistrates Court shall be appointed by the Mayor of the City of Pittsburgh with the advice and consent of the Council of the City of Pittsburgh. All of such judges shall not be of the same political party.

(e) Appointive judicial officers.--Subject to any inconsistent general rules or other inconsistent provisions of law, appointive judicial officers shall be appointed and their duties shall be fixed by the court in which they are to serve. (Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1978, P.L.1098, No.257, eff. imd.; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; May 27, 1994, P.L.250, No.37, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsecs. (a) and (c). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1980 Amendment. Act 142 amended subsec. (b).

Cross References. Section 3131 is referred to in sections 3132, 3133, 3153 of this title.

§ 3132. Vacancies in office.

(a) General rule.--Except as provided in subsection (b), a vacancy in the office of judge or magisterial district judge shall be filled by appointment by the Governor. The appointment shall be with the advice and consent of two-thirds of the members elected to the Senate, except in the case of magisterial district judges which shall be by a majority. The person so appointed shall serve for a term ending on the first Monday of January following the next municipal election more than ten months after the vacancy occurs or for the remainder of the unexpired term whichever is less.

(b) Pittsburgh Magistrates Court.--A vacancy in the office of judge of the Pittsburgh Magistrates Court shall be filled as provided in section 3131(d) (relating to Pittsburgh Magistrates Court).

(c) Retention vacancies.--The provisions of subsection (a) shall not apply to a vacancy to be filled by retention election as provided in section 3131(b) (relating to retention election after transfer or appointment) or section 3153 (relating to retention elections after regular term) or to a vacancy created by failure of a judge to file a declaration for retention election as provided in section 3131(b) or section 3153.

(d) Vacancies following appointive term.--A vacancy occurring at the expiration of an appointive term under subsection (a) shall be filled by election as provided in

section 3131 (relating to selection of judicial officers for regular terms).
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Cross References. Section 3132 is referred to in sections 3131, 3153 of this title.

§ 3132.1. Reappointment of magisterial district judge.

Notwithstanding any provisions of this title to the contrary, a magisterial district judge who resigns from office may not be reappointed to the unexpired term.
(July 11, 1996, P.L.607, No.104, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 3133. Commonwealth Court judges.

Whenever two or more judges of the Commonwealth Court are to be elected pursuant to section 3131(c) (relating to selection of judicial officers for regular terms) at the same election, each qualified elector shall vote for no more than:

(1) one-half of the number of judges to be elected, if the total number to be elected is even; or

(2) the smallest number constituting a majority of the total number of judges to be elected, if the total number to be elected is odd.

The persons having the highest number of votes, up to the total number of judges to be elected, shall be elected.

Cross References. Section 3133 is referred to in section 3131 of this title.

§ 3134. Community court judges.

If the electors approve the establishment of a community court at the primary election in a municipal election year, the first judges of the court shall be elected at that municipal election. The nominees for election shall be determined in the same manner as is then provided for by law in the case of substitution of nominees where a nominee for a judge of the court of common pleas has died subsequent to a primary election. If the electors approve the establishment of a community court at the primary election in a general election year, the first judges of the court shall be nominated at the primary election preceding the next following municipal election and shall be elected at such municipal election.

§ 3135. Increase in number of judges.

Whenever the number of judges of a court is increased by statute, unless otherwise expressly provided by statute, the additional judicial positions thereby created shall be deemed to be vacancies occurring on the effective date of the statute, and shall be filled in the manner and for the term provided in this chapter for other vacancies on such court.
(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

Special Provisions in Appendix. See sections 2 and 3 of Act 213 of 1986 in the appendix to this title for special provisions relating to election of additional judges and applicability.

SUBCHAPTER D
TENURE AND COMPENSATION

Sec.
3151. Oath of office.
3152. Tenure of judicial officers.
3153. Retention elections after regular term.
3154. Compensation of judicial officers (Repealed).

§ 3151. Oath of office.

Each judicial officer shall, before entering on the duties of his office, take and subscribe the following oath or affirmation before a person authorized to administer oaths:

> "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that I will discharge the duties of my office with fidelity."

Any person refusing to take the oath or affirmation shall forfeit his office. A judicial officer shall be sworn upon his appointment or election, and after each retention election, and thereafter need not be sworn in any matter referred to him.

Cross References. Section 3151 is referred to in section 2301 of this title.

§ 3152. Tenure of judicial officers.

(a) Judges and magisterial district judges.--The regular term of office of judges and magisterial district judges shall be as follows:

(1) Judges of the Philadelphia Municipal Court and the Traffic Court of Philadelphia--Six years.

(2) Judges of the Pittsburgh Magistrates Court--Four years.

(3) All other judges--Ten years.

(4) Magisterial district judges--Six years.

(b) Effect of changes.--The tenure of any judge or magisterial district judge shall not be affected by changes in judicial or magisterial districts or by reduction in the number of judges or magisterial districts. Where a multicounty judicial district is divided by statute into two or more districts or where a county is transferred by statute from one judicial district to another, a judge shall continue to be or shall become a judge of that judicial district which embraces the county of that person's residence at the effective date of the change. Where the boundaries of a magisterial district are revised pursuant to section 1503 (relating to reestablishment of districts) a magisterial district judge shall continue to be or shall become a magisterial district judge of the magisterial district in which that person resides at the effective date of the change.

(c) Appointive judicial officers.--Except as otherwise provided or prescribed by law, appointive judicial officers shall hold office at the pleasure of the appointing authority. Mental health review officers shall be appointed for terms not to exceed one year, and may be reappointed to successive terms. (Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsecs. (a) and (b). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1978 Amendment. Act 53 amended subsecs. (b) and (c).

Cross References. Section 3152 is referred to in sections 3131, 3153 of this title.

§ 3153. Retention elections after regular term.

(a) General rule.--A judge elected under section 3131 (relating to selection of judicial officers for regular terms) or retained under this section may file a declaration of candidacy for retention election with the Secretary of the Commonwealth on or before the first Monday of January of the year preceding the year in which his term of office expires. If no declaration is filed, a vacancy shall exist upon the expiration of the term of office of such judge, to be filled by election under section 3131(c).

(b) Judicial ballot.--If a judge files a declaration, his name shall be submitted to the electors without party designation, as a separate judicial question or in a separate column or line on voting machines, at the municipal election immediately preceding the expiration of the term of office of the judge, to determine only the question whether he shall be retained in office.

(c) Results of election.--If a majority is against retention, a vacancy shall exist upon the expiration of his term of office, to be filled by appointment under section 3132(a) (relating to vacancies in office). If a majority favors retention, the judge shall serve for the regular term of office provided for in section 3152 (relating to tenure of judicial officers), unless sooner removed or retired. At the expiration of each term a judge shall be eligible for retention as provided in this section, subject only to the retirement provisions of this part.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended the section heading.

Cross References. Section 3153 is referred to in sections 3131, 3132 of this title.

§ 3154. Compensation of judicial officers (Repealed).

1983 Repeal. Section 3154 was repealed September 30, 1983, P.L.160, No.39, effective December 1, 1983.

CHAPTER 33
DISCIPLINE, REMOVAL AND RETIREMENT OF JUDICIAL OFFICERS

Subchapter

A. Standards of Conduct
B. Establishment and Discontinuance of Courts
C. Discipline and Removal of Judges
D. Retirement

Enactment. Chapter 33 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Cross References. Chapter 33 is referred to in sections 1141, 2105 of this title.

SUBCHAPTER A
STANDARDS OF CONDUCT

Sec.

3301. Constitutional restrictions.

3302. Additional restrictions.
3303. Additional compensation prohibited.
3304. Acting as collection agent or paid arbitrator prohibited.
3305. Automatic removal upon conviction or disbarment.
3306. Automatic removal upon nonjudicial candidacy.
3307. Automatic suspension of judicial officer under impeachment.

Cross References. Subchapter A is referred to in section 3331 of this title.

§ 3301. Constitutional restrictions.

Judges shall devote full time to their judicial duties, and shall not engage in the practice of law, hold office in a political party or political organization, or hold an office or position of profit in the government of the United States, the Commonwealth or any municipal corporation or political subdivision thereof, except in the armed service of the United States or the Commonwealth.

§ 3302. Additional restrictions.

A judge shall not engage in any activity prohibited by this subchapter or any other provision of law and shall not violate any canon of ethics prescribed by general rule. A magisterial district judge shall devote the time necessary for the prompt and proper disposition of the business of that office, which shall be given priority over any other occupation, business, profession, pursuit or activity. A magisterial district judge shall not use or permit the use of the premises established for the disposition of magisterial business for any other occupation, business, profession or gainful pursuit. A magisterial district judge shall not hold any other elected or appointed public office in this Commonwealth. A magisterial district judge and an appointive judicial officer shall be governed by rules or canons prescribed by general rule.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; July 20, 1979, P.L.157, No.52, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 3303. Additional compensation prohibited.

No judicial officer shall be paid or accept for the performance of any judicial duty or for any service connected with his office, any fee, emolument or perquisite other than the salary and expenses provided or prescribed by law.

§ 3304. Acting as collection agent or paid arbitrator prohibited.

(a) Collection agent.--No judge or magisterial district judge shall act as agent for a person in the collection of a claim or judgment for money.

(b) Arbitrator.--No judge or magisterial district judge shall receive any fee or emolument for performing the duties of an arbitrator.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 3305. Automatic removal upon conviction or disbarment.

A judge or magisterial district judge convicted of misbehavior in office by a court, disbarred as a member of the bar of this Commonwealth or removed under Subchapter C (relating

to discipline and removal of judges) shall forfeit automatically his judicial office and thereafter be ineligible for judicial office.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; July 2, 1993, P.L.395, No.56, eff. Aug. 16, 1993; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 3306. Automatic removal upon nonjudicial candidacy.

A judge who shall file for nomination for or election to any public office other than a judicial office shall forfeit automatically his judicial office.

§ 3307. Automatic suspension of judicial officer under impeachment.

No judge or magisterial district judge against whom impeachment proceedings are pending in the Senate shall exercise any of the duties of his office until he shall have been acquitted.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

SUBCHAPTER B
ESTABLISHMENT AND DISCONTINUANCE OF COURTS

Sec.
3321. Establishment of community courts.
3322. Discontinuance of community courts.

§ 3321. Establishment of community courts.

(a) General rule.--In a judicial district which establishes a community court, a person serving as a magisterial district judge at such time:

(1) may complete his term exercising the jurisdiction provided or prescribed by law and with the compensation provided by or pursuant to statute; and

(2) upon completion of his term, his office is abolished and no judicial function of the kind theretofore exercised by a magisterial district judge shall thereafter be exercised other than by the community court.

(b) Philadelphia.--If a community court is established in the City and County of Philadelphia:

(1) The judges of the Philadelphia Municipal Court shall become judges of the Community Court of Philadelphia County and their tenure shall not be otherwise affected.

(2) The office of judge of the Traffic Court of Philadelphia is abolished effective upon the establishment of the community court.

(3) No jurisdiction of the kind theretofore exercised exclusively by the municipal and traffic courts shall thereafter be exercised other than by the community court.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Traffic Court of Philadelphia. Section 22 of Act 142 of 1976 provided that, in the event of the establishment of a

community court in the City and County of Philadelphia prior to the expiration of the current term of office of a judge of the Traffic Court of Philadelphia holding office on the effective date of Act 142, the status of such judge shall be determined under subsection (z) of section 16, Schedule to Article V of the Constitution of Pennsylvania, adopted April 23, 1968, and not by the provisions of section 3321(b).

Cross References. Section 3321 is referred to in sections 1102, 3131 of this title.

§ 3322. Discontinuance of community courts.

(a) General rule.--In a judicial district which discontinues a community court, a person serving as a judge of the community court at such time:

(1) may complete his term exercising the jurisdiction provided or prescribed by law and with the compensation provided by or pursuant to statute; and

(2) upon completion of his term, his office is abolished and no judicial function of the kind theretofore exercised by the community court shall thereafter be exercised other than by the court of common pleas and the magisterial district judges of the judicial district.

(b) Philadelphia.--If the Community Court of Philadelphia County is discontinued the judges of that court shall become judges of the Philadelphia Municipal Court and their tenure shall not be otherwise affected.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Cross References. Section 3322 is referred to in sections 1102, 3131 of this title.

SUBCHAPTER C
DISCIPLINE AND REMOVAL OF JUDGES

Sec.

3331. Power of discipline or removal.
3332. Investigation and hearing.
3333. Recommendation to and action by Supreme Court (Deleted by amendment).
3334. Proceedings confidential.

Subchapter Heading. The heading of Subchapter C was amended July 2, 1993, P.L.395, No.56, effective August 16, 1993.

Cross References. Subchapter C is referred to in section 3305 of this title.

§ 3331. Power of discipline or removal.

(a) Judges.--Any judge may be suspended, removed from office or otherwise disciplined for violation of Subchapter A (relating to standards of conduct), misconduct in office, neglect of duty, failure to perform his duties, or conduct which prejudices the proper administration of justice or brings the judicial office into disrepute and may be retired for disability seriously interfering with the performance of his duties.

(b) Magisterial district judges.--The suspension, removal, discipline and compulsory retirement of magisterial district judges shall be governed by general rule.

(July 2, 1993, P.L.395, No.56, eff. Aug. 16, 1993; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (b). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1993 Amendment. Act 56 amended subsec. (a).

§ 3332. Investigation and hearing.

Investigation and hearing shall be governed by section 18 of Article V of the Constitution of Pennsylvania.

(July 2, 1993, P.L.395, No.56, eff. Aug. 16, 1993)

§ 3333. Recommendation to and action by Supreme Court (Deleted by amendment).

1993 Amendment. Section 3333 was deleted by amendment July 2, 1993, P.L.395, No.56, effective August 16, 1993.

§ 3334. Proceedings confidential.

Confidentiality shall be governed by section 18 of Article V of the Constitution of Pennsylvania.

(July 2, 1993, P.L.395, No.56, eff. Aug. 16, 1993)

SUBCHAPTER D
RETIREMENT

Sec.

3351. Automatic retirement on age.
3352. Pension rights.

§ 3351. Automatic retirement on age.

Judges and magisterial district judges shall be retired upon attaining the age of 75 years.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Nov. 24, 2015, P.L.229, No.62)

2015 Amendment. Section 3(2) of Act 62 provided that the amendment shall take effect upon publication in the Pennsylvania Bulletin of the notice of adoption of an amendment to section 16(b) of Article V of the Constitution of Pennsylvania which provides for mandatory retirement at 75 years of age. The notice was published in the Pennsylvania Bulletin on January 28, 2017, at 47 Pa.B. 418.

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Special Provisions in Appendix. See section 23 of Act 142 of 1976 in the appendix to this title for special provisions relating to existing judicial officers.

§ 3352. Pension rights.

(a) General rule.--Former and retired judges and magisterial district judges shall receive such compensation as shall be provided by or pursuant to statute. No salary, retirement benefit or other compensation shall be paid to any judge or magisterial district judge who is suspended or removed from office under section 18 of Article V or under Article VI of the Constitution of Pennsylvania.

(b) Definition.--As used in this section "former" means a judge or magisterial district judge serving by appointment or election who vacates his office upon the expiration of his term or who resigns his office.

(July 2, 1993, P.L.395, No.56, eff. Aug. 16, 1993; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Special Provisions in Appendix. See section 408 of Act 5 of 2017 in the appendix to this title for special provisions relating to restoration of service credit or retirement benefits.

Cross References. Section 3352 is referred to in section 8533 of Title 24 (Education); section 5953 of Title 71 (State Government).

PART IV
FINANCIAL MATTERS

Chapter

35. Budget and Finance
37. Facilities and Supplies

Enactment. Part IV was added July 9, 1976, P.L.586, No.142, generally effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53. Provisions relating to budgeting and financial matters are effective with respect to fiscal years commencing on or after July 1, 1978, as to political subdivisions, and with respect to fiscal years commencing July 1, 1977, in all other cases.

CHAPTER 35
BUDGET AND FINANCE

Subchapter

A. General Provisions
B. Judicial Department Budget and Finance
C. County Finance
D. Money Paid into Court
E. Fines, Etc.
F. Compensation and Salaries

Enactment. Chapter 35 was added July 9, 1976, P.L.586, No.142, generally effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53. Provisions relating to budgeting and financial matters are effective with respect to fiscal years commencing on or after July 1, 1978, as to political subdivisions, and with respect to fiscal years commencing July 1, 1977, in all other cases.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

3501. Definitions.
3502. Financial regulations.
3503. Penalties.

§ 3501. Definitions.

Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Appropriated through the budget of the Judicial Department to a political subdivision." An appropriation through the budget of the Judicial Department direct from the General Fund to the treasury of a political subdivision under circumstances where the manner of the expenditure of the appropriation is within the control of officers of the political subdivision.

"Appropriated to the unified judicial system." An appropriation to the Judicial Department other than one appropriated through the budget of the Judicial Department to a political subdivision.

"Budget respondent." The courts, magisterial district judges, other agencies or units of the unified judicial system, the Director of Finance of the City of Philadelphia, the county controllers or county auditors of other counties of this Commonwealth, the Treasurer of the City of Pittsburgh, and any other government unit from which the Administrative Office is authorized to obtain information relating to the budget of the Judicial Department.

"Judicial and related functions." All functions relating to the organization and operation of courts and magisterial district judges and all offices of system and related personnel. The term does not include any function relating to the detection of crime, the apprehension of persons suspected of criminal conduct (except in connection with the enforcement of bench warrants, injunctions or other judicial orders in specific matters), the maintenance of public peace or other police functions or penal and correctional functions.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended the defs. of "budget respondent" and "judicial and related functions." See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 3502. Financial regulations.

(a) General rule.--The governing authority may promulgate regulations relating to forms and accounting methods to be utilized in connection with funds appropriated to the unified judicial system and all fees, costs, grants, moneys paid into court and all other unappropriated funds handled by system and related personnel other than county staff, defining for such accounting purposes terms not otherwise defined in this title, specifying the time and manner of making remittances and disbursements of moneys by system and related personnel other than county staff, and fixing bonding requirements of system and related personnel other than county staff.

(b) County staff.--The Department of Community Affairs, with the approval of the governing authority, may promulgate regulations relating to forms and accounting methods to be utilized in connection with the judicial and related accounts to be maintained pursuant to this part, designating the county staff who shall establish and maintain the judicial and related account of the political subdivision, defining for accounting purposes terms not otherwise defined, used in this part in connection with judicial and related accounts, specifying the time and manner of making remittances and disbursements of moneys under this part by county staff and fixing bonding requirements of county staff handling moneys which are subject to this part. As used in this subsection the term "county staff" includes personnel, except judicial officers, of the City of Pittsburgh.

(c) Payment through financial intermediary.--Regulations prescribed or promulgated pursuant to this section may:

(1) Authorize payment of fines, costs, fees and other remittances through or by a credit card issuer or other financial intermediary.

(2) Authorize the Administrative Office to enter into contracts with credit card issuers and other financial intermediaries relating to the collection, transmission and payment of such remittances.

(3) Adjust the level of fines, costs, fees and other remittances as otherwise fixed by law so as to facilitate the transmission of remittances through or by a financial intermediary pursuant to such regulations without net cost to any government unit.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (b) and added subsec. (c).

References in Text. The Department of Community Affairs, referred to in subsec. (b), was abolished by Act 58 of 1996 and its functions were transferred to the Department of Community and Economic Development.

Cross References. Section 3502 is referred to in section 3503 of this title; section 930 of Title 30 (Fish); section 931 of Title 34 (Game).

§ 3503. Penalties.

Any person who fails to remit any fines, penalties, forfeitures, fees, cash or other moneys received by him within the time and in the manner specified by regulations promulgated pursuant to section 3502 (relating to financial regulations) or any person who willfully violates any such regulations commits a misdemeanor of the third degree.

SUBCHAPTER B
JUDICIAL DEPARTMENT BUDGET AND FINANCE

Sec.

3521. Development of budget information.
3522. Preparation of tentative budget request.
3523. Adoption of final budget request.
3524. Form of Judicial Department appropriation.
3525. List of employees to be furnished.
3526. Release of funds.
3527. Estimates of current expenditures by Administrative Office.
3528. Fiscal period.
3529. Audits of affairs of unified judicial system.
3530. Preparation of requisitions.
3531. Budget implementation data.
3532. Expenses.

Cross References. Subchapter B is referred to in section 1727 of this title.

§ 3521. Development of budget information.

(a) General rule.--The Administrative Office shall annually obtain and prepare information for the preparation of a budget for the Judicial Department within such time as to comply with the requirements of section 610 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." The Administrative Office shall distribute to each budget respondent the proper blanks necessary for the preparation of

the budget estimates, with a request that such blanks be returned with the information desired, not later than a date specified by the Administrative Office. Such blanks shall be in such form as shall be prescribed by the Administrative Office to procure, as to functions to be funded in whole or in part through appropriations through the budget of the Judicial Department, any or all information pertaining to the purposes of all programs to be funded in the budget, the revenues, expenditures, program activities and accomplishments for the preceding fiscal year, for the current fiscal year and for the budget year and for four succeeding years, the appropriations made for the preceding fiscal year, the expenditures therefrom, encumbrances thereon, the amount unencumbered and unexpended, an itemized estimate of the revenues and expenditures of the current fiscal year, for the budget year and succeeding years, and an estimate of the revenues and amounts needed and program activity and accomplishment levels for such functions. Such blanks shall also request the budget respondent to accompany them with a statement in writing, giving the facts, and an explanation of the methods and reasons for arriving at the estimates of receipts and expenditures for the budget year and for four succeeding years.

(b) Duty to respond.--It shall be the duty of each budget respondent to comply, not later than the date specified by the Administrative Office, with any and all requests made by the Administrative Office in connection with the budget.

(c) Additional information.--The Administrative Office may, under the direction of the governing authority, make further inquiries and investigations as to the financial needs, expenditures, estimates, or revenues, of any recipient of funds appropriated to the unified judicial system or through the budget of the Judicial Department to a political subdivision, including such information relating to judicial and related functions as the Administrative Office may specify.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

1980 Amendment. Act 142 amended subsec. (a).

Cross References. Section 3521 is referred to in sections 3522, 3523 of this title.

§ 3522. Preparation of tentative budget request.

(a) General rule.--The Administrative Office shall collate and examine all information received pursuant to section 3521(a) (relating to development of budget information), shall consult with the governing authority and the Office of the Budget, and shall prepare and submit to the governing authority for review and approval a tentative budget request for the Judicial Department covering all funds appropriated to the unified judicial system or through the budget of the Judicial Department to a political subdivision.

(b) Revision of information.--The tentative budget request submitted by the Administrative Office may increase or decrease any amount submitted pursuant to section 3521(a). In such case the amount of such increase or decrease and the reasons therefor shall be specified in detail in a written report of the Administrative Office which shall be presented to the governing authority with the tentative budget and which shall be furnished to each affected budget respondent.
(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

1980 Amendment. Act 142 amended subsec. (a).

Cross References. Section 3522 is referred to in sections 1727, 3523 of this title.

§ 3523. Adoption of final budget request.

(a) General rule.--The governing authority shall review the tentative budget request submitted by the Administrative Office pursuant to section 3522 (relating to preparation of tentative budget request). After giving opportunity for hearing to each budget respondent whose estimate submitted pursuant to section 3521(a) (relating to development of budget information) would be altered by the final budget request of the Judicial Department, the governing authority shall make such modifications in the tentative budget request of the Judicial Department as in its judgment are necessary or desirable, and shall adopt a final budget request of the Judicial Department for transmission to the Office of the Budget.

(b) Transmission to Office of the Budget.--Following adoption of a final budget request by the governing authority, the Administrative Office shall transmit such request to the Office of the Budget within the time and in the manner required by section 610 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

§ 3524. Form of Judicial Department appropriation.

The budget request of the Judicial Department shall be prepared in a manner comparable to the request of an administrative department.

§ 3525. List of employees to be furnished.

(a) General rule.--The Administrative Office shall, on July 15 of each year, transmit to the Department of the Auditor General, the Treasury Department, and the Office of the Budget a complete list, and to the Legislative Data Processing Center a computer tape of such list, as of July 1 preceding, of the names of all persons, except day-laborers, entitled to receive compensation directly from the Commonwealth from funds appropriated to the unified judicial system. Such list shall show the position occupied by each such person, the date of birth and voting residence of such person, the salary at which or other basis upon which such person is entitled to be paid, the date when such person entered the service of the Commonwealth, whether such person has been continuously employed by the Commonwealth since that date, and all periods of service and positions held as an employee of the Commonwealth, or such part of such information as the Governor may prescribe.

(b) Interim changes.--Each month thereafter, the Administrative Office shall certify to the Department of the Auditor General, the Treasury Department, and the Office of the Budget any changes in the annual list of employees last transmitted to them which shall have occurred during the preceding month.

(c) Public information.--The information received by the Department of the Auditor General, the Treasury Department, and the Office of the Budget under this section shall be public information.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

§ 3526. Release of funds.

(a) General rule.--Each recipient of funds appropriated to the unified judicial system shall, from time to time, as requested by the Administrative Office, prepare and submit to the Administrative Office, for approval or disapproval by the governing authority, an estimate of the amount of money required and the levels of activity and accomplishment for each program carried on by such recipient during the ensuing month, quarter,

or such other period as the governing authority shall prescribe. All available Federal funds and funds from other sources shall be characterized as such and shall be included in the estimated expenditures which must be submitted to the Administrative Office before any expenditures therefrom may be made. If such estimate does not meet with the approval of the governing authority, it shall be revised in accordance with the directions of the governing authority and resubmitted for approval. The governing authority may establish an authorized personnel complement level in conjunction with the approved expenditure estimate.

(b) Observance of approved estimate.--After the approval of any such estimate, it shall be unlawful for the recipient of funds appropriated to the unified judicial system to expend any appropriation, Federal funds or funds from other sources, or part thereof, except in accordance with such estimate and the authorized complement level, unless the same be revised with the approval of the governing authority and within the limits appropriated by the General Assembly.

(c) Penalty.--If any recipient to which subsections (a) and (b) apply shall fail or refuse to submit to the Administrative Office estimates of expenditures as required by this section, the governing authority may order the Administrative Office to withhold disbursement of any funds appropriated to the unified judicial system for such recipient, and thereupon the Administrative Office shall withhold disbursement of any such funds until further order of the governing authority.
(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

1980 Amendment. Act 142 amended subsecs. (a) and (b).

§ 3527. Estimates of current expenditures by Administrative Office.

The Administrative Office shall, from time to time, as requested by the Governor, prepare and submit to the Governor estimates of the amounts of money required for each activity or function to be carried on by the unified judicial system during the ensuing month, quarter, or such other period as the Governor shall prescribe.

§ 3528. Fiscal period.

All books and accounts kept by the Administrative Office and other personnel of the system shall be kept as of the fiscal year or period established by section 617 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."
(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

§ 3529. Audits of affairs of unified judicial system.

(a) General rule.--It shall be the duty of the judicial auditing agency to retain a certified public accountant to make all audits of transactions after their occurrence which may be necessary in connection with the administration of the financial affairs of the unified judicial system or of any functions of a political subdivision funded in whole or in part through the budget of the Judicial Department. At least one such audit shall be made each year and special audits may be made whenever they appear necessary in the judgment of the judicial auditing agency.

(b) Governmental audits.--Where the transactions specified in subsection (a) are audited by the Department of the Auditor General or by an official of a political subdivision charged with auditing responsibility, the judicial auditing agency shall accept a report thereof in lieu of the audit required by subsection (a) unless in the judgment of the judicial auditing

agency the circumstances warrant an additional audit by a certified public accountant retained by the auditing agency.

(c) Scope.--Subsections (a) and (b) shall apply to fees, costs, grants, moneys paid into court and all other unappropriated funds handled by system and related personnel and to all funds appropriated to the Judicial Department.

(d) Definition.--As used in this section the term "judicial auditing agency" means a body established or designated by the governing authority as the judicial auditing agency for the purposes of this section. The judicial auditing agency shall include:

(1) A judge of the Superior Court selected by the Superior Court.

(2) A judge of the Commonwealth Court selected by the Commonwealth Court.

(3) The President Judge of the Court of Common Pleas of Philadelphia County.

(4) The President Judge of the Court of Common Pleas of Allegheny County.

Cross References. Section 3529 is referred to in section 1721 of this title.

§ 3530. Preparation of requisitions.

The Administrative Office shall prepare, or cause to be prepared by an officer of the interested government unit designated by the Administrative Office, requisitions for moneys appropriated to the unified judicial system or appropriated through the budget of the Judicial Department to a political subdivision, and shall present such requisitions to the Treasury Department pursuant to section 1501 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."

§ 3531. Budget implementation data.

The Court Administrator of Pennsylvania shall make monthly expenditure data available to the Majority or Minority Chairmen of the Appropriations Committees of the Senate or the House of Representatives. Monthly data shall be provided within 15 days after the end of each month. The monthly data shall be prepared in such a way that the last monthly submission is a summary inclusive of the preceding months of the fiscal year and shall be usable to establish a history of expenditure file. This data, at the discretion of the Majority or Minority Chairmen of the Appropriations Committees of the Senate or the House of Representatives, may be provided either in finished reports or on computer tapes. The data shall be provided by fund, by appropriation, by department and by organization within each department and shall include:

(1) Number of filled personnel positions and their cost.

(2) Itemized personnel vacancies and their cost.

(3) New positions created and their cost.

(4) Wage and overtime costs.

(5) Allotments and expenditures for itemized personnel expenses.

(6) Allotments and expenditures for itemized operating expenses.

(7) Allotments and expenditures for itemized fixed assets.

In addition to the above specified budgetary data, the Court Administrator shall make available any other budgetary data as may be requested from time to time by the Majority or Minority Chairmen of the Appropriations Committees of the Senate or the House of Representatives.

(June 26, 1980, P.L.266, No.78, eff. imd.)

1980 Amendment. Act 78 added section 3531.

Cross References. Section 3531 is referred to in section 1905 of this title.

§ 3532. Expenses.

The Office of the Court Administrator of Pennsylvania shall pay the annual registration fee of $200 to the Special Court Judges of Pennsylvania Association for each magisterial district judge, Philadelphia Municipal Court Judge and Philadelphia Traffic Court Judge position authorized as of January 31 of each year. Payment shall be made on the first day of a new fiscal year including July 1, 1988. In addition the Office of the Court Administrator of Pennsylvania shall pay the annual cost for the publishing of a monthly journal containing the update and revision of laws and State Supreme Court rule changes. Except for the funding of the publication of the monthly journal which shall be a direct cost of the Office of the Court Administrator of Pennsylvania, all other funding for the other expenses set forth in this section shall come from the annual appropriation made to the magisterial district judges.

(Apr. 5, 1982, P.L.226, No.72, eff. July 1, 1982; June 15, 1982, P.L.512, No.141, eff. 60 days; June 30, 1988, P.L.464, No.79, eff. imd.; June 18, 1998, P.L.640, No.84, eff. July 1, 1998; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

SUBCHAPTER C
COUNTY FINANCE

Sec.

3541. Judicial and related account.
3542. Receipts.
3543. Credits to account.
3544. Disbursements.
3545. Debits to account.
3546. Relief from liability for loss of property if expenses not paid.
3547. Restriction on compelling local action.

§ 3541. Judicial and related account.

The City and County of Philadelphia, each other county of this Commonwealth, and the City of Pittsburgh shall establish and maintain on their respective books an account to be known as the judicial and related account. The account shall exist for accounting purposes only and nothing in this part shall require the actual segregation of the moneys of the account from the general funds of the political subdivision.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

Cross References. Section 3541 is referred to in section 102 of this title.

§ 3542. Receipts.

(a) General rule.--Except as otherwise provided by Subchapter E (relating to fines, etc.), there shall be paid to the respective political subdivisions required by this subchapter to maintain a judicial and related account all:

(1) Fees established under section 1725 (relating to establishment of fees and charges) to which a government

agency is entitled and which by law have heretofore been paid or credited to such political subdivision.

(2) Costs which the political subdivision is entitled to receive pursuant to general rules prescribed under section 1726 (relating to establishment of taxable costs).

(3) Fines and forfeitures as provided in Subchapter E.

(4) Other amounts required by statute to be paid to a political subdivision with respect to judicial and related functions.

(b) Allocation in multicounty districts.--In judicial districts embracing two or more counties the fines, forfeitures, fees and costs collected with respect to the court of common pleas or community court of the judicial district which cannot be identified with respect to a particular county shall be paid over to each county according to an allocation based on population in the ratio which the population of each of the several counties comprising the judicial district bears to the total population of the judicial district as last officially certified.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 added present section 3542 and repealed former section 3542 relating to the same subject matter.

Cross References. Section 3542 is referred to in sections 3543, 3544 of this title.

§ 3543. Credits to account.

Each political subdivision required by this subchapter to maintain a judicial and related account shall credit to such account:

(1) Contributions and payments by the Federal Government for the maintenance of judicial and related functions of the political subdivision.

(2) Appropriations by the General Assembly to the political subdivision for the maintenance of judicial and related functions of the political subdivision.

(3) Amounts received pursuant to section 3542 (relating to receipts).

(4) Income and receipts with respect to the operation of probation facilities and services maintained by the political subdivision.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

Cross References. Section 3543 is referred to in section 3545 of this title.

§ 3544. Disbursements.

(a) General rule.--There shall be paid by the respective political subdivisions required by this subchapter to maintain a judicial and related account:

(1) Salaries, fees and expenses of:

(i) Appointive judicial officers.

(ii) Other system and related personnel which by statute are required to be paid by the political subdivision.

(2) Salaries, fees and expenses of jurors, witnesses and all other persons paid under authority of law by the political subdivision for the maintenance of judicial and related functions.

(3) Any amounts required by statute to be paid to the Commonwealth from any of the sources of income specified in section 3542 (relating to receipts).

(b) Allocation in multicounty districts.--In judicial districts embracing two or more counties, the expenses of the court of common pleas and the community court of the judicial district, and the salary, fees and expenses of the staff of such courts, except county staff, shall be paid by each county according to an allocation based on population in the ratio which the population of each of the several counties comprising the judicial district bears to the total population of the judicial district as last officially certified.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (a).
Cross References. Section 3544 is referred to in section 3545 of this title.

§ 3545. Debits to account.

(a) General rule.--Each political subdivision required by this subchapter to maintain a judicial and related account shall debit to such account:

(1) Amounts paid pursuant to section 3544 (relating to disbursements).

(2) Any amounts required by statute to be paid from any of the sources of income specified in section 3543 (relating to credits to account).

(b) Accommodations.--Expenses under this section include the costs of leased accommodations and the fair rental value of accommodations provided in facilities owned by the political subdivision.

§ 3546. Relief from liability for loss of property if expenses not paid.

Any officer enforcing orders of a tribunal shall be relieved from any liability for the loss, destruction, removal of or damage to any personal property, or for any injury to any real property, levied upon, seized or taken into possession by virtue of any process if the person lodging such process with him shall refuse to advance or secure upon demand the reasonable fees and expenses incident to the seizure, safe keeping and proper protection of such property.

§ 3547. Restriction on compelling local action.

A general rule, express order or other order in the nature of a regulation adopted by the governing authority or any other agency or unit of the system which relates to system and related personnel, the salaries, fees or expenses of which are required by statute to be paid by a political subdivision, shall not be effective as to such political subdivision unless the governing body of the political subdivision agrees thereto or is specifically required by statute to take the action to which the general rule, express order or other order relates.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 added section 3547.

SUBCHAPTER D
MONEY PAID INTO COURT

Sec.
3561. Money paid into court.

§ 3561. Money paid into court.

All money paid into court shall be held in the custody of such officer, shall be invested in such manner, and shall be withdrawn from deposit, as shall be prescribed by general rules. Any such investment, except as otherwise prescribed by or

pursuant to general rules, shall be restricted to obligations of the United States or the United States Treasury, or of the Commonwealth.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

SUBCHAPTER E
FINES, ETC.

Sec.
3571. Commonwealth portion of fines, etc.
3572. County portion of fines, etc.
3573. Municipal corporation portion of fines, etc.
3574. Fines in the nature of private compensation.
3575. Criminal Justice Enhancement Account.

Enactment. Subchapter E was added April 28, 1978, P.L.202, No.53, effective in 60 days.

Cross References. Subchapter E is referred to in section 3542 of this title; sections 6322, 6323 of Title 75 (Vehicles).

§ 3571. Commonwealth portion of fines, etc.

(a) General rule.--Except as otherwise provided by statute, the Commonwealth shall be entitled to receive all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited, fees and costs which by law have heretofore been paid or credited to, or which by statute are payable or creditable to, the Commonwealth. Fees and charges in an appellate court fixed pursuant to section 1725 (relating to establishment of fees and charges) shall be paid into the State Treasury. Unless otherwise expressly provided by the General Appropriation Act, such fees and charges shall be credited to the appropriation of the appellate court in which they were received.

(b) Vehicle offenses.--

(1) All fines, forfeited recognizances and other forfeitures imposed, lost or forfeited in connection with matters arising under Chapter 77 of Title 75 (relating to snowmobiles) shall unless otherwise provided in Chapter 77 of Title 75 be payable to the Commonwealth.

(2) Except as provided in paragraphs (4) and (5), when prosecution under any other provision of Title 75 (relating to vehicles) is the result of State Police action, all of the following apply:

(i) All fines, forfeited recognizances and other forfeitures imposed, lost or forfeited shall be payable to the Commonwealth, for credit to the Motor License Fund. One-half of the revenue shall be paid to municipalities as designated in subparagraph (ii) in the same ratio provided in section 4 of the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law.

(ii) Distribution of revenue is as follows:

(A) Only a municipality that has a population of not more than 3,000 or that provides at least 40 hours per week of local police services through a municipal police department, participation in a regional police department or contracts with other municipal or regional police for police services may receive revenue under subparagraph (i).

(B) Revenue that is not paid to municipalities under clause (A) shall be transferred to the Pennsylvania State Police for cadet classes.

(3) Except as provided in section 3573 (relating to municipal corporation portion of fines, etc.), when prosecution under any other provision of Title 75 is the result of local police action, one-half of all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited shall be payable to the Commonwealth, for credit to the Motor License Fund.

(4) When prosecution under 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance) is the result of State Police action, 50% of all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited shall be payable to the Commonwealth, for credit to the Motor License Fund, and 50% shall be payable to the county which shall be further divided as follows:

(i) Fifty percent of the moneys received shall be allocated to the appropriate county authority which implements the county drug and alcohol program to be used solely for the purposes of aiding programs promoting drug abuse and alcoholism prevention, education, treatment and research.

(ii) Fifty percent of the moneys received shall be used for expenditures incurred for county jails, prisons, workhouses and detention centers.

(5) When prosecution under any other provision of Title 75 is the result of State Police action on an interstate highway, as defined in 75 Pa.C.S. § 102 (relating to definitions), all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited shall be payable to the Commonwealth for credit to the Motor License Fund.

(c) Costs in magisterial district judge proceedings.--

(1) Costs collected by a magisterial district judge shall be transmitted monthly to the Commonwealth in amounts as prescribed in subsection (b) and the balance shall be transmitted monthly to the county in which the magisterial district is located. Costs transmitted to the Commonwealth shall be credited to the General Fund. Costs transmitted to the county shall be retained by the county for its use.

(2) Amounts payable to the Commonwealth:

(i) Summary conviction, except motor vehicle cases..... $10.00

(ii) Summary conviction, motor vehicle cases other than subparagraph (iii)..... $10.00

(iii) Summary conviction, motor vehicle cases, hearing demanded..... $10.00

(iv) Misdemeanor..... $13.00

(v) Felony..... $20.00

(vi) Assumpsit or trespass involving:

(A) $500 or less..... $12.50

(B) More than $500 but not more than $2,000..... $20.00

(C) More than $2,000 but not more than $4,000..... $30.00

(D) More than $4,000 but not more than $12,000..... $50.00

(vii) Landlord-tenant proceeding involving:

(A) $2,000 or less..... $20.00

(B) More than $2,000 but not more than $4,000..... $25.00

(C) More than $4,000 but not more than $12,000..... $35.00

(viii) Objection to levy..... $5.00

(ix) Order of execution..... $15.00

(x) Issuing a search warrant (except as provided in section 1725.1(d) (relating to costs))..... $7.00

(xi) Order of possession..... $15.00

(3) In all cases where costs are borne by the county pursuant to section 1725.2 (relating to assumption of summary conviction costs by county), no share of such costs shall be payable to the Commonwealth.

(4) Except as provided in paragraph (5), beginning on January 1, 1994, and each January 1 thereafter, the costs under paragraph (2) shall be increased by the percentage of increase in the Consumer Price Index for Urban Workers for the immediate preceding calendar year which shall be published in the Pennsylvania Bulletin annually by the Supreme Court on or before the preceding November 30. This paragraph shall expire January 1, 2025.

(5) For the cost increase to be effective for calendar year 2002 only, the costs under paragraph (2) shall be increased by the percentage of increase in the Consumer Price Index for Urban Workers for calendar year 2000 which shall be published by the Supreme Court in the Pennsylvania Bulletin as soon as possible after enactment. The increase for calendar year 2002 only shall be effective one month after publication in the Pennsylvania Bulletin.

(d) Victims compensation fund.--Where any person pleads guilty or nolo contendere to or is convicted of any crime as defined in section 477 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," $10 at least of the cost imposed except costs borne by a political subdivision shall be paid into the General Fund.

(e) Other offenses.--Fines, forfeited recognizances and other forfeitures imposed, lost or forfeited under the following provisions of law shall be payable to the Commonwealth:

18 Pa.C.S. § 7361 (relating to worldly employment or business).

Act of December 1, 1965 (P.L.988, No.368), known as the Weights and Measures Act of 1965, when the proceeding is instituted by an agent or employee of the Department of Agriculture.

Act of November 26, 1978 (P.L.1375, No.325), known as the Dam Safety and Encroachments Act.

(July 20, 1979, P.L.157, No.52, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 15, 1982, P.L.1268, No.289, eff. 30 days; Dec. 18, 1992, P.L.1269, No.167, eff. imd.; July 2, 1993, P.L.395, No.56, eff. 60 days; Dec. 27, 1994, P.L.1337, No.154, eff. 180 days; Dec. 17, 2001, P.L.944, No.113, eff. imd.; Sept. 30, 2003, P.L.120, No.24, eff. Feb. 1, 2004; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Oct. 27, 2010, P.L.949, No.96, eff. 60 days; July 7, 2011, P.L.207, No.30, eff. imd.; July 5, 2012, P.L.1080, No.124, eff. 60 days)

2012 Amendment . Act 124 amended subsec. (b)(2) and added subsec. (b)(5).

2011 Amendment . Act 30 amended subsec. (c)(2)(vi) and (vii).

2010 Amendment. Act 96 reenacted and amended subsec. (c)(4). Section 4(1) of Act 96 provided that the reenactment and amendment of subsec. (c)(4) shall apply to costs imposed on or after the effective date of section 4(1).

2004 Amendment. Act 207 amended subsec. (c) hdg. and (1). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

2003 Amendment. Act 24 amended subsec. (b)(4).

2001 Amendment. Act 113 reenacted and amended subsec. (c), retroactive to January 1, 2001.

1994 Amendment. Act 154 amended subsecs. (a), (b) and (e).

1992 Amendment. See sections 5 and 6 of Act 167 in the appendix to this title for special provisions relating to increases in court costs and revision of official revenue estimate.

1984 Partial Repeal. Section 13 of Act 96 of 1984 provided that section 3571(d) is repealed insofar as it imposes costs in addition to the costs provided for in section 477.15 of the act of April 9, 1929, P.L.177, No.175, known as The Administrative Code of 1929.

References in Text. Section 477 of the act of April 9, 1929, P.L.177, No.175, known as The Administrative Code of 1929, referred to in subsec. (d), was repealed by the act of November 24, 1998, P.L.882, No.111, known as the Crime Victims Act. The subject matter is now contained in Act 111.

The act of December 1, 1965, P.L.988, No.368, known as the Weights and Measures Act of 1965, referred to in subsec. (e), was repealed by the act of December 18, 1996, P.L.1028, No.155. The subject matter is now contained in Chapter 41 of Title 3 (Agriculture).

Cross References. Section 3571 is referred to in section 3717 of Title 22 (Detectives and Private Police); section 925 of Title 34 (Game); sections 3116, 3117, 3345.1, 3369, 3370, 3370.1, 3733, 3807, 4903 of Title 75 (Vehicles).

§ 3572. County portion of fines, etc.

Except as otherwise provided in this subchapter, all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited and fees and costs collected in the court of common pleas, or community court established for a judicial district embracing a county, or in a magisterial district within the county, or in the Philadelphia Municipal Court, shall be payable to such county.

(Dec. 27, 1994, P.L.1337, No.154, eff. 180 days)

§ 3573. Municipal corporation portion of fines, etc.

(a) General rule.--Except as otherwise provided by this subchapter, all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited for violation of any ordinance of any municipal corporation, or which under any other statute are to be paid to any specified municipal corporation, shall be payable to such municipal corporation.

(b) Vehicle offenses.--

(1) When prosecution under the provisions of Title 75 (relating to vehicles) for parking is the result of local police action, all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited shall be payable to the municipal corporation under which the local police are organized.

(2) Except as provided in paragraph (3), when prosecution under any other provision of Title 75 (except Chapter 77 (relating to snowmobiles)) is the result of local police action, one-half of all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited shall be payable to the municipal corporation under which the local police are organized.

(3) When prosecution under 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled

substance) is the result of local police action, 50% of all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited shall be payable to the municipal corporation under which the local police are organized, and 50% shall be payable to the county which shall be further divided as follows:

(i) Fifty percent of the moneys received shall be allocated to the appropriate county authority which implements the county drug and alcohol program to be used solely for the purposes of aiding programs promoting drug abuse and alcoholism prevention, education, treatment and research.

(ii) Fifty percent of the moneys received shall be used for expenditures incurred for county jails, prisons, workhouses and detention centers.

(c) Summary offenses.--Fines, forfeited recognizances and other forfeitures imposed, lost or forfeited under the following provisions of law shall, when any such offense is committed in a municipal corporation, be payable to such municipal corporation:

(1) Under the following provisions of Title 18 (relating to crimes and offenses):

Section 2709(a)(1), (2) and (3) (relating to harassment).

Section 3304 (relating to criminal mischief).

Section 3503 (relating to criminal trespass).

Section 3929 (relating to retail theft).

Section 4105 (relating to bad checks).

Section 5503 (relating to disorderly conduct).

Section 5505 (relating to public drunkenness).

Ch. 55 Subch. B (relating to cruelty to animals).

Section 6308 (relating to purchase, consumption, possession or transportation of intoxicating beverages).

Section 6501 (relating to scattering rubbish).

(2) Section 13, act of January 24, 1966 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage Facilities Act.

(d) Pittsburgh.--Except as otherwise provided in this subchapter, all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited in the Pittsburgh Magistrates Court or the Pittsburgh Traffic Court shall be payable to the City of Pittsburgh.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 15, 1982, P.L.1268, No.289, eff. 30 days; Dec. 21, 1984, P.L.1210, No.230, eff. 60 days; Dec. 27, 1994, P.L.1337, No.154, eff. 180 days; Dec. 9, 2002, P.L.1759, No.218, eff. 60 days; Sept. 30, 2003, P.L.120, No.24, eff. Feb. 1, 2004; Dec. 30, 2003, P.L.432, No.61, eff. 60 days; June 28, 2017, P.L.215, No.10, eff. 60 days)

2017 Amendment. Act 10 amended subsec. (c)(1).

2003 Amendments. Act 24 amended subsec. (b)(3) and Act 61 amended subsec. (c)(1).

Cross References. Section 3573 is referred to in section 3571 of this title; section 3717 of Title 22 (Detectives and Private Police); sections 3116, 3117, 3345.1, 3369, 3370, 3370.1, 3807, 4903, 7706 of Title 75 (Vehicles).

§ 3574. Fines in the nature of private compensation.

The provisions of this subchapter shall not affect the disposition of fines authorized by law to effect restitution, for support of legal dependents, or otherwise for purposes not augmenting the public revenues.

§ 3575. Criminal Justice Enhancement Account.

(a) Establishment.--There is established within the State Treasury a restricted account to be known as the Criminal Justice Enhancement Account. The account shall be comprised of all of the following:

(1) Costs of prosecution imposed pursuant to subsection (b).

(2) Fines statutorily designated by subsection (c) to the account.

(b) Costs of prosecution.--In addition to any other costs of prosecution, an assessment in the amount of $50 shall be imposed and directed to the account in each judicial proceeding where:

(1) the defendant accepts Accelerated Rehabilitative Disposition;

(2) the defendant is convicted of or enters a plea of guilt or nolo contendere for a felony, misdemeanor of the first degree or misdemeanor of the second degree set forth in 18 Pa.C.S. (relating to crimes and offenses); or

(3) the defendant is convicted of or enters a plea of guilt or nolo contendere for a violation of section 13(a)(16) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(c) Designated offenses.--Any fines imposed for the following offenses under 18 Pa.C.S. shall be directed to the account:

Chapter 41 (relating to forgery and fraudulent practices) other than summary offenses under section 4105 (relating to bad checks).

Chapter 47 (relating to bribery and corrupt influence).

Chapter 49 Subch. A (relating to perjury and falsification in official matters).

Chapter 57 (relating to wiretapping and electronic surveillance).

Chapter 76 (relating to computer offenses).

(d) Distribution from account.--The money in the account is appropriated upon approval of the Governor to fulfill the provisions of section 1401(p) of the act of August 9, 1955 (P.L.323, No.130), known as The County Code.
(July 13, 2007, P.L.92, No.30, eff. 120 days)

2007 Amendment. Act 30 added section 3575.

SUBCHAPTER F
COMPENSATION AND SALARIES

Sec.
3581. Judicial salaries (Repealed).

Enactment. Subchapter F was added December 18, 1992, P.L.1269, No.167, effective immediately.

§ 3581. Judicial salaries (Repealed).

1995 Repeal. Section 3581 was repealed October 19, 1995, P.L.324, No.51, effective November 1, 1995.

CHAPTER 37
FACILITIES AND SUPPLIES

Subchapter
A. Statewide Facilities and Services

B. District and County Facilities and Services
C. Judicial Computer System

Enactment. Chapter 37 was added July 9, 1976, P.L.586, No.142, generally effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53. Provisions relating to budgeting and financial matters are effective with respect to fiscal years commencing on or after July 1, 1978, as to political subdivisions, and with respect to fiscal years commencing July 1, 1977, in all other cases.

SUBCHAPTER A
STATEWIDE FACILITIES AND SERVICES

Sec.

3701. Pennsylvania Judicial Center (Reserved).
3702. General facilities and services furnished by Administrative Office.
3703. Local chamber facilities.
3704. Local facilities for holding sessions of Statewide courts.

§ 3701. Pennsylvania Judicial Center (Reserved).

Cross References. Section 3701 is referred to in sections 504, 1724 of this title.

§ 3702. General facilities and services furnished by Administrative Office.

The Administrative Office, either directly or where appropriate in the case of equipment, materials and supplies, through the Department of General Services, shall furnish all personnel of the system entitled thereto with all necessary accommodations, goods and services which are not required by statute to be furnished by another government unit. Nothing in this section shall be construed to shift the liability for furnishing any such necessary accommodations, goods and services to the Commonwealth and where it is necessary for the Administrative Office to furnish any such necessary accommodations, goods or services for which the Commonwealth is not liable the cost thereof shall be paid by the defaulting government unit.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

§ 3703. Local chamber facilities.

The Administrative Office of Pennsylvania Courts shall furnish for each judge of the appellate courts of this Commonwealth chamber facilities in the county in which such judge resides in conformity with general rules for such judge and the personal staff of such judge from funds annually appropriated by the General Assembly.
(July 10, 1985, P.L.193, No.49, eff. 60 days)

Cross References. Section 3703 is referred to in section 5303 of Title 71 (State Government).

§ 3704. Local facilities for holding sessions of Statewide courts.

(a) General rule.--The City and County of Philadelphia and the County of Allegheny shall furnish the personnel of the appellate courts of this Commonwealth with such accommodations and facilities as may be required by order of the governing authority.

(b) Exception.--Subsection (a) shall not apply to any county in which the Pennsylvania Judicial Center may be located.

Pennsylvania Judicial Center. Section 24(c) of Act 142 of 1976 provided that, for the purposes of section 3704(b), the Pennsylvania Judicial Center shall not be deemed to be located in a county until the facilities specified in section 3704(a) are provided by the center.

SUBCHAPTER B
DISTRICT AND COUNTY FACILITIES AND SERVICES

Sec.

3721. County judicial center or courthouse.
3722. General facilities and services furnished by county.
3723. Other facilities and services furnished by Administrative Office.
3724. County law libraries.
3725. Standards of local facilities and services.
3726. Manner of expenditure of local funds.
3727. Restriction on compelling local action.

§ 3721. County judicial center or courthouse.

(a) General rule.--There shall be maintained at the county seat of each county a facility known as the county judicial center, which may be the existing county courthouse. The facility shall provide accommodations and supporting facilities and services for the following functions, agencies and units of or related to the unified judicial system:

(1) One or more courtrooms for the holding of sessions of the court of common pleas of the district, including related conference and other facilities.

(2) Chamber facilities for judges of the court of common pleas and their personal staff.

(3) The office of the clerk of the court of common pleas of the district and the administrative staff of the court, including the offices of the prothonotary, clerk of the courts and clerk of the orphans' court division.

(4) The district court administrator.

(5) The county law library.

(6) The offices of jury commissioners, register of wills, sheriff, district attorney and public defender.

(7) The offices of the bar association of the county necessary for public services performed by the bar association.

(8) In the City and County of Philadelphia, courtrooms, related conference and other facilities and chamber facilities for the minor judiciary.

(9) Such other functions, agencies and units of or related to the unified judicial system as may be designated by the governing authority and approved by the governing body of the county.

(b) Multisite locations.--The facilities of the county judicial center may be located either at a common site or at multiple sites, as required by local circumstances and conditions.

(c) Child-care facilities.--

(1) A county judicial center or courthouse may provide a child-care facility for use by children whose parents or guardians are present at the county judicial center or courthouse for a court appearance or other matter related to any civil or criminal action where the person's presence has been requested or is necessary. The child-care facility must be located within or easily accessible to the county

judicial center or courthouse. If the facilities of the county judicial center are located at multiple sites, each site may provide a child-care facility.

(2) If a child-care facility is provided under paragraph (1):

(i) The child-care facility shall be licensed and operated pursuant to Articles IX and X of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, and regulations of the Department of Public Welfare.

(ii) In addition to any other court cost or filing fee authorized to be collected by law, an additional fee of $5 shall be charged and collected by the prothonotary, clerk of orphans' court and register of wills of the county or by any official designated to perform the functions thereof for the initiation of any civil action or legal proceeding.

(iii) In addition to any other court cost or filing fee authorized to be collected by law, an additional fee of $5 shall be charged and collected by the clerk of courts of the county or by any official designated to perform the functions thereof for the initiation of any criminal proceeding for which a fee, charge or cost authorized on the effective date of this subsection and for which a conviction is obtained or guilty plea is entered.

(3) The additional fees collected under paragraph (2) shall be deposited into a segregated fund established by the county for the purposes of providing for the start-up and daily operating costs, excluding capital costs, of a child-care facility under this section.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 20, 2000, P.L.742, No.105, eff. 60 days)

2000 Amendment. Act 105 added subsec. (c).

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (c), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Cross References. Section 3721 is referred to in sections 1724, 2123 of this title.

§ 3722. General facilities and services furnished by county.

Except as otherwise provided by statute, each county shall continue to furnish to the court of common pleas and community court embracing the county, to the minor judiciary established for the county and to all personnel of the system, including central staff entitled thereto, located within the county, all necessary accommodations, goods and services which by law have heretofore been furnished by the county.

Cross References. Section 3722 is referred to in sections 2123, 2734, 2754, 2774, 3723 of this title.

§ 3723. Other facilities and services furnished by Administrative Office.

The Administrative Office, either directly or where appropriate in the case of equipment, materials and supplies, through the Department of General Services, shall furnish all personnel of the system entitled thereto located within a county, with all necessary accommodations, goods and services

which are not by section 3722 (relating to general facilities and services furnished by county) or any other provision of statute required to be or which have heretofore been furnished by another government unit.

§ 3724. County law libraries.

County law libraries, including libraries maintained by bar associations or independent library corporations, or both, shall receive from the county such necessary funds, accommodations, goods and services, as shall be specified by general rules or orders adopted by the governing authority after consideration of the recommendations from time to time of the State Law Library. Any such general rules or orders shall take effect only in the manner provided by section 503(b) (relating to procedures). All such county law libraries shall be operated in conformity with general rules or rules of the court of common pleas of the judicial district embracing the county and shall be open to the general public.

Philadelphia, Allegheny and Second Class A Counties. See section 24(d) of Act 142 of 1976 in the appendix to this title for special provisions relating to Philadelphia Law Library.

§ 3725. Standards of local facilities and services.

All accommodations, goods and services furnished to personnel of the system by a county or any other government agency shall be furnished in conformity with general rules.

§ 3726. Manner of expenditure of local funds.

Unless and until otherwise provided by statute or by express order of the Supreme Court pursuant to and subject to the limitations of constitutional authority, the manner of the expenditure of moneys credited to the judicial and related account of a political subdivision, including moneys appropriated through the budget of the Judicial Department to a political subdivision, shall be within the control of officers of the political subdivision.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

§ 3727. Restriction on compelling local action.

A general rule, express order or other order in the nature of a regulation adopted by the governing authority or any other agency or unit of the system which relates to funds, accommodations, facilities, goods, services or supplies which by statute are required to be paid by a political subdivision shall not be effective as to such political subdivision unless the governing body of the political subdivision agrees thereto or is specifically required by statute to take the action or furnish the particular funds, accommodations, facilities, goods or services to which the general rule, express order or other order relates.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 added section 3727.

SUBCHAPTER C
JUDICIAL COMPUTER SYSTEM

Sec.

3731. Establishment of restricted receipt account.
3732. Utilization of funds in account.
3733. Deposits into account.
3733.1. Surcharge.
3733.2. Additional surcharge (Expired).
3734. Annual appropriations.

3735. Review of plan and contracts.

Enactment. Subchapter C was added June 30, 1988, P.L.464, No.79, effective immediately and retroactive to July 13, 1987.

Cross References. Subchapter C is referred to in section 512 of Title 3 (Agriculture).

§ 3731. Establishment of restricted receipt account.

There is hereby established within the General Fund a restricted receipt account to be known as the Judicial Computer System Augmentation Account.

§ 3732. Utilization of funds in account.

(a) General rule.--Except for the repayments under subsection (b), all moneys deposited into the Judicial Computer System Augmentation Account shall be used only for the initial startup and the ongoing operations of the Statewide judicial computer system.

(b) General Fund repayments.--Any funds appropriated by the General Assembly from the General Fund for the startup and operation of the Statewide judicial computer system shall be repaid to the General Fund from the Judicial Computer System Augmentation Account over a five-year period beginning 24 months after the initial appropriation from the General Fund.

Cross References. Section 3732 is referred to in section 3733.2 of this title.

§ 3733. Deposits into account.

(a) General rule.--

(1) Beginning July 1, 1987, and thereafter, the total of all fines, fees and costs collected by any division of the unified judicial system which are in excess of the amount collected from such sources in the fiscal year 1986-1987 shall be deposited in the Judicial Computer System Augmentation Account. Any fines, fees or costs which are allocated by law or otherwise directed to the Pennsylvania Fish and Boat Commission, to the Pennsylvania Game Commission or to counties and municipalities, to the Crime Victim's Compensation Board, to the Commission on Crime and Delinquency for victim-witness services grants under section 477.15(c) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, to rape crisis centers, to the Emergency Medical Services Operating Fund or to domestic violence shelters shall not be affected by this subchapter.

(2) Beginning July 1, 1999, any fines, fees or costs which are allocated by law or otherwise directed to the Child Passenger Restraint Fund shall not be affected by this subchapter.

(a.1) Additional fees.--

(1) In addition to the court costs and filing fees authorized to be collected by statute:

(i) An additional fee of $10 shall be charged and collected by the prothonotaries of the Pennsylvania Supreme, Superior and Commonwealth Courts for each initial filing for which a fee, charge or cost is now authorized.

(ii) An additional fee of $10 shall be charged and collected by the prothonotaries, clerks of orphans' courts and registers of wills of all courts of common pleas, or by any officials designated to perform the functions thereof, for the initiation of any civil action or legal proceeding.

(iii) An additional fee of $10 shall be charged by the clerks of courts of all courts of common pleas, or by any officials designated to perform the functions thereof, for the initiation of any criminal proceeding for which a fee, charge or cost is now authorized and a conviction is obtained or guilty plea is entered. The additional fee under this subparagraph shall also be charged and collected when a defendant is granted entry into Accelerated Rehabilitative Disposition or any other pretrial diversionary program.

(iv) An additional fee of $10 shall be charged and collected by the minor judiciary, including magisterial district judges, Philadelphia Municipal Court, Philadelphia Traffic Court and Pittsburgh Municipal Court, for the initiation of a legal proceeding for which a fee or cost is now authorized, except that in criminal, summary and traffic matters the fee shall be charged only when a conviction is obtained or guilty plea is entered. The additional fee under this subparagraph shall also be charged and collected when a defendant is granted entry into Accelerated Rehabilitative Disposition or any other pretrial diversionary program.

(v) An additional fee of $10 shall be charged and collected by the recorders of deeds and clerks of court, or by any officials designated to perform similar functions, for each filing of a deed, mortgage or property transfer for which a fee, charge or cost is now authorized. The Supreme Court shall designate by financial regulations which filings meet the criteria of this subparagraph.

(2) The additional fees identified in paragraph (1) shall be fixed and charged for the fiscal years as indicated:

(i) For the fiscal year 2002-2003, $9 of each additional fee shall be deposited into the Judicial Computer System Augmentation Account, and $1 of each additional fee shall be deposited into the Access to Justice Account under section 4904 (relating to establishment of Access to Justice Account).

(ii) For the fiscal years 2003-2004 and 2004-2005, $8.50 of each additional fee shall be deposited into the Judicial Computer System Augmentation Account, and $1.50 of each additional fee shall be deposited into the Access to Justice Account under section 4904.

(iii) For the fiscal year 2005-2006 and each fiscal year thereafter, $8 of each additional fee shall be deposited into the Judicial Computer System Augmentation Account, and $2 of each additional fee shall be deposited into the Access to Justice Account under section 4904.

(3) The moneys charged and collected under this subsection shall be paid to the court imposing the fee, which shall transfer the moneys to the Department of Revenue for deposit into the appropriate account. For the purposes of paragraph (1)(v), the court shall be the court of common pleas.

(b) Limitation on total amount in account.--(Deleted by amendment).

(c) Expiration of section.--(Deleted by amendment).

(June 29, 1990, P.L.257, No.59, eff. imd.; Mar. 19, 1992, P.L.18, No.7, eff. imd.; July 11, 1996, P.L.607, No.104, eff. imd.; June 25, 1997, P.L.321, No.32, eff. July 1, 1997; Oct. 12, 1999, P.L.420, No.38, eff. 60 days; Oct. 2, 2002, P.L.841,

No.122, eff. Nov. 1, 2002; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Oct. 9, 2009, P.L.494, No.49, eff. 60 days)

2009 Amendment. Act 49 amended subsec. (a.1)(1)(iii), (iv) and (v).

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

2002 Amendment. Act 122 amended subsec. (a.1).

1999 Amendment. Act 38 amended subsec. (a).

Court Costs. See section 5 of Act 167 of 1992 in the appendix to this title for special provisions relating to commencement of compensation increases.

References in Text. Section 477.15 of the act of April 9, 1929, P.L.177, No.175, known as The Administrative Code of 1929, referred to in subsec. (a), was repealed by the act of November 11, 1998, P.L.882, No.111, known as the Crime Victims Act. The subject matter is now contained in Act 111.

Cross References. Section 3733 is referred to in section 3733.1 of this title; section 7511 of Title 18 (Crimes and Offenses); sections 1618, 3111, 3733 of Title 75 (Vehicles).

§ 3733.1. Surcharge.

(a) Imposition of surcharge.--In addition to each fee imposed under section 3733(a.1) (relating to deposits into account), except as set forth in subsection (b), the following apply:

(1) (Repealed).

(2) (Repealed).

(3) A permanent fee of $2 shall be charged and collected.

(b) Exceptions.--Subsection (a) does not apply to a conviction or guilty plea based on the filing of a traffic citation charging an offense under 75 Pa.C.S. (relating to vehicles) which is classified as summary under a State statute or local ordinance as provided in the Pennsylvania Rules of Criminal Procedure.

(c) Allocation and appropriation.--

(1) (Repealed).

(2) (Repealed).

(3) The fee under subsection (a)(3) shall be deposited into the Access to Justice Account.

(Oct. 9, 2009, P.L.494, No.49, eff. 60 days; July 7, 2011, P.L. 207, No.30, eff. imd.; July 9, 2014, P.L.1004, No.113, eff. 30 days; Oct. 30, 2017, P.L.379, No.40, eff. imd.)

2017 Amendment. Act 40 repealed subsecs. (a)(1) and (2) and (c)(1) and (2).

2014 Amendment . Act 113 amended subsecs. (a) and (c).

2009 Amendment. Act 49 added section 3733.1.

§ 3733.2. Additional surcharge (Expired).

2022 Expiration. Section 3733.2 expired June 30, 2022. See Act 93 of 2021.

§ 3734. Annual appropriations.

Beginning with the fiscal year 1987-1988, the General Assembly shall appropriate initially from the General Fund and thereafter from the Judicial Computer System Augmentation Account funds sufficient to meet the costs of the initial startup and the ongoing operations of the Statewide judicial computer system.

§ 3735. Review of plan and contracts.

A copy of the plan for expenditure of appropriated funds and a copy of each contract prior to execution shall be submitted to the respective Chairmen of the Majority and Minority Appropriations Committees in the House of Representatives and the Senate, allowing a reasonable time for their review and comment.

PART V
ADMINISTRATION OF JUSTICE GENERALLY

Chapter

41. Administration of Justice
43. Dockets, Indices and Other Records
44. Court Interpreters
45. Juries and Jurors
47. DNA Data and Testing (Repealed)
49. Access to Justice

Enactment. Part V was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

CHAPTER 41
ADMINISTRATION OF JUSTICE

Subchapter

A. General Provisions
B. Temporary Assignment of Judges and Magisterial District Judges
C. Contempt of Court

Enactment. Chapter 41 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

4101. Coordination of activities.
4102. Liability insurance for district justices (Repealed).

§ 4101. Coordination of activities.

The several courts and magisterial district judges, all other system and related personnel, executive agencies and political subdivisions shall devise a practical and working basis for cooperation and coordination of activities, facilitating the performance of their respective duties and eliminating duplicating and overlapping of functions, and shall, so far as practical, cooperate with each other in the use of employees, land, buildings, quarters, facilities, services and equipment. Any agency or unit of the unified judicial system may empower or require an employee of any other government unit, subject to the consent of such other government unit, to perform any duty which might be required by such agency or unit of the system of its own employees, and any other government unit may empower or require an employee of any agency or unit of the system, subject to the consent of such agency or unit of the system, to perform any duty which might be required by such other government unit of its own employees.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 4102. Liability insurance for district justices (Repealed).

1979 Repeal. Section 4102 was repealed July 20, 1979, P.L.157, No.52, effective in 60 days.

SUBCHAPTER B
TEMPORARY ASSIGNMENT OF JUDGES AND MAGISTERIAL DISTRICT JUDGES

Sec.

4121. Assignment of judges.
4122. Assignment of magisterial district judges.
4123. Assignment procedure.
4124. Assignment of senior Philadelphia Municipal Court judges.

Subchapter Heading. The heading of Subchapter B was amended November 30, 2004, P.L.1618, No.207, effective in 60 days.

§ 4121. Assignment of judges.

(a) General rule.--Subject to general rules any judge may be temporarily assigned to another court and may there hear and determine any matter with like effect as if duly commissioned to sit in such other court.

(b) Senior judges.--A senior judge may, with his consent, be assigned on temporary judicial service pursuant to subsection (a).

(c) Exception.--Only a judge who is a member of the bar of this Commonwealth shall be temporarily assigned to a court to which only members of the bar of this Commonwealth may be appointed or elected pursuant to section 3101 (relating to qualifications of judicial officers generally). A judge of the Pittsburgh Magistrates Court or the Traffic Court of Philadelphia may be temporarily assigned to a magisterial district with the same effect as an assignment pursuant to section 4122 (relating to assignment of magisterial district judges).

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (c). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1980 Amendment. Act 142 amended subsec. (b).

Philadelphia Municipal Court. Section 9(b) of Act 142 of 1976 provided that the President Judge of the Court of Common Pleas of Philadelphia County may assign temporarily judges of the Philadelphia Municipal Court to the Court of Common Pleas of Philadelphia County when required to expedite the business of the court.

Cross References. Section 4121 is referred to in sections 102, 564 of this title.

§ 4122. Assignment of magisterial district judges.

(a) General rule.--Subject to general rules any magisterial district judge may be temporarily assigned to any other magisterial district or the Pittsburgh Magistrates Court or the

Traffic Court of Philadelphia, and may there hear and determine any matter with like effect as if duly commissioned to sit in such other district or in such court.

(b) Senior magisterial district judges.--A senior magisterial district judge who shall not have been defeated for reelection or been suspended or removed from office may, with the senior magisterial district judge's consent, be assigned on temporary magisterial service pursuant to subsection (a). A senior magisterial district judge shall be paid a per diem salary at the same annual rate as is applicable in the district where the senior magisterial district judge is temporarily assigned and shall receive expenses at the same per diem rate as other magisterial district judges temporarily assigned.

(c) Additional compensation.--A magisterial district judge, assigned by the president judge of the court of common pleas to perform additional duties for a district other than the one in which the magisterial district judge is elected, shall be entitled to receive additional compensation of $20 per day when the magisterial district judge performs assigned duties, except that no additional compensation shall be allowed for routine duties scheduled by the president judge of the court of common pleas. Any assignment, compensable under this subsection, for which the per diem exceeds $100 a calendar month shall be approved by the Court Administrator of Pennsylvania.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; July 20, 1979, P.L.157, No.52, eff. 60 days; July 10, 1984, P.L.708, No.150, eff. imd.; Dec. 19, 1984, P.L.1089, No.218, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Cross References. Section 4122 is referred to in sections 102, 4121 of this title

§ 4123. Assignment procedure.

The procedure for effecting temporary assignments of judges and magisterial district judges, the kind, amount and method of payment for travel, lodgings and subsistence, and all other matters related to such temporary assignments, shall be governed by general rules established by the Supreme Court except as otherwise specifically provided.

(July 20, 1979, P.L.157, No.52, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 4124. Assignment of senior Philadelphia Municipal Court judges.

A senior judge of the Philadelphia Municipal Court who has not been defeated for reelection or suspended or removed from office and who has served an aggregate of four years as an elected judge and who is required to retire at age 70 may, with his consent, be assigned on temporary judicial service to that court.

(July 10, 1984, P.L.708, No.150, eff. imd.)

1984 Amendment. Act 150 added section 4124.

SUBCHAPTER C
CONTEMPT OF COURT

Sec.

4131. Definitions (Reserved).
4132. Attachment and summary punishment for contempts.
4133. Commitment or fine for contempt.
4134. Commitment for failure to pay fine.
4135. Publication out of court.
4136. Rights of persons charged with certain indirect criminal contempts.
4137. Contempt powers of magisterial district judges.
4138. Contempt powers of Pittsburgh Magistrates Court.
4139. Contempt powers of Traffic Court of Philadelphia.

§ 4131. Definitions (Reserved).

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

1982 Amendment. Act 326 added section 4131 and renumbered former section 4131 to section 4132.

§ 4132. Attachment and summary punishment for contempts.

The power of the several courts of this Commonwealth to issue attachments and to impose summary punishments for contempts of court shall be restricted to the following cases:

(1) The official misconduct of the officers of such courts respectively.

(1.1) The willful failure of the officers of such courts to disclose a person's complete criminal history record information when requested.

(2) Disobedience or neglect by officers, parties, jurors or witnesses of or to the lawful process of the court.

(3) The misbehavior of any person in the presence of the court, thereby obstructing the administration of justice.

(Oct. 29, 2020, P.L.718, No.83, eff. 60 days)

Cross References. Section 4132 is referred to in sections 4133, 5337, 6304.1 of this title.

§ 4133. Commitment or fine for contempt.

Except as otherwise provided by statute, the punishment of commitment for contempt provided in section 4132 (relating to attachment and summary punishment for contempts) shall extend only to contempts committed in open court. All other contempts shall be punished by fine only.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

1982 Amendment. Act 326 amended and renumbered section 4132 to section 4133 and renumbered former section 4133 to section 4134.

§ 4134. Commitment for failure to pay fine.

The court may order the sheriff or other proper officer of any county to take into custody and commit to jail any person fined for a contempt until such fine shall be paid or discharged. If unable to pay such fine, such person may be committed to jail by the court for not exceeding three months.

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

1982 Amendment. Act 326 amended and renumbered section 4133 to section 4134 and renumbered former section 4134 to section 4135.

§ 4135. Publication out of court.

(a) General rule.--Publication out of court respecting the conduct of judges, magisterial district judges, other system or related personnel, jurors or participants in connection with any matter pending before any tribunal shall not be construed

as a contempt of court on the part of the author, publisher or other person connected with such publication.

(b) Civil and criminal liability not affected.--If any publication specified in subsection (a) shall improperly tend to bias the minds of the public, or of the tribunal, other system or related personnel, jurors or participants in connection with any matter pending before any tribunal, any person aggrieved thereby may proceed against the persons responsible for the publication by appropriate civil action or criminal proceeding.

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1982 Amendment. Act 326 amended and renumbered section 4134 to section 4135 and renumbered former section 4135 to section 4136.

§ 4136. Rights of persons charged with certain indirect criminal contempts.

(a) General rule.--A person charged with indirect criminal contempt for violation of a restraining order or injunction issued by a court shall enjoy:

(1) The rights to bail that are accorded to persons accused of crime.

(2) The right to be notified of the accusation and a reasonable time to make a defense, if the alleged contempt is not committed in the immediate view or presence of the court.

(3) (i) Upon demand, the right to a speedy and public trial by an impartial jury of the judicial district wherein the contempt is alleged to have been committed.

(ii) The requirement of subparagraph (i) shall not be construed to apply to contempts:

(A) Committed in the presence of the court or so near thereto as to interfere directly with the administration of justice, or to apply to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court.

(B) Subject to 23 Pa.C.S. § 6114 (relating to contempt for violation of order or agreement).

(C) Subject to 75 Pa.C.S. § 4108(c) (relating to nonjury criminal contempt proceedings).

(4) The right to file with the court a demand for the withdrawal of the judge sitting in the proceeding, if the alleged contempt arises from an attack upon the character or conduct of such judge, and if the attack occurred otherwise than in open court. Upon the filing of any such demand, the judge shall thereupon proceed no further but another judge shall be designated by the court. The demand shall be filed prior to the hearing in the contempt proceeding.

(b) Punishment.--Except as otherwise provided in this title or by statute hereafter enacted, punishment for a contempt specified in subsection (a) may be by fine not exceeding $100 or by imprisonment not exceeding 15 days in the jail of the county where the court is sitting, or both, in the discretion of the court. Where a person is committed to jail for the nonpayment of such a fine, he shall be discharged at the expiration of 15 days, but where he is also committed for a

definite time, the 15 days shall be computed from the expiration of the definite time.
(Apr. 28 1978, P.L.202, No.53, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Dec. 19, 1990, P.L.1240, No.206, eff. 90 days)

Cross References. Section 4136 is referred to in sections 62A14, 62A15 of this title.

§ 4137. Contempt powers of magisterial district judges.

(a) General rule.--A magisterial district judge shall have the power to issue attachments and impose summary punishments for criminal contempts of a magisterial district judge court in the following cases:

(1) Misbehavior of any person in the presence of the court, thereby obstructing the administration of justice.

(2) Failure of a person to obey lawful process in the nature of a subpoena issued by a magisterial district judge.

(3) Failure to comply with an order of a magisterial district judge directing a defendant in a criminal proceeding to compensate the victim of the criminal conduct for the damage or injury sustained by the victim.

(4) Failure to comply with an order of a magisterial district judge directing a defendant in a criminal proceeding to pay fines and costs in accordance with an installment payment order.

(5) Violation of an order issued pursuant to 23 Pa.C.S. § 6110 (relating to emergency relief by minor judiciary).

(b) Limitation.--The power of contempt shall not include system and related personnel, attorneys or law enforcement officers when performing official duties or acting as officers of the court.

(c) Punishment.--Punishment for contempt specified in subsection (a)(1) or (3) may be a fine of not more than $100 or imprisonment for not more than 30 days, or both. Punishment for contempt specified in subsection (a)(2) shall be a fine of not more than $100. Failure to pay within a reasonable time could result in imprisonment for not more than ten days. Punishment for contempt specified in subsection (a)(5) shall be in accordance with that specified in 23 Pa.C.S. § 6114(b) (relating to contempt for violation of order or agreement). Punishment for contempt in subsection (a)(4) would be imprisonment for not more than 90 days.

(d) Procedure.--A magisterial district judge shall have the power to issue an attachment by means of a warrant and to conduct a hearing prior to the imposition of punishment for contempt. Any punishment imposed by a magisterial district judge for contempt shall be automatically stayed for a period of ten days from the date of imposition of the punishment during which time an appeal of the action of the magisterial district judge may be filed with the court of common pleas of the judicial district. The stay shall remain in effect pending the disposition of an appeal. Upon the filing of the appeal, the court of common pleas shall hear the matter de novo. On appeal, the accused shall have the right to be notified of the accusation and shall have a reasonable time to make a defense. The defendant shall not have a right to a jury trial on appeal.

(e) Bail.--A magisterial district judge may not impose bail as a condition of release of any person accused of contempt specified in subsection (a)(1), (2) or (3) during the period that punishment is stayed under subsection (d). A magisterial district judge may impose bail as a condition of release of any

person who has committed contempt specified in subsection (a)(4) and (5).
(June 15, 1994, P.L.273, No.45, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended the section heading and subsecs. (a), (d) and (e). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1994 Amendment. Act 45 added section 4137.

Suspension by Court Rule. Section 4137 was suspended by Pennsylvania Rule of Criminal Procedure No. 1101(1), adopted March 1, 2000, insofar as it is inconsistent with the 30-day appeal period and 30-day automatic stay period set forth in Rule 141 relating to preliminary hearing; continuances.

Cross References. Section 4137 is referred to in section 1523 of this title.

§ 4138. Contempt powers of Pittsburgh Magistrates Court.

(a) General rule.--The Pittsburgh Magistrates Court shall have the power to issue attachments and impose summary punishments for criminal contempts in the following cases:

(1) Misbehavior of any person in the presence of the court thereby obstructing the administration of justice.

(2) Failure of a person to obey lawful process in the nature of a subpoena issued by a judge of the Pittsburgh Magistrates Court.

(3) Failure to comply with an order of a judge of the Pittsburgh Magistrates Court directing a defendant in a criminal proceeding to pay fines and costs in accordance with an installment payment order.

(b) Limitation.--The power of contempt shall not include system and related personnel, attorneys or law enforcement officers when performing official duties or acting as officers of the court.

(c) Punishment.--Punishment for contempt specified in subsection (a)(1) or (3) may be a fine of not more than $100 or imprisonment for not more than 30 days, or both. Punishment for contempt specified in subsection (a)(2) shall be a fine of not more than $100. Failure to pay within a reasonable time could result in imprisonment for not more than ten days.

(d) Procedure.--A judge of the Pittsburgh Magistrates Court shall have the power to issue an attachment by means of a warrant and to conduct a hearing prior to the imposition of punishment for contempt. Any punishment imposed by a judge of the Pittsburgh Magistrates Court for contempt shall be automatically stayed for a period of ten days from the date of imposition of the punishment during which time an appeal of the action of the judge of the Pittsburgh Magistrates Court may be filed with the court of common pleas of the judicial district. The stay shall remain in effect pending the disposition of an appeal. Upon the filing of the appeal, the court of common pleas shall hear the matter de novo. On appeal, the accused shall have the right to be notified of the accusation and shall have a reasonable time to make a defense. The defendant shall not have a right to a jury trial on appeal.
(June 15, 1994, P.L.273, No.45, eff. 60 days)

1994 Amendment. Act 45 added section 4138.

Suspension by Court Rule. Section 4138 was suspended by Pennsylvania Rule of Criminal Procedure No. 1101(1), adopted March 1, 2000, insofar as it is inconsistent with the 30-day

appeal period and 30-day automatic stay period set forth in Rule 141 relating to preliminary hearing; continuances.

§ 4139. Contempt powers of Traffic Court of Philadelphia.

(a) General rule.--The Traffic Court of Philadelphia shall have the power to issue attachments and impose summary punishments for criminal contempts in the following cases:

(1) Misbehavior of any person in the presence of the court thereby obstructing the administration of justice.

(2) Failure of a person to obey lawful process in the nature of a subpoena issued by a traffic court judge.

(3) Failure to comply with an order of a traffic court judge directing a defendant in a criminal proceeding to pay fines and costs in accordance with an installment payment order.

(b) Limitation.--The power of contempt shall not include system and related personnel, attorneys or law enforcement officers when performing official duties or acting as officers of the court.

(c) Punishment.--Punishment for contempt specified in subsection (a)(1) or (3) may be a fine of not more than $100 or imprisonment for not more than 30 days, or both. Punishment for contempt specified in subsection (a)(2) shall be a fine of not more than $100. Failure to pay within a reasonable time could result in imprisonment for not more than ten days.

(d) Procedure.--A traffic court judge shall have the power to issue an attachment by means of a warrant and to conduct a hearing prior to the imposition of punishment for contempt. Any punishment imposed by a traffic court judge for contempt shall be automatically stayed for a period of ten days from the date of imposition of the punishment during which time an appeal of the action of the traffic court judge may be filed with the court of common pleas of the judicial district. The stay shall remain in effect pending the disposition of an appeal. Upon the filing of the appeal, the court of common pleas shall hear the matter de novo. On appeal, the accused shall have the right to be notified of the accusation and shall have a reasonable time to make a defense. The defendant shall not have a right to a jury trial on appeal.

(June 15, 1994, P.L.273, No.45, eff. 60 days)

1994 Amendment. Act 45 added section 4139.

Suspension by Court Rule. Section 4139 was suspended by Pennsylvania Rule of Criminal Procedure No. 1101(1), adopted March 1, 2000, insofar as it is inconsistent with the 30-day appeal period and 30-day automatic stay period set forth in Rule 141 relating to preliminary hearing; continuances.

CHAPTER 43
DOCKETS, INDICES AND OTHER RECORDS

Subchapter

A. Establishment, Maintenance and Effect of Judicial Records
B. Disposition of Obsolete Records

Enactment. Chapter 43 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBCHAPTER A
ESTABLISHMENT, MAINTENANCE AND EFFECT

OF JUDICIAL RECORDS

Sec.
4301. Establishment and maintenance of judicial records.
4302. Effect of records as notice.
4303. Effect of judgments and orders as liens.
4304. Notice of Federal pending actions.
4305. Federal judgments as liens.
4306. Enforcement of foreign judgments.

Cross References. Subchapter A is referred to in sections 4321, 4322 of this title.

§ 4301. Establishment and maintenance of judicial records.

(a) General rule.--All system and related personnel shall establish and maintain such records as shall be required by law.

(b) Supervision by Administrative Office.--All system and related personnel engaged in clerical functions shall establish and maintain all dockets, indices and other records and make and file such entries and reports, at such times, in such manner and pursuant to such procedures and standards as may be prescribed by the Administrative Office of Pennsylvania Courts with the approval of the governing authority. All such procedures and standards shall be uniform to the maximum extent practicable so as to facilitate the temporary assignment of personnel of the system, other than county staff, within the unified judicial system.

Cross References. Section 4301 is referred to in sections 2705, 4302 of this title.

§ 4302. Effect of records as notice.

(a) Real property.--Except as otherwise provided by statute or prescribed by general rule adopted pursuant to section 1722(b) (relating to enforcement and effect of orders and process), every document affecting title to or any other interest in real property which is filed and indexed in the office of the clerk of the court of common pleas of the county where the real property is situated, or in the office of the clerk of the branch of the court of common pleas embracing such county in the manner required by the laws, procedures or standards in effect at the date of such filing shall be constructive notice to all persons of the filing and full contents of such document.

(b) Documents relating to pending matters.--Documents relating to the pendency of a matter before any court filed in the office of the clerk of any court or other office within or related to and serving the unified judicial system shall be constructive notice to such persons, of such information and for such duration as may be provided by statute or prescribed by general rule adopted pursuant to section 4301 (relating to establishment and maintenance of judicial records).

(c) Foreign language documents.--A writing not in the English language shall not constitute notice to any person unless there is attached to it and filed with it a translation into the English language verified to be correct.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

§ 4303. Effect of judgments and orders as liens.

(a) Real property.--Any judgment or other order of a court of common pleas for the payment of money shall be a lien upon real property on the conditions, to the extent and with the priority provided by statute or prescribed by general rule

adopted pursuant to section 1722(b) (relating to enforcement and effect of orders and process) when it is entered of record in the office of the clerk of the court of common pleas of the county where the real property is situated, or in the office of the clerk of the branch of the court of common pleas embracing such county.

(b) Order of court as lien.--Any other order of a court of common pleas shall be a lien upon real and personal property situated within any county embraced within the judicial district on the conditions, to the extent and with the priority provided by statute or prescribed by general rule adopted pursuant to section 1722(b).

(c) Transfer of domestic judgments and orders.--An order of any court of this Commonwealth which is a lien on real or personal property situated within any county of this Commonwealth pursuant to subsection (a) or (b) shall be a lien upon real or personal property situated within any other county to the same extent as if resulting from an order of the court of common pleas of such other county upon compliance with such transfer and filing procedures as may be prescribed by general rule.

(Oct. 5, 1980, P.L.693, No.142 eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. imd.)

1982 Amendment. Act 326 amended subsec. (a), retroactive to June 27, 1978.

§ 4304. Notice of Federal pending actions.

(a) General rule.--An action pending in a United States court within this Commonwealth concerning real property located within this Commonwealth shall be effective to give constructive notice of the action as it relates to the real property in the same manner, and to the same extent and under the same conditions as an action pending in a court of common pleas of this Commonwealth.

(b) Authorization for filing of notice of Federal actions.--Notice of an action pending in a United States court within this Commonwealth concerning real property located within this Commonwealth may be registered, recorded, docketed or indexed in the same manner or in the same place as notices of actions concerning real property pending in a court of common pleas of this Commonwealth are registered, recorded, docketed or indexed.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

§ 4305. Federal judgments as liens.

(a) General rule.--Except as provided in subsection (b), every judgment of a United States court within this Commonwealth shall, as provided by 28 United States Code § 1962 (relating to lien) or otherwise, be a lien on property located within this Commonwealth in the same manner, to the same extent and under the same conditions as a judgment of a court of common pleas of this Commonwealth and shall cease to be a lien in the same manner and time.

(b) Filing requirement.--The certified transcript of the judgment of the United States court shall be filed in the office of the clerk of the court of common pleas of the county where the property is located unless the judgment was rendered by such United States court within the county where the property is located.

(c) Authorization for filing of Federal judgments entered in other counties.--Any judgment of a United States court within this Commonwealth may be registered, recorded, filed, docketed,

indexed or otherwise conformed to the rules and requirements relating to judgments of the courts of common pleas.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

§ 4306. Enforcement of foreign judgments.

(a) Short title of section.--This section shall be known and may be cited as the "Uniform Enforcement of Foreign Judgments Act."

(b) Filing and status of foreign judgments.--A copy of any foreign judgment including the docket entries incidental thereto authenticated in accordance with act of Congress or this title may be filed in the office of the clerk of any court of common pleas of this Commonwealth. The clerk shall treat the foreign judgment in the same manner as a judgment of any court of common pleas of this Commonwealth. A judgment so filed shall be a lien as of the date of filing and shall have the same effect and be subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of any court of common pleas of this Commonwealth and may be enforced or satisfied in like manner.

(c) Notice of filing.--

(1) At the time of the filing of the foreign judgment, the judgment creditor or his attorney shall make and file with the office of the clerk of the court of common pleas an affidavit setting forth the name and last known post office address of the judgment debtor, and the judgment creditor. In addition, such affidavit shall include a statement that the foreign judgment is valid, enforceable and unsatisfied.

(2) Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the judgment creditor and the attorney for the judgment creditor, if any, in this Commonwealth. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

(d) Stay.--

(1) If the judgment debtor shows the court of common pleas that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the State in which it was rendered.

(2) If the judgment debtor shows the court of common pleas any ground upon which enforcement of a judgment of any court of common pleas of this Commonwealth would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this Commonwealth.

(e) Optional procedure.--The right of a judgment creditor to bring an action to enforce his judgment instead of proceeding under this section remains unimpaired.

(f) Definition.--As used in this section "foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court requiring the payment of money which is entitled to full faith and credit in this Commonwealth.

Cross References. Section 4306 is referred to in section 3705 of Title 23 (Domestic Relations).

SUBCHAPTER B
DISPOSITION OF OBSOLETE RECORDS

Sec.

4321. Record retention schedules.
4322. Destruction and disposition of obsolete records.
4323. Form of recordation.
4324. Copies of destroyed records.
4325. Duplicate permanent records.
4326. Original records meriting special care.
4327. Transfer of custody to local museum upon application.

§ 4321. Record retention schedules.

(a) General rule.--The governing authority, after consultation with the County Records Committee, shall by general rule prescribe schedules setting forth the conditions under which the records provided for in Subchapter A (relating to establishment, maintenance and effect of judicial records) may be disposed of, either with or without the establishment of a permanent copy thereof.

(b) Requirements for schedules.--Such schedules shall distinguish clearly between records of temporary value and records of permanent value, and no schedule shall be prescribed or revised which will permit the destruction of records of permanent value unless a permanent copy thereof is required to be maintained as provided in this subchapter. Such schedules insofar as they affect the records maintained by related staff, shall be consistent with the schedules prescribed by the County Records Committee.

§ 4322. Destruction and disposition of obsolete records.

(a) General rule.--Any person required to maintain records pursuant to Subchapter A (relating to establishment, maintenance and effect of judicial records) may destroy such records in conformity with this subchapter and the general rules prescribed hereunder. No such person shall be held liable on his official bond, or in the way of damages for loss, or in any other manner, civil or criminal, because of the destruction of records as authorized pursuant to this subchapter.

(b) Historical documents.--Any original records which are of historical value as may be determined by the City Archivist, in the case of City and County of Philadelphia, or by the Pennsylvania Historical and Museum Commission, in the case of any other county, shall be transferred to the Pennsylvania Historical and Museum Commission or to such other depositories as may be designated by the commission.

§ 4323. Form of recordation.

(a) In general.--Records may be reproduced in accordance with subsection (c).

(b) Records of permanent value.--Records that are classified as records of permanent value may be reproduced in accordance with subsection (c) provided that, if the original record is being destroyed after reproduction:

(1) the reproduction format shall be human readable; or

(2) if the reproduction format is electronic or otherwise not human readable, the governing authority, in consultation with the County Records Committee, shall create and apply standards, policies and procedures for the creation, maintenance, backup, migration and transmission of permanent records in that format.

(c) Means of reproduction.--Any photostatic, photographic, micrographic, microfilm, microcard, miniature photographic, optical, electronic or other future technologies, analog or digital, which accurately reproduces the original and forms secure and unalterable copies for recording may be utilized for reproducing records as authorized in accordance with this subchapter.

(d) Documents previously recorded, copied or recopied.--A document within the scope of this section and that previously has been recorded, copied or recopied also may be reproduced by processes authorized by this section.

(July 9, 2014, P.L.1004, No.113, eff. 30 days)

Cross References. Section 4323 is referred to in section 4324 of this title.

§ 4324. Copies of destroyed records.

A copy of any record destroyed or disposed of as authorized pursuant to this subchapter, or a certified copy thereof, if produced in accordance with section 4323 (relating to form of recordation) shall be admissible in evidence in any matter, and shall have the same force and effect as though the original record had been produced and proved. It shall be the duty of the person who would have had custody of the original record, had it not been destroyed pursuant to law, to prepare enlarged, typed or photographic copies of such reproduced records whenever their production is required.

(July 9, 2014, P.L.1004, No.113, eff. 30 days)

§ 4325. Duplicate permanent records.

In order to provide insurance for the more actively used working copies against damage or loss through wear or disaster, duplicate copies of all permanent records designated by the Administrative Office shall be maintained at such locations as shall be approved by the Administrative Office. Such designations insofar as they relate to the records maintained by related staff, shall be subject to the approval of the County Records Committee.

§ 4326. Original records meriting special care.

If, in the opinion of the person having custody of an original record, such original possesses sufficient value that it merits special care, he shall make a permanent copy of the record, which shall be officially certified and placed on file in lieu of the original record, and, with the approval of the Administrative Office, he shall transfer the original to the custody of such officer as shall be designated by the Administrative Office for permanent preservation.

§ 4327. Transfer of custody to local museum upon application.

(a) General rule.--Any nonprofit public, quasi-public, or private association or corporation situated within the county where the historical documents are filed, which maintains a museum, building or facilities used for the exhibit of historical writings, and which shall have adequate facilities for the display and preservation of such documents, may petition the court of common pleas of the judicial district embracing the county wherein such document or documents are filed for the transfer of the custody of such documents for the purpose of their public display. Upon the filing of any petition, the court

shall fix a time for a hearing, and prescribe such notice to be given as shall acquaint similar organizations with the filing of the petition. Any other association or corporation meeting the requirements of this subsection may intervene in the proceedings with the same effect as if it had been the original petitioner, and the court, after hearing, may award custody of any historical document or documents to any of the petitioners for such term and upon such conditions as the court shall prescribe.

(b) Permanent copy substituted for original.--Upon the granting of a petition transferring custody of any historical documents, the officer from whose custody it was removed shall substitute in his files a certified permanent copy of such document, which shall be of the same force and effect as the original document.

(c) Petition for return of document.--The appropriate county officer may at any time, without cause, petition the court for the return of any historical document, the custody of which had been previously transferred to any person pursuant to subsection (a).

(d) Order for return on motion of court.--The court, after having taken jurisdiction of the transfer of any historical document, may, without cause, and upon its own motion, order the person having such temporary custody to return such document to the appropriate office wherein it had been originally filed.

(e) Definition.--As used in this section "historical document" means any document formerly belonging to a decedent or any other person, which document is more than 50 years old and which is in the custody of a register of wills, the recorder of deeds, the clerk of any court or the prothonotary, except documents relating to adoption, divorce or custody.

CHAPTER 44
COURT INTERPRETERS

Subchapter

A. General Provisions
B. Court Interpreters for Persons With Limited English Proficiency
C. Court Interpreters for Persons Who Are Deaf

Enactment. Chapter 44 was added November 29, 2006, P.L.1538, No.172, effective in 60 days.

Cross References. Chapter 44 is referred to in sections 562, 582 of Title 2 (Administrative Law and Procedure).

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

4401. Legislative findings and declaration.
4402. Definitions.

§ 4401. Legislative findings and declaration.

It is hereby declared to be the policy of this Commonwealth to secure the rights, constitutional and otherwise, of persons who because of a non-English speaking cultural background or who because of an impairment of hearing or speech are unable to understand or communicate adequately in the English language when they appear in court or are involved in judicial proceedings. It is the intent of this chapter to provide for

the certification, appointment and use of interpreters to secure the rights of persons with limited English proficiency and persons who are deaf or hearing impaired in all judicial proceedings.

§ 4402. Definitions.

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

"Administrative proceeding." Any proceeding other than a judicial proceeding, the outcome of which is required to be based on a record or documentation prescribed by law or in which law or regulation is particularized in application to individuals. The term includes an appeal as defined in 2 Pa.C.S. § 101 (relating to definitions).

"Certified interpreter." A person who:

(1) is readily able to interpret; and

(2) is certified by the Court Administrator in accordance with either Subchapter B (relating to court interpreters for persons with limited English proficiency) or Subchapter C (relating to court interpreters for persons who are deaf).

"Court Administrator." The Court Administrator of Pennsylvania.

"Deaf." An impairment of hearing or speech which creates an inability to understand or communicate the spoken English language.

"Direct victim." A direct victim as defined in section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

"Immediate family member." A spouse, parent or child.

"Interpret." Either one of the following:

(1) For purposes of Subchapter B (relating to court interpreters for persons with limited English proficiency), to convey spoken and written English into the language of the person with limited English proficiency and to convey oral and written statements by the person with limited English proficiency into spoken English.

(2) For purposes of Subchapter C (relating to court interpreters for persons who are deaf), to convey spoken English in a manner understood by the person who is deaf through, but not limited to, American Sign Language and transliteration or the use of computer-aided real-time captioning (CART) or similar procedure, and to convey the communications made by the person who is deaf into spoken English.

"Interpreter." Includes both a certified interpreter and an otherwise qualified interpreter.

"Judicial proceeding." An action, appeal or proceeding in any court of this Commonwealth.

"Limited ability to speak or understand English." The ability to speak exclusively or primarily a language other than English and the inability to sufficiently speak or understand English.

"Otherwise qualified interpreter." A person who:

(1) For purposes of Subchapter B (relating to court interpreters for persons with limited English proficiency):

(i) is readily able to interpret; and

(ii) has read, understands and agrees to abide by the code of professional conduct for court interpreters for persons with limited English proficiency as established by the Court Administrator in accordance with Subchapter B.

(2) For purposes of Subchapter C (relating to court interpreters for persons who are deaf):

(i) is readily able to interpret;

(ii) is certified by the National Association of the Deaf, the Registry of Interpreters for the Deaf or similar registry; and

(iii) has read, understands and agrees to abide by the code of professional conduct for court interpreters for persons who are deaf as established by the Court Administrator in accordance with Subchapter C.

"Person who is deaf." A principal party in interest or a witness who is deaf.

"Person with limited English proficiency." A principal party in interest or a witness, who has limited ability to speak or understand English.

"Presiding judicial officer." Includes a judicial officer as defined in section 102 (relating to definitions).

"Principal party in interest." A person involved in a judicial proceeding who is a named party, defendant or direct victim in a criminal proceeding or proceeding, pursuant to Chapter 63 (relating to juvenile matters), will be bound by the decision or action or is foreclosed from pursuing that person's rights by the decision or action which may be taken in the judicial proceeding.

"Transliteration." To convey spoken or written English in an English-based sign system and the process of conveying an English-based sign system in spoken or written English.

"Witness." A person who testifies in a judicial proceeding.

SUBCHAPTER B

COURT INTERPRETERS FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

Sec.

4411. Duties of Court Administrator.
4412. Appointment of interpreter.
4413. Replacement of interpreter.
4414. Oath.
4415. Confidential communications in presence of interpreter.
4416. Cost of providing interpreter.
4417. Funding.

Cross References. Subchapter B is referred to in section 4402 of this title.

§ 4411. Duties of Court Administrator.

(a) Interpreter program.--The Court Administrator may establish a program to appoint and use certified interpreters in judicial proceedings. The program established by the Court Administrator to certify interpreters may include:

(1) establishing and administering a comprehensive testing and certification program for interpreters;

(2) establishing and adopting standards of proficiency, written and oral, in English and the language to be interpreted;

(3) conducting periodic examinations to ensure the availability of certified interpreters;

(4) prescribing, determining and certifying the qualifications of persons who may serve as certified interpreters for persons with limited English proficiency;

(5) charging reasonable fees as deemed necessary for testing and certification;

(6) reciprocity of certification for interpreters from other jurisdictions, provided that, in the judgment of the Court Administrator, the criteria for certification in the foreign jurisdiction is at least as stringent as that established by the Court Administrator;

(7) providing for the audio recording of testimony that is the subject of interpretation; and

(8) providing a continuing education requirement for interpreters.

(b) List of certified interpreters.--The Court Administrator shall compile, maintain and disseminate a current list of interpreters certified by the Court Administrator for the courts through any means deemed appropriate by the Court Administrator, including, but not limited to, a written directory, which shall be maintained on file with the office of the clerk of courts in each judicial district, and through publication on the official World Wide Web site of the Administrative Office.

(c) Guidelines for court selection of otherwise qualified interpreters.--The Court Administrator shall provide guidelines to the courts for the selection and use of otherwise qualified interpreters in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this subchapter.

(d) Fee schedule.--The Court Administrator shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by certified interpreters and otherwise qualified interpreters used in judicial proceedings.

(e) Standards of professional conduct.--

(1) The Court Administrator shall establish and adopt standards for a code of professional conduct for court interpreters for persons with limited English proficiency.

(2) The Court Administrator shall establish, administer or recommend a process to review and respond to allegations of violations of the code of professional conduct for court interpreters for persons with limited English proficiency, including, but not limited to, decertification and other disciplinary measures.

§ 4412. Appointment of interpreter.

(a) Appointment of certified interpreter.--Upon request or sua sponte, if the presiding judicial officer determines that a principal party in interest or witness has a limited ability to speak or understand English, then a certified interpreter shall be appointed, unless the certified interpreter is unavailable as provided in subsection (b).

(b) Appointment of otherwise qualified interpreter.--

(1) An otherwise qualified interpreter shall be appointed by the presiding judicial officer if a good faith effort was made to obtain a certified interpreter and a certified interpreter was not reasonably available, as determined by the presiding judicial officer.

(2) Prior to the appointment of the otherwise qualified interpreter, the presiding judicial officer, pursuant to general rule, shall state on the record that a certified interpreter is not available and that the otherwise qualified interpreter:

(i) is readily able to interpret; and

(ii) has read, understands and agrees to abide by the code of professional conduct for court interpreters for persons with limited English proficiency, as established by the Court Administrator.

(c) Additional interpreter.--After consideration of the length of the judicial proceeding and the number of persons

with limited English proficiency involved, the presiding judicial officer may appoint, as provided in subsections (a) and (b), an additional interpreter or provide for additional interpretation in a manner deemed appropriate by the presiding judicial officer.

(d) Immediate family.--The presiding judicial officer may appoint, as provided in subsections (a) and (b), an interpreter or provide for additional interpretation, as provided in subsection (c), for an immediate family member of a principal party in interest.

§ 4413. Replacement of interpreter.

Pursuant to general rule, the presiding judicial officer shall dismiss the interpreter and obtain the services of another interpreter in accordance with this subchapter if the interpreter:

(1) Fails to follow the standards prescribed by law or by the code of professional conduct for court interpreters for persons with limited English proficiency.

(2) Is unable to effectively communicate with the presiding judicial officer or the person with limited English proficiency, including where the interpreter self-reports such inability.

§ 4414. Oath.

Before commencement of interpreter duties, an interpreter appointed under this subchapter shall take an oath or make an affirmation on the record that the interpreter will make a true interpretation to the person with limited English proficiency in the language which the person with limited English proficiency understands and that the interpreter will repeat the statements of the person with limited English proficiency to the court in English to the best of the interpreter's skill and judgment and in accordance with the code of professional conduct for court interpreters for persons with limited English proficiency.

§ 4415. Confidential communications in presence of interpreter.

An interpreter appointed under this subchapter shall not be compelled to testify in any judicial proceeding or administrative proceeding to any statements made by the person with limited English proficiency and interpreted by the interpreter when the person with limited English proficiency is engaged in a confidential communication as provided by any statute or general rule, including, but not limited to:

(1) Section 5916 (relating to confidential communications to attorney).

(2) Section 5928 (relating to confidential communications to attorney).

(3) Section 5942 (relating to confidential communications to news reporters).

(4) Section 5943 (relating to confidential communications to clergymen).

(5) Section 5944 (relating to confidential communications to psychiatrists or licensed psychologists).

(6) Section 5945 (relating to confidential communications to school personnel).

(7) Section 5945.1 (relating to confidential communications with sexual assault counselors).

(8) Section 5945.2 (relating to confidential communications to crime stopper or similar anticrime program).

(9) Section 5945.3 (relating to confidential communications with human trafficking caseworkers).

(July 2, 2014, P.L.945, No.105, eff. 60 days)

2014 Amendment. Act 105 added par. (9).

§ 4416. Cost of providing interpreter.

(a) General rule.--An interpreter appointed in accordance with this subchapter is entitled to a reasonable fee for interpreter services and shall be reimbursed for actual and reasonable expenses as provided in this section.

(b) Principal party in interest.--If the person with limited English proficiency is a defendant, party or a direct victim in a judicial proceeding for a criminal matter or juvenile proceeding pursuant to Chapter 63 (relating to juvenile matters), then the payment of the cost of providing the interpreter shall be the responsibility of the county of the court that has jurisdiction over the judicial proceeding for the criminal matter.

(c) Witness.--If the person with limited English proficiency is compelled to appear as a witness in a judicial proceeding for a criminal matter, then the payment of the cost of providing the interpreter shall be the responsibility of the county of the court that has jurisdiction over the judicial proceeding for the criminal matter.

(d) Payment determination.--Except as provided in subsections (b) and (c), disposition of all or part of the cost of providing interpreter services shall be in the discretion of the presiding judicial officer unless the principal party in interest is indigent. If the principal party in interest is indigent, then the cost of providing interpreter services shall be the responsibility of the county of the court that has jurisdiction over the judicial proceeding. The presiding judicial officer may order reimbursement to the county for its responsibilities under this section.

Cross References. Section 4416 is referred to in section 4417 of this title.

§ 4417. Funding.

Except as provided in section 4416 (relating to cost of providing interpreter), the General Assembly shall appropriate to the Court Administrator such sums as may be necessary to establish a program to facilitate the use of interpreters and otherwise fulfill the provisions of this subchapter. Implementation of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

SUBCHAPTER C
COURT INTERPRETERS FOR PERSONS WHO ARE DEAF

Sec.

4431. Duties of Court Administrator.
4432. Appointment of interpreter.
4433. Replacement of interpreter.
4434. Interrogation.
4435. Oath.
4436. Confidential communications in presence of interpreter.
4437. Cost of providing interpreter.
4438. Funding.

Cross References. Subchapter C is referred to in section 4402 of this title.

§ 4431. Duties of Court Administrator.

(a) Interpreter program.--The Court Administrator may establish a program to appoint and use certified interpreters in judicial proceedings. To certify interpreters, the Court Administrator shall either:

(1) establish a program, which shall include:

(i) establishing and administering a comprehensive testing and certification program for interpreters;

(ii) establishing and adopting standards of proficiency, including, but not limited to, certification by the Registry of Interpreters for the Deaf or similar registry;

(iii) conducting periodic examinations to ensure the availability of certified interpreters;

(iv) prescribing, determining and certifying the qualifications of persons who may serve as certified interpreters; and

(v) charging reasonable fees as deemed necessary for testing and certification; or

(2) establish and support a certification program by any means as deemed appropriate by the Court Administrator.

(b) List of certified interpreters.--The Court Administrator shall compile, maintain and disseminate a current list of interpreters certified by the Court Administrator for the courts through any means deemed appropriate by the Court Administrator, including, but not limited to, a written directory, which shall be maintained on file with the office of the clerk of courts in each judicial district, and through publication on the official World Wide Web site of the Administrative Office.

(c) Guidelines for court selection of otherwise qualified interpreters.--The Court Administrator shall provide guidelines to the courts for the selection and use of otherwise qualified interpreters in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this subchapter.

(d) Fee schedule.--The Court Administrator shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by certified interpreters and otherwise qualified interpreters used in judicial proceedings.

(e) Standards of professional conduct.--

(1) The Court Administrator shall establish and adopt standards for a code of professional conduct for court interpreters for persons who are deaf.

(2) The Court Administrator shall establish, administer or recommend a process to review and respond to allegations of violations of the code of professional conduct for court interpreters of persons who are deaf, including, but not limited to, decertification and other disciplinary measures.

§ 4432. Appointment of interpreter.

(a) Appointment of certified interpreter.--Upon request or sua sponte, if the presiding judicial officer determines that a principal party in interest or witness is deaf, then a certified interpreter shall be appointed, unless the certified interpreter is unavailable as provided in subsection (b).

(b) Appointment of otherwise qualified interpreter when certified interpreter is unavailable.--

(1) An otherwise qualified interpreter shall be appointed by the presiding judicial officer if a good faith effort was made to obtain a certified interpreter and a certified interpreter was not reasonably available, as determined by the presiding judicial officer.

(2) Prior to the appointment of the otherwise qualified interpreter, the presiding judicial officer, pursuant to

general rule, shall state on the record that a certified interpreter is not available and that the otherwise qualified interpreter:

(i) is readily able to interpret;

(ii) is certified by the National Association of the Deaf, the Registry of Interpreters for the Deaf or similar registry to the best of the knowledge of the presiding judicial officer; and

(iii) has read, understands and agrees to abide by the code of professional conduct for court interpreters for persons who are deaf, as established by the Court Administrator.

(c) Additional interpreter.--After consideration of the length of the judicial proceeding, the special needs of the person who is deaf and the number of persons involved who are deaf, the presiding judicial officer may appoint, as provided in subsections (a) and (b), an additional interpreter or provide for additional interpretation in a manner deemed appropriate by the presiding judicial officer.

(d) Immediate family.--The presiding judicial officer may appoint, as provided in subsections (a) and (b), an interpreter or provide for additional interpretation, as provided in subsection (c), for an immediate family member of a principal party in interest.

Cross References. Section 4432 is referred to in section 4437 of this title.

§ 4433. Replacement of interpreter.

Pursuant to general rule, the presiding judicial officer shall dismiss the interpreter and obtain the services of another interpreter in accordance with this subchapter if the interpreter:

(1) Fails to follow the standards prescribed by law or by the code of professional conduct for court interpreters for persons who are deaf.

(2) Is unable to effectively communicate with the presiding judicial officer or the person who is deaf, including where the interpreter self-reports such inability.

§ 4434. Interrogation.

Upon the arrest of any person who is deaf and prior to interrogation, the arresting officer shall make available to the person who is deaf an interpreter who shall be present with the person who is deaf throughout the interrogation.

§ 4435. Oath.

Before commencement of interpreter duties, an interpreter appointed under this subchapter shall take an oath or make an affirmation on the record that the interpreter will make a true interpretation to the person who is deaf in a manner that the person who is deaf understands and that the interpreter will repeat the statements of the person who is deaf to the court in English to the best of the interpreter's skill and judgment and in accordance with the code of professional conduct for court interpreters for persons who are deaf.

§ 4436. Confidential communications in presence of interpreter.

An interpreter appointed under this subchapter shall not be compelled to testify in any judicial proceeding or administrative proceeding to any statements made by the person who is deaf and interpreted by the interpreter when the person who is deaf is engaged in a confidential communication as provided by any statute or general rule, including, but not limited to:

(1) Section 5916 (relating to confidential communications to attorney).
(2) Section 5928 (relating to confidential communications to attorney).
(3) Section 5942 (relating to confidential communications to news reporters).
(4) Section 5943 (relating to confidential communications to clergymen).
(5) Section 5944 (relating to confidential communications to psychiatrists or licensed psychologists).
(6) Section 5945 (relating to confidential communications to school personnel).
(7) Section 5945.1 (relating to confidential communications with sexual assault counselors).
(8) Section 5945.2 (relating to confidential communications to crime stopper or similar anticrime program).
(9) Section 5945.3 (relating to confidential communications with human trafficking caseworkers).
(July 2, 2014, P.L.945, No.105, eff. 60 days)

2014 Amendment. Act 105 added par. (9).

§ 4437. Cost of providing interpreter.

(a) General rule.--Except as provided by general rule and in subsection (b), an interpreter appointed in accordance with this subchapter is entitled to a reasonable fee for the services of the interpreter and shall be reimbursed for actual and reasonable expenses by the county that has jurisdiction over the judicial proceeding.

(b) Payment determination of certain costs.--Disposition of all or part of the cost of providing an interpreter appointed in accordance with section 4432(d) (relating to appointment of interpreter) shall be in the discretion of the court that has jurisdiction over the judicial proceeding. In no event shall the cost of providing interpreter services be the responsibility of the person who is deaf. If the principal party in interest is indigent, then the cost of providing interpreter services shall be the responsibility of the county of the court that has jurisdiction over the judicial proceeding. The presiding judicial officer may order reimbursement to the county for its responsibilities under this subchapter.

Cross References. Section 4437 is referred to in section 4438 of this title.

§ 4438. Funding.

Except as provided in section 4437 (relating to cost of providing interpreter), the General Assembly shall appropriate to the Court Administrator such sums as may be necessary to establish a program to facilitate the use of interpreters and otherwise fulfill the provisions of this subchapter. Implementation of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

CHAPTER 45
JURIES AND JURORS

Subchapter

A. Qualifications and Exemptions
B. Selection and Custody of Jurors
C. Summoning Jurors

D. Investigating Grand Juries
E. Miscellaneous Provisions
F. Penalties

Enactment. Chapter 45 (Reserved) was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53, and the remaining provisions of Chapter 45 were added June 26, 1980, P.L.266, No.78, effective immediately.

Special Provisions in Appendix. See sections 5 and 6 of Act 78 of 1980 in the appendix to this title for special provisions relating to applicability and implementation of Chapter 45 and validity of interim proceedings.

SUBCHAPTER A
QUALIFICATIONS AND EXEMPTIONS

Sec.
4501. Declaration of policy.
4502. Qualifications of jurors.
4503. Exemptions from jury duty.

§ 4501. Declaration of policy.

It is the policy of this Commonwealth that:

(1) All persons entitled to a jury trial in a civil action or criminal proceeding shall have the right to jurors selected at random from a representative cross section of the eligible population of the county.

(2) All qualified citizens shall have the opportunity to be considered for service as jurors in the courts of this Commonwealth and shall have an obligation to serve as jurors when summoned for that purpose.

(3) A citizen shall not be excluded from service as a juror on the basis of race, color, religion, sex, national origin or economic status.

§ 4502. Qualifications of jurors.

(a) General rule.--Every citizen of this Commonwealth who is of the required minimum age for voting for State or local officials and who resides in the county shall be qualified to serve as a juror therein unless such citizen:

(1) is unable to read, write, speak and understand the English language;

(2) is incapable, by reason of mental or physical infirmity, to render efficient jury service; or

(3) has been convicted of a crime punishable by imprisonment for more than one year and has not been granted a pardon or amnesty therefor.

(b) Definition.--For purposes of this section, "convicted of a crime punishable by imprisonment for more than one year" does not include a conviction for any offense under or violation of the former act of May 1, 1929 (P.L.905, No.403), known as The Vehicle Code, or the former act of April 29, 1959 (P.L.58, No.32), known as The Vehicle Code, which offense or violation, if it had been committed after July 1, 1977:

(1) would have been substantially similar to an offense currently graded as a summary offense under 75 Pa.C.S. (relating to vehicles); or

(2) would not have been a violation of law.

(Dec. 17, 2001, P.L.944, No.113, eff. imd.)

Cross References. Section 4502 is referred to in sections 4521, 4522, 4523 of this title.

§ 4503. Exemptions from jury duty.

(a) General rule.--No person shall be exempt or excused from jury duty except the following:

(1) Persons in active service of the armed forces of the United States or of the Commonwealth of Pennsylvania.

(2) Persons who have served within three years next preceding on any jury except a person who served as a juror for fewer than three days in any one year in which case the exemption period shall be one year.

(3) Persons demonstrating to the court undue hardship or extreme inconvenience may be excused permanently or for such period as the court determines is necessary, and if excused for a limited period shall, at the end of the period, be assigned to the next jury array.

(4) Spouses, children, siblings, parents, grandparents and grandchildren of victims of criminal homicide under 18 Pa.C.S. § 2501 (relating to criminal homicide).

(5) Persons who have previously served for a term of 18 months on a Statewide investigating grand jury, including any extensions thereof, who opt not to serve.

(6) Persons 75 years of age or older who request to be excused.

(7) Judges and magisterial district judges of the Commonwealth and judges of the United States as defined in 28 U.S.C. § 451 (relating to definitions).

(8) Breastfeeding women who request to be excused.

(b) Challenges.--This subchapter shall not affect the existing practice with respect to peremptory challenges and challenges for cause.

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Oct. 17, 2002, P.L.886, No.128, eff. 60 days; June 13, 2012, P.L.636, No.63, eff. 60 days; Oct. 30, 2015, P.L.215, No.54, eff. 60 days)

2015 Amendment. Act 54 added subsec. (a)(6), (7) and (8).

2012 Amendment. Act 63 added subsec. (a)(5).

Cross References. Section 4503 is referred to in sections 4521, 4523, 4584 of this title.

SUBCHAPTER B
SELECTION AND CUSTODY OF JURORS

Sec.

4521. Selection of prospective jurors.
4521.1. Statewide jury information system.
4522. List of qualified jurors.
4523. List of disqualified jurors.
4524. Selection of jurors for service.
4525. Equipment used for selection of jurors.
4526. Challenging compliance with selection procedures.
4527. Effect of verdict on jury selection errors.

Cross References. Subchapter B is referred to in section 2124 of this title.

§ 4521. Selection of prospective jurors.

(a) Preparation of master list of prospective jurors.--

(1) At least annually the jury selection commission shall prepare a master list of prospective jurors that shall contain the most recent available address for prospective jurors.

(2) The list shall also contain all voter registration lists for the county, which lists may be incorporated by

reference, or names from such other lists which in the opinion of the commission will provide a number of names of prospective jurors which is equal to or greater than the number of names contained in the voter registration list.

(3) The commission may, but will not be required to, supplement the master list of prospective jurors to include, without being limited to, persons in any of the following categories:

(i) Persons listed in telephone, city, municipal directories and similar directories.

(ii) Persons in the county participating in any State, county or local program authorized by law and, to the extent such names are available, persons participating in any Federal program authorized by law.

(iii) Persons who are on school census lists.

(iv) Any other person whose name does not appear in the master list of prospective jurors and who meets the qualifications for jurors set forth in this chapter and who makes application to the commission to be listed on the master list of prospective jurors.

(v) Persons who appear on the list provided to the county pursuant to section 4521.1 (relating to Statewide jury information system) may be used to supplement or substitute the master jury list.

(b) Maintenance of and access to master list of prospective jurors.--The group of names compiled as set forth in subsection (a) shall constitute the master list of prospective jurors. The list shall be open to the public for inspection.

(c) Selection of names for jury service.--At least once each year the commission shall select at random from the master list of prospective jurors the number of names designated by the president judge pursuant to court orders issued under section 4531 (relating to issuance of court orders for jurors).

(d) Juror qualification form.--

(1) The commission may mail to each person whose name has been selected in the manner set forth in subsection (c) a juror qualification form devised by the commission in such manner that the commission may determine from the answers to the questions on the form whether or not the prospective juror is qualified. The questions asked in such juror qualification form shall be limited to matters reasonably calculated to permit a determination of the person's qualifications to serve as a juror.

(2) The juror qualification form shall be executed by the prospective juror and shall plainly and conspicuously state thereon that its execution is subject to the penalty for perjury. If the person is unable to fill out the form, another person may fill it out for him, indicate that he has done so, and the reason therefor. The prospective juror shall mail or deliver the completed form to the commission.

(3) If the form does not appear to be properly executed, the commission shall return the form to the prospective juror with instructions to make such additions or corrections as may be necessary and return it to the commission within the time specified.

(4) Any person who fails to return the juror qualification form as directed may be summoned by the commission to appear at the offices of the commission to fill out a juror qualification form or to resolve any ambiguity contained therein.

(e) Selection in certain counties.--In those counties which do not use the juror qualification form as provided for in

subsection (d), the selection of persons for jury service shall be made in accordance with section 4524 (relating to selection of jurors for service) and provision shall be made for the collection of information with the summons in order to comply with sections 4502 (relating to qualifications of jurors) and 4503 (relating to exemptions from jury duty).

(f) Compelling compliance with section.--On application by the commission, the court shall compel compliance with subsections (a)(2), (3) and (4) and (d). Officials of political subdivisions and Commonwealth officials having custody, possession or control of lists of names described in this section shall, upon request of the commission, make such lists available to the commission for inspection, reproduction and copying but shall not be required or permitted to:

(1) provide the commission with information other than the name, mailing address and municipality of residence of such person; or

(2) provide the commission with or otherwise disclose records or information which the Attorney General by regulation determines to be privileged from disclosure.

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; July 17, 2007, P.L.123, No.37, eff. 120 days)

2007 Amendment. Act 37 amended subsec. (a).

Cross References. Section 4521 is referred to in sections 4521.1, 4522 of this title.

§ 4521.1. Statewide jury information system.

(a) General rule.--Notwithstanding any prohibition found in any other law, regulation or rule to the contrary, the following departments shall submit to the Court Administrator of Pennsylvania, in a format provided herein, a list of individuals as designated for that department to be included in a Statewide jury information system on or before October 31 of each year:

(1) The Department of Public Welfare - every individual resident in this Commonwealth who receives cash assistance or food stamps pursuant to a Federal or State program through the department except as prohibited by Federal law or regulation.

(2) The Department of Transportation - every individual resident in this Commonwealth who has been issued a driver's license pursuant to 75 Pa.C.S. Ch. 15 (relating to licensing of drivers).

(3) The Department of Revenue - every individual resident who files a return for the payment of taxes imposed by the Commonwealth under Article III of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(4) The Department of State - every individual resident who is listed as a registered voter under 25 Pa.C.S. Pt. IV (relating to voter registration).

(b) Identifying information.--Each list submitted by a department pursuant to subsection (a) shall contain only the following identifying information, if available, of an individual to be included in the Statewide jury information system:

(1) Name, including first, middle and last names, including any suffixes.

(2) Except as provided in 23 Pa.C.S. Ch. 67 (relating to domestic and sexual violence victim address confidentiality), each individual's street address, municipality and zip code.

(3) Date of birth.

(4) The last four digits of the individual's Social Security number.

(c) Duties of Court Administrator.--The Court Administrator of Pennsylvania shall annually collect information for creation of a Statewide jury information system. This shall be completed by:

(1) Collecting the names from the departments as submitted under subsection (a).

(2) Combining each individual department list submitted into a master list.

(3) Removing any information that identifies the source of the information submitted pursuant to subsection (a).

(4) Assembling the names into groups arranged by the county of residence for each individual on the master list.

(5) Removing duplicate names from each county list.

(d) Dissemination.--

(1) Upon request from the jury selection commission of the county, the Court Administrator of Pennsylvania shall make available to the requesting county the list of names for that county from the Statewide jury information system. In providing the information, the Court Administrator of Pennsylvania shall only provide the name, address and date of birth of each individual on the list being provided. All other identifying information shall be removed from any list made available pursuant to the request. Under no circumstances may the Court Administrator of Pennsylvania include any other identifying information.

(2) Upon request from the Clerk of Court for a United States District Court, the Court Administrator shall make available to the requesting Clerk of Court the list of names for the counties comprising the district within the jurisdiction of the requesting court from the Statewide jury information system. In providing the information, the Court Administrator shall only provide the name, address and date of birth of each individual on the list being provided. All other identifying information shall be removed from any list made available pursuant to the request. Under no circumstances may the Court Administrator include any other identifying information.

(e) Restrictions on use of information.--Information provided by the departments to the Court Administrator of Pennsylvania shall be provided by agreement executed by the appropriate authorities. The agreement shall include, but not be limited to, the following conditions:

(1) Information required pursuant to this section will be provided only in an electronic form as determined by the Court Administrator of Pennsylvania.

(2) The information provided shall be used only for the purpose provided in this section and for no other purpose.

(3) Except for the purpose of internal review and compliance by the Court Administrator of Pennsylvania, no lists may be printed from the information submitted, created or produced under this section.

(4) Except as provided in section 4521(b) (relating to selection of prospective jurors), any rerelease of the information provided pursuant to this section is strictly prohibited.

(5) The Statewide jury information system and any list provided by the Court Administrator of Pennsylvania to the county jury selection commission pursuant to this section may not reveal the source of names on that list or indicate

in any way the source of the names submitted pursuant to subsection (a).

(6) Except as provided in section 4521(b), nothing submitted, created or produced under this section shall constitute a public document, nor shall it be subject to release or disclosure under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, or any other similar rule, enactment or decision.

(July 17, 2007, P.L.123, No.37, eff. 120 days; July 4, 2008, P.L.286, No.35, eff. July 1, 2008)

2008 Amendment. Act 35 amended subsec. (d).

2007 Amendment. Act 37 added section 4521.1.

References in Text. The act of June 21, 1957, P.L.390, No.212, referred to as the Right-to-Know Law, referred to in subsec. (e)(6), was repealed by the act of Feb. 14, 2008, P.L.6, No.3, known as the Right-to-Know Law.

The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 4521.1 is referred to in section 4521 of this title.

§ 4522. List of qualified jurors.

After receipt of the juror qualification forms as provided in section 4521(d) (relating to selection of prospective jurors), the jury selection commission shall determine whether or not those individuals returning the forms are qualified for jury service, as provided in section 4502 (relating to qualifications of jurors). The names of qualified persons compiled as set forth in this section shall constitute the list of persons who are qualified to serve as jurors and shall be open for public inspection.

§ 4523. List of disqualified jurors.

(a) Maintenance of list.--The jury selection commission shall create and maintain a list of names of all prospective jurors who have been disqualified and the reasons for their disqualification. The list shall be open for public inspection.

(b) Relatives of criminal homicide victims.--Any persons who are exempt or excused from jury duty under section 4503(a)(4) (relating to exemptions from jury duty) may petition the jury selection commission to have their names placed on the list of disqualified jurors. Any persons so placed on the list may, at any time, petition for removal of their names from the list unless they are otherwise disqualified under section 4502 (relating to qualifications of jurors).

(Oct. 17, 2002, P.L.886, No.128, eff. 60 days)

§ 4524. Selection of jurors for service.

Except as otherwise provided in section 4525 (relating to equipment used for selection of jurors), the jury selection commission shall maintain a master list or jury wheel and shall place therein the names of persons included on the list of qualified jurors. Upon receipt of a court order pursuant to section 4531 (relating to issuance of court orders for jurors), the commission shall publicly select at random from the master list or jury wheel such number of names of persons as may be required to be summoned for assignment to jury arrays. A separate list of names and addresses of persons assigned to each jury array shall be prepared and made available for public inspection at the offices of the commission no later than 30 days prior to the first date on which the array is to serve.

Renumbering. Section 4531, referred to in section 4524, was renumbered from 4541 pursuant to section 216(a)(1) of the act of October 5, 1980, P.L.693, No.142.

Cross References. Section 4524 is referred to in section 4521 of this title.

§ 4525. Equipment used for selection of jurors.

The jury selection commission is authorized, but not required, to use mechanical or electro-mechanical devices or business machines in the random selection, drawing, investigating, summoning and listing of jurors.

Cross References. Section 4525 is referred to in section 4524 of this title.

§ 4526. Challenging compliance with selection procedures.

(a) Challenge to array.--Within ten days after publication of the array a party to a matter on a then published list of cases scheduled for jury trial may petition the court to stay the proceedings in the case where he is a party and to select a new jury array, or for other appropriate relief, on the ground of failure to substantially comply with this subchapter.

(b) Hearing on petition.--At the hearing on the petition filed under subsection (a), the moving party is entitled to present in support of the petition the testimony of the jury commissioners or their clerks, any relevant records and papers not public or otherwise available used by the jury commissioners or their clerks and any other relevant evidence. If the court determines that in selecting persons to fill the array the commissioners have failed to substantially comply with this subchapter, the court shall stay the proceedings requiring the service of jurors pending the selection of a new array in conformity with this subchapter or may grant other appropriate relief.

(c) Exclusive remedy.--Unless and until suspended or superseded by general rules, the procedures prescribed by this section are the exclusive means by which a person accused of a crime, the Commonwealth or a party in a civil case may challenge an array of jurors on the ground that the array was not selected in conformity with this subchapter.

(d) Records.--The contents of any records or papers used by the jury commissioners or their clerks in connection with the selection process and not made public under this subchapter shall not be disclosed (except in connection with the preparation or presentation of a petition filed under subsection (a)) until after the list of qualified jurors or jury wheel has been emptied and refilled and all persons selected to serve as jurors before the list of qualified jurors or jury wheel was emptied have been discharged.

(e) Challenge to panel of jurors.--A jury panel for the trial of any case may be challenged only on the grounds that it was not selected at random from the array. Such challenge must be made by a party immediately after the panel of jurors has been selected by the administrative staff of the court and before interrogation of jurors commences.

(f) Other challenges.--Nothing in this subchapter shall affect the existing practice with respect to peremptory challenges and challenges for cause.

§ 4527. Effect of verdict on jury selection errors.

Except as otherwise prescribed by general rule, errors and omissions in the selection of jurors under this subchapter shall not constitute grounds to set aside any jury verdict in any civil or criminal matter or to arrest, reverse, open or strike any judgment entered on a jury verdict, and the trial by jury

and its rendition of a verdict in any matter shall constitute a waiver of all such errors and omissions.
(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

1982 Amendment. Act 326 added section 4527.

SUBCHAPTER C
SUMMONING JURORS

Sec.
4531. Issuance of court orders for jurors.
4532. Summoning persons to serve as jurors.

§ 4531. Issuance of court orders for jurors.

Court orders directing the jury selection commission to select an array of jurors shall be issued in the form prescribed by general rules or rule of court.

Renumbering. Section 4531 was renumbered from 4541 pursuant to section 216(a)(1) of the act of October 5, 1980, P.L.693, No.142.

Cross References. Section 4531 is referred to in sections 4521, 4524 of this title.

§ 4532. Summoning persons to serve as jurors.

Persons who have been selected for service as jurors shall be summoned to serve in a manner determined by the jury selection commission with the concurrence of the president judge.
(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

Renumbering. Section 4532 was renumbered from 4542 pursuant to section 216(a)(1) of the act of October 5, 1980 (P.L.693, No.142).

SUBCHAPTER D
INVESTIGATING GRAND JURIES

Sec.
4541. Short title of subchapter.
4542. Definitions.
4543. Convening county investigating grand jury.
4544. Convening multicounty investigating grand jury.
4545. Composition of investigating grand jury.
4546. Term of investigating grand jury.
4547. Additional investigating grand juries.
4548. Powers of investigating grand jury.
4549. Investigating grand jury proceedings.
4550. Submission of investigations by attorney for the Commonwealth to investigating grand jury.
4551. Investigating grand jury presentments.
4552. Investigating grand jury reports.
4553. Expenses of investigating grand juries and trials resulting therefrom.

Enactment. Subchapter D was added and former Subchapter D was relettered to Subchapter E October 5, 1980, P.L.693, No.142, effective in 60 days.

Cross References. Subchapter D is referred to in section 8931 of this title.

§ 4541. Short title of subchapter.

This subchapter shall be known and may be cited as the "Investigating Grand Jury Act."

Renumbering. Former section 4541 was renumbered 4531 pursuant to section 216(a)(1) of the act of October 5, 1980, P.L.693, No.142.

§ 4542. Definitions.

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

"Attorney for the Commonwealth." The district attorney of the county in which a county investigating grand jury is summoned, or his designee, or the Attorney General or his designee if the Attorney General has superseded the district attorney; the Attorney General, or his designee, with respect to multicounty investigating grand juries.

"Investigating grand jury." The county investigating grand jury or the multicounty investigating grand jury or both.

"Investigating grand jury presentment." A written formal recommendation by an investigating grand jury that specific persons be charged with specific crimes.

"Investigating grand jury report." A report submitted by the investigating grand jury to the supervising judge regarding conditions relating to organized crime or public corruption or both; or proposing recommendations for legislative, executive, or administrative action in the public interest based upon stated findings.

"Investigative resources of the grand jury." The power to compel the attendance of investigating witnesses; the power to compel the testimony of investigating witnesses under oath; the power to take investigating testimony from witnesses who have been granted immunity; the power to require the production of documents, records and other evidence; the power to obtain the initiation of civil and criminal contempt proceedings; and every investigative power of any grand jury of the Commonwealth.

"Multicounty investigating grand jury." A Statewide or regional investigating grand jury convened by the Supreme Court upon the application of the Attorney General and having jurisdiction to inquire into organized crime or public corruption or both under circumstances wherein more than one county is named in the order convening said investigating grand jury.

"Organized crime." The unlawful activity of an association trafficking in illegal goods or services, including but not limited to gambling, prostitution, loan sharking, controlled substances, labor racketeering, or other unlawful activities; or any continuing criminal conspiracy or other unlawful practice which has as its objective:

(1) large economic gain through fraudulent or coercive practices; or

(2) improper governmental influence.

"Public corruption." The unlawful activity under color of or in connection with any public office or employment of:

(1) any public official or public employee, or the agent of any public official or public employee under color of or in connection with any public office or employment; or

(2) any candidate for public office or the agent of any candidate for public office.

"Supervising judge." The common pleas judge designated by the president judge to supervise the activities of the county investigating grand jury, or the common pleas judge designated

by the Supreme Court to supervise the activities of the multicounty investigating grand jury.

"Supreme Court." The Chief Justice of Pennsylvania or any other justice of the Supreme Court designated by or pursuant to general rule to act for the court under this subchapter.

Renumbering. Former section 4542 was renumbered 4532 pursuant to section 216(a)(1) of the act of October 5, 1980, P.L.693, No.142.

§ 4543. Convening county investigating grand jury.

(a) General rule.--In addition to such other grand juries as are called from time to time, county investigating grand juries shall be summoned as provided in subsection (b).

(b) On the initiative of attorney for Commonwealth.--Application may be made to the president judge of the appropriate court of common pleas by the attorney for the Commonwealth for an order directing that a county investigating grand jury be summoned, stating in such application that the convening of a county investigating grand jury is necessary because of the existence of criminal activity within the county which can best be fully investigated using the investigative resources of the grand jury. Within ten days of receipt of such application, the president judge shall issue an order granting the request. The order shall specify which judge is to be the supervising judge of the county investigating grand jury. Refusal to grant an application under this subsection shall be appealable to the Supreme Court in the manner prescribed by general rule.

(c) On the initiative of the court.--In the absence of an order under subsection (b), the president judge of the court of common pleas upon his own motion may issue an order directing that a county investigating grand jury be summoned, except that the summoning of such grand jury may, in the discretion of the court, be stayed if the district attorney of the county and the Attorney General both certify to the court that, in their judgments, the summoning of such grand jury is not necessary at such time.

(d) Manner of impaneling.--The county investigating grand jury shall be impaneled in the manner provided or prescribed by law.

Cross References. Section 4543 is referred to in sections 4544, 4547 of this title.

§ 4544. Convening multicounty investigating grand jury.

(a) General rule.--Application for a multicounty investigating grand jury may be made by the Attorney General to the Supreme Court. In such application the Attorney General shall state that, in his judgment, the convening of a multicounty investigating grand jury is necessary because of organized crime or public corruption or both involving more than one county of the Commonwealth and that, in his judgment, the investigation cannot be adequately performed by an investigating grand jury available under section 4543 (relating to convening county investigating grand jury). The application shall specify for which counties the multicounty investigating grand jury is to be convened. Within ten days of receipt of such application, the court shall issue an order granting the same. Failure by an individual justice to grant such application shall be appealable to the entire Supreme Court.

(b) Contents of order.--An order issued under subsection (a) shall:

(1) convene a multicounty investigating grand jury having Statewide jurisdiction, or jurisdiction over all counties requested in the application by the Attorney General;

(2) designate a judge of a court of common pleas to be the supervising judge over such multicounty investigating grand jury and provide that such judge shall with respect to investigations, presentments, reports, and all other proper activities of said investigating multicounty grand jury, have jurisdiction over all counties in the jurisdiction of said multicounty investigating grand jury;

(3) designate the counties which shall supply jurors and in what ratios;

(4) designate a location or locations for the multicounty investigating grand jury proceeding; and

(5) provide for such other incidental arrangements as may be necessary including the Commonwealth's share of expenses.

All matters to be included in such order shall be determined by the justice issuing the order in any manner which he deems appropriate, except that the Supreme Court may adopt general rules, consistent with the provisions of this section, establishing standard procedures for the convening of multicounty investigating grand juries.

(c) Manner of impaneling.--The multicounty investigating grand jury shall be impaneled in the manner provided or prescribed by law.

(d) Effect on district attorneys.--The impaneling of a multicounty investigating grand jury shall in no way diminish the responsibility and the authority of the district attorneys within their jurisdictions to investigate and prosecute organized crime or public corruption or both.

Cross References. Section 4544 is referred to in sections 1906.1, 4547 of this title.

§ 4545. Composition of investigating grand jury.

(a) General rule.--Each investigating grand jury shall be composed initially of 23 members and have a minimum of seven and not more than 15 alternates. Subsequent vacancies shall be filled by substituting alternates for the members who are excused or otherwise unable to continue their service.

(b) Quorum and manner of action.--Fifteen members shall constitute a quorum and may conduct business for the investigating grand jury. A majority of the full investigating grand jury shall be required to adopt a report or issue a presentment.

(c) Officers.--The supervising judge shall appoint a foreman from among the members of the investigating grand jury. The members of the investigating grand jury shall then elect a secretary.

(Dec. 20, 2000, P.L.742, No.105, eff. 60 days)

2000 Amendment. Act 105 amended subsec. (a).

§ 4546. Term of investigating grand jury.

(a) General rule.--An investigating grand jury shall not be limited in duration to any term of court. Each such investigating grand jury shall, except as provided in subsections (b) and (c), serve for a term of 18 months, unless an order for discharge shall be entered earlier by the court upon the determination of such investigating grand jury, by majority vote, that its business has been completed.

(b) Extension on initiative of grand jury.--If, at the end of its original term or any extension thereof, any investigating grand jury determines by majority vote that it has not completed its business, it may request the court to extend its term for an additional period of six months, except that no such investigating grand jury term shall exceed 24 months from the time it was originally summoned. The court shall issue an order granting a request for extension unless it determines that such request is clearly without basis. Failure to grant an extension of term under this subsection may be appealed by the attorney for the Commonwealth to the Supreme Court in the manner prescribed by general rule. If an appeal is taken, the grand jury, except as otherwise prescribed by general rule, shall continue to exercise its powers pending the disposition of the appeal.

(c) Discharge by court.--If, at any time within the original term of any investigating grand jury or any extension thereof, the court determines that the investigating grand jury is not conducting proper investigative activity, the court may order that such grand jury be discharged. An order of discharge under this subsection shall not become effective less than ten days after the date on which it is issued and actual notice given to the attorney for the Commonwealth and the foreman of the investigating grand jury, and may be appealed by the attorney for the Commonwealth to the Supreme Court in the manner prescribed by general rule. If an appeal is taken, the grand jury, except as otherwise prescribed by general rule, shall continue to exercise its powers pending the disposition of the appeal.

§ 4547. Additional investigating grand juries.

Whenever the attorney for the Commonwealth determines that the volume of work of an investigating grand jury exceeds the capacity of the investigating grand jury to discharge its obligations, he may make application to the court to impanel additional investigating grand juries under the provisions of section 4543 (relating to convening county investigating grand jury) and section 4544 (relating to convening multicounty investigating grand jury).

§ 4548. Powers of investigating grand jury.

(a) General rule.--The investigating grand jury shall have the power to inquire into offenses against the criminal laws of the Commonwealth alleged to have been committed within the county or counties in which it is summoned. Such power shall include the investigative resources of the grand jury which shall include but not be limited to the power of subpoena, the power to obtain the initiation of civil and criminal contempt proceedings, and every investigative power of any grand jury of the Commonwealth. Such alleged offenses may be brought to the attention of such grand jury by the court or by the attorney for the Commonwealth, but in no case shall the investigating grand jury inquire into alleged offenses on its own motion.

(b) Presentments.--The investigating grand jury shall have the power to issue a presentment with regard to any person who appears to have committed within the county or counties in which such investigating grand jury is summoned an offense against the criminal laws of the Commonwealth.

(c) Other powers.--Except for the power to indict, the investigating grand jury shall have every power available to any other grand jury in the Commonwealth. The jurisdiction, powers and activities of an investigating grand jury shall not, if otherwise lawful, be limited in any way by the charge of the court.

§ 4549. Investigating grand jury proceedings.

(a) Documents and transcript.--Any document produced before an investigating grand jury may be copied or reproduced. Each statement, question, comment or response of the supervising judge, the attorney for the Commonwealth, any witness, any grand juror or any other person which is made in the presence of the investigating grand jury, except its deliberations and the vote of any juror, shall be stenographically recorded or transcribed or both.

(b) Disclosure of proceedings by participants other than witnesses.--Disclosure of matters occurring before the grand jury other than its deliberations and the vote of any juror may be made to the attorneys for the Commonwealth for use in the performance of their duties. The attorneys for the Commonwealth may with the approval of the supervising judge disclose matters occurring before the investigating grand jury including transcripts of testimony to local, State, other state or Federal law enforcement or investigating agencies to assist them in investigating crimes under their investigative jurisdiction. Otherwise a juror, attorney, interpreter, stenographer, operator of a recording device, or any typist who transcribes recorded testimony may disclose matters occurring before the grand jury only when so directed by the court. All such persons shall be sworn to secrecy, and shall be in contempt of court if they reveal any information which they are sworn to keep secret.

(c) Counsel for witnesses.--

(1) A witness subpoenaed to appear and testify before an investigating grand jury or to produce documents, records or other evidence before an investigating grand jury shall be entitled to the assistance of counsel, including assistance during such time as the witness is questioned in the presence of the investigating grand jury. In the event counsel of the witness' choice is not available, he shall be required to obtain other counsel within a reasonable time in order that the work of the grand jury may proceed.

(2) Such counsel may be retained by the witness or shall be appointed in the case of any person unable to procure sufficient funds to obtain legal representation.

(3) Such counsel shall be allowed to be present in the grand jury room during the questioning of the witness and shall be allowed to advise the witness but shall make no objections or arguments or otherwise address the grand jury or the attorney for the Commonwealth. The supervising judge shall have the same power to remove such counsel from the grand jury room as a judge has with respect to an attorney in any court proceeding. Violation of this paragraph shall be punishable as contempt by the supervising judge.

(4) An attorney, or attorneys who are associated in practice, shall not continue multiple representation of clients in a grand jury proceeding if the exercise of the independent professional judgment of an attorney on behalf of one of the clients will or is likely to be adversely affected by his representation of another client. If the supervising judge determines that the interest of an individual will or is likely to be adversely affected, he may order separate representation of witnesses, giving appropriate weight to the right of an individual to counsel of his own choosing.

(d) Disclosure of proceedings by witnesses.--No witness shall be prohibited from disclosing his testimony before the investigating grand jury except for cause shown in a hearing

before the supervising judge. In no event may a witness be prevented from disclosing his testimony to his attorney.

§ 4550. Submission of investigations by attorney for the Commonwealth to investigating grand jury.

(a) General rule.--Before submitting an investigation to the investigating grand jury the attorney for the Commonwealth shall submit a notice to the supervising judge. This notice shall allege that the matter in question should be brought to the attention of the investigating grand jury because the investigative resources of the grand jury are necessary for proper investigation. The notice shall allege that one or more of the investigative resources of the grand jury are required in order to adequately investigate the matter.

(b) Effect of notice.--After the attorney for the Commonwealth has filed the notice submitting a matter to the investigating grand jury any or all of the investigative resources of the investigating grand jury may be used as regards the investigation.

§ 4551. Investigating grand jury presentments.

(a) General rule.--Should the investigating grand jury determine that upon the basis of evidence presented to it a presentment should be returned against an individual, the grand jury shall direct the attorney for the Commonwealth to prepare a presentment which shall be submitted to the investigating grand jury for a vote. Should a majority of the full grand jury vote approval for the presentment it shall then be submitted to the supervising judge. The supervising judge shall examine the presentment, and if it is within the authority of the investigating grand jury and is otherwise in accordance with the provisions of this subchapter, the supervising judge shall issue an order accepting the presentment. Otherwise, the supervising judge shall refuse to accept the presentment and shall order that the investigating grand jury take further appropriate action.

(b) Sealed presentment.--The supervising judge to whom a presentment is submitted may, on his own motion or at the request of the Commonwealth, direct that the presentment be kept secret until the defendant is in custody or has been released pending trial. In directing that the presentment be kept secret, the supervising judge shall enter an order requiring that the presentment be sealed and that no person shall disclose a return of the presentment except when necessary for issuance and execution of process.

(c) Prosecution by Attorney General.--Whenever a multicounty investigating grand jury returns a presentment against any person the Attorney General or his designee shall, with respect to the alleged criminal activities, be authorized to prosecute the person on behalf of the Commonwealth by instituting criminal proceedings in the county of appropriate venue. The Attorney General or his designee shall take the oath of office required by law to be taken of district attorneys, and shall be clothed with all the powers and subject to all the liabilities imposed upon district attorneys by law.

(d) Venue.--In any case where a multicounty investigating grand jury returns a presentment the supervising judge shall select the county for conducting the trial from among those counties having jurisdiction.

(e) Procedure following presentment.--When the attorney for the Commonwealth proceeds on the basis of a presentment, a complaint shall be filed and the defendant shall be entitled to a preliminary hearing as in other criminal proceedings.

§ 4552. Investigating grand jury reports.

(a) General rule.--Any investigating grand jury, by an affirmative majority vote of the full investigating grand jury, may, at any time during its term submit to the supervising judge an investigating grand jury report.

(b) Examination by court.--The judge to whom such report is submitted shall examine it and the record of the investigating grand jury and, except as otherwise provided in this section, shall issue an order accepting and filing such report as a public record with the court of common pleas established for or embracing the county or counties which are the subject of such report only if the report is based upon facts received in the course of an investigation authorized by this subchapter and is supported by the preponderance of the evidence.

(c) Sealed report.--Upon the submission of a report pursuant to subsection (a), if the supervising judge finds that the filing of such report as a public record may prejudice fair consideration of a pending criminal matter, he shall order such report sealed and such report shall not be subject to subpoena or public inspection during the pendency of such criminal matter except upon order of court.

(d) Appeal from refusal to file.--Failure of the supervising judge to accept and file as a public record a report submitted under this section may be appealed by the attorney for the Commonwealth to the Supreme Court in the manner prescribed by general rules.

(e) Authorization of response by nonindicted subject.--If the supervising judge finds that the report is critical of an individual not indicted for a criminal offense the supervising judge may in his sole discretion allow the named individual to submit a response to the allegations contained in the report. The supervising judge may then in his discretion allow the response to be attached to the report as part of the report before the report is made part of the public record pursuant to subsection (b).

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

(a) County.--The expenses of a county investigating grand jury shall be borne by the county in which it is impaneled.

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

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

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

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

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

(Dec. 19, 1984, P.L.1089, No.218, eff. imd.; Dec. 19, 1984, P.L.1189, No.225, eff. imd.; Oct. 17, 2002, P.L.880, No.127, eff. imd.)

2002 Amendment. Act 127 amended subsec. (b).

1984 Amendments. Acts 218 and 225 amended the entire section, retroactive to March 29, 1983. Act 225 overlooked the amendment by Act 218, but the amendments do not conflict in substance and have both been given effect in setting forth the text of the section.

Cross References. Section 4553 is referred to in section 4561 of this title.

SUBCHAPTER E
MISCELLANEOUS PROVISIONS

Sec.

4561. Compensation of and travel allowance for jurors.
4562. Juror's right to refuse inquiries.
4563. Protection of employment of petit and grand jurors.
4563.1. Protection of employment of grand jurors (Deleted by amendment).
4564. Alternate jurors.
4565. Challenging certain petit jurors where political subdivision is a party.

Relettering. Subchapter E was relettered from Subchapter D and former Subchapter E was relettered to Subchapter F pursuant to section 216(a)(1) of the act of October 5, 1980, P.L.693, No.142.

§ 4561. Compensation of and travel allowance for jurors.

(a) Compensation.--A person summoned to serve as a juror shall receive compensation at the rate of $9 a day for the first three days in any calendar year he shall be required to report for service and $25 a day for each day thereafter in such calendar year that such person is required to report. In addition, persons so summoned shall be paid a travel allowance at the rate of 17¢ per mile circular except that no travel allowance shall be paid in the first judicial district.

(b) State reimbursement.--The Commonwealth shall reimburse each county 80% of the amount expended by the county for such compensation and travel allowance beyond the first three days of service if the juror is participating in a trial or in grand jury proceedings. Application for reimbursement shall be made by the county to the State Treasurer through the Administrative Office pursuant to procedures prescribed by said office. As used in this section, trial participation shall include voir dire examination only if such examination shall have commenced prior to the juror's fourth day of service.

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

(Dec. 5, 1980, P.L.1104, No.189, eff. imd.; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Oct. 17, 2002, P.L.880, No.127, eff. 60 days)

2002 Amendment. Act 127 added subsec. (c).

§ 4562. Juror's right to refuse inquiries.

Except where jury tampering is being investigated by the proper authorities, a juror shall not be required to answer to any person concerning the manner in which the jury reached its verdict or why it was unable to agree upon a verdict.

§ 4563. Protection of employment of petit and grand jurors.

(a) General rule.--An employer shall not deprive an employee of his employment, seniority position or benefits, or threaten or otherwise coerce him with respect thereto, because the employee receives a summons, responds thereto, serves as a juror or attends court for prospective jury service. Nothing in this section shall be construed to require the employer to compensate the employee for employment time lost because of such jury service.

(b) Penalty.--Any employer who violates subsection (a) commits a summary offense.

(c) Civil remedy available.--If an employer penalizes an employee in violation of subsection (a) the employee may bring a civil action for recovery of wages and benefits lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall not exceed wages and benefits actually lost. If he prevails, the employee shall be allowed a reasonable attorney's fee fixed by the court.

(d) Exception.--Subsection (a) shall not apply to any employer in any retail or service industry employing fewer than 15 persons or any employer in any manufacturing industry employing fewer than 40 persons.

(e) Right to excuse.--Any individual not entitled to reemployment under subsection (a) shall, upon request to the court, be excused from jury service.

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

Cross References. Section 4563 is referred to in section 5522 of this title.

§ 4563.1. Protection of employment of grand jurors (Deleted by amendment).

1982 Amendment. Section 4563.1 was deleted by amendment December 20, 1982, P.L.1409, No.326, effective in 60 days.

§ 4564. Alternate jurors.

Alternate jurors shall be selected and shall serve as jurors under terms and conditions prescribed by general rules.

§ 4565. Challenging certain petit jurors where political subdivision is a party.

A person shall not be challenged for cause and excluded from serving as a juror in any action or proceeding in which a political subdivision is a party or is interested because such person is or was an officer, rated citizen or inhabitant in such political subdivision or owns assessed or taxable property or is liable to the assessment or payment of taxes in such political subdivision. This section shall not apply to peremptory challenges of such persons.

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

SUBCHAPTER F
PENALTIES

Sec.
4581. Interfering with selection of jurors.
4582. Tampering with names of jurors.
4583. Tampering with jurors.
4583.1. Aggravated jury tampering.
4584. Failure of juror to appear.

Relettering. Subchapter F was relettered from Subchapter E pursuant to section 216(a)(1) of the act of October 5, 1980, P.L.693, No.142.

§ 4581. Interfering with selection of jurors.

(a) Commission members and employees.--Any member of the jury selection commission or any employee, clerk, investigator or assistant in the employ of the commission, who shall violate any of the provisions of this chapter for the purpose of unlawfully procuring the selection or nonselection of any person for jury service commits a misdemeanor of the second degree and upon conviction thereof shall be forthwith removed from his office or employment and in addition thereto shall be ineligible to hold any public office or employment under the laws of this Commonwealth. In the case of the judicial member of the commission, such member shall be disqualified to hold his position on the commission and the matter shall be referred to the Judicial Conduct Board.

(b) Other persons.--Any person other than the persons described in subsection (a), who undertakes or offers by illegal means to influence the selection or excusing of any person from jury service or who gives money or anything of value to any person for the purpose of effecting the impartial selection of jurors or to procure exemption from jury service or who solicits, demands or receives money or anything of value or the promise thereof from any person for the purpose of in any manner affecting the selection or exemption of any persons from jury service or performs any of these acts for the purpose of enabling himself or another to evade jury service, commits a misdemeanor of the second degree.

(July 2, 1993, P.L.395, No.56, eff. Aug. 16, 1993)

1993 Amendment. Act 56 amended subsec. (a).

§ 4582. Tampering with names of jurors.

Any person who directly or indirectly unlawfully tampers with the names drawn from the master list of prospective jurors or jury wheel or with the master list of prospective jurors or jury wheel or with any array or jury list commits a misdemeanor of the second degree.

§ 4583. Tampering with jurors.

Any person who, having in any manner ascertained the names of persons drawn from the master list of prospective jurors or jury wheel, shall thereafter discuss with any prospective juror the facts or alleged facts of any particular suit or cause then listed for trial in the court for which the prospective juror has been summoned for jury service, with the intent to influence the juror in his service or in the consideration of the evidence in the matter, commits a misdemeanor of the second degree. The penalty provided in this section shall be in addition to the penalties now provided by law for bribery.

§ 4583.1. Aggravated jury tampering.

(a) Offense defined.--A person commits the offense of aggravated jury tampering if the person influences, intimidates

or impedes or attempts to influence, intimidate or impede a juror in the discharge of the juror's duties in a civil or criminal trial and:

(1) The actor employs force, violence or deception or threatens to employ force or violence upon the juror or, with the requisite intent or knowledge, upon any other person.

(2) The actor offers any pecuniary or other benefit to the juror or, with the requisite intent or knowledge, to any other person.

(3) The actor's conduct is in furtherance of a conspiracy to intimidate a juror.

(4) The actor accepts, agrees or solicits another to accept any pecuniary or other benefit to intimidate a juror.

(b) Grading.--

(1) The offense is a felony of the first degree if murder in the first degree or second degree or a felony of the first degree is the highest classification of crime submitted for deliberation to the jury of which the juror is a member.

(2) The offense is a felony of the second degree if a felony of the second degree is the highest classification of crime submitted for deliberation to the jury of which the juror is a member.

(3) The offense is a felony of the third degree for any other violation of this section.

(Dec. 10, 2001, P.L.855, No.90, eff. 60 days)

2001 Amendment. Act 90 added section 4583.1.

§ 4584. Failure of juror to appear.

A prospective juror who has been summoned to serve as a juror and who fails to appear as summoned shall, unless exempt or excused pursuant to section 4503 (relating to exemptions from jury duty), be punishable for contempt of court and may be fined in an amount not exceeding $500 or imprisoned for a term no more than ten days or both.

CHAPTER 47
DNA DATA AND TESTING
(Repealed)

2004 Repeal. Chapter 47 (Subchapters A - D) was added June 19, 2002, P.L.394, No.57, and repealed November 30, 2004, P.L.1428, No.185, effective in 60 days. The subject matter is now contained in Chapter 23 of Title 44 (Law and Justice).

CHAPTER 49
ACCESS TO JUSTICE

Sec.

4901. Short title of chapter.
4902. Declaration.
4903. Definitions.
4904. Establishment of Access to Justice Account.
4905. Purpose of account.
4906. Distribution of funds.
4907. Expiration of chapter (Repealed).

Enactment. Chapter 49 was added October 2, 2002, P.L.841, No.122, effective November 1, 2002.

§ 4901. Short title of chapter.

This chapter shall be known and may be cited as the Access to Justice Act.

§ 4902. Declaration.

The General Assembly finds and declares as follows:

(1) It is of paramount importance to the citizens of this Commonwealth that all individuals who seek lawful redress of their grievances have equal access to our system of justice.

(2) The availability of civil legal services is essential to providing meaningful access to justice for indigent persons who cannot afford legal representation.

§ 4903. Definitions.

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

"Account." The Access to Justice Account established in section 4904 (relating to establishment of Access to Justice Account).

"Eligible legal services provider." A not-for-profit entity incorporated in this Commonwealth, tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) or any successor provision, which operates within this Commonwealth for the primary purpose of providing civil legal services without charge and which operates to provide such civil legal services to eligible clients and victims of abuse under contract or subcontract with the Department of Public Welfare for the expenditure of funds appropriated by the General Assembly for the provision of legal services.

"Lobbying activities." Any effort to influence Federal, State or local legislative or administrative action, including, but not limited to, activities intended to influence the issuance, amendment or revocation of any executive or administrative order or regulation of a Federal, State or local agency, or to influence the introduction, amendment, passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 4904. Establishment of Access to Justice Account.

There is established in the State Treasury a nonlapsing restricted receipt account to be known as the Access to Justice Account for the deposit of all fees authorized by this chapter.

Cross References. Section 4904 is referred to in sections 3733, 4903 of this title.

§ 4905. Purpose of account.

(a) Permitted use.--All moneys in the account and any investment income accrued shall be used exclusively to provide civil legal assistance to poor and disadvantaged persons in this Commonwealth. The Supreme Court shall, by rule, determine eligibility for legal assistance under this subsection.

(b) Prohibited use.--Recipients of funds under this chapter are prohibited from using these funds to contribute to or be made available to any political party or association or the campaign of any candidate for public or party office or similar political activities or to support or oppose candidates for

public or party office or to support or oppose any ballot questions or to engage in lobbying activities except that:

(1) A recipient of funds may engage in lobbying activities in response to a request from a governmental agency, legislative body, committee, member or staff thereof made to the recipient, consistent with the Rules of Professional Conduct.

(2) An eligible legal services provider may engage in lobbying activities in the provision of legal services to an eligible client on a particular application, claim or case which directly involves that client's legal rights and responsibilities; however, this shall not be construed to permit an eligible legal services provider to solicit a client in violation of the Rules of Professional Conduct for the purpose of making such representation possible.

Cross References. Section 4905 is referred to in section 4906 of this title.

§ 4906. Distribution of funds.

All moneys deposited in the account and any investment income accrued are hereby annually appropriated to the Administrative Office of the Pennsylvania Courts and shall be distributed annually, upon requisition of the Court Administrator of Pennsylvania, to the Pennsylvania Interest on Lawyers Trust Account Board to contract exclusively with eligible legal services providers for the purpose set forth in section 4905(a) (relating to purpose of account). Funds received by the Pennsylvania Interest on Lawyers Trust Account Board pursuant to this chapter shall be maintained in a separate account and shall be accounted for separately from any other funds received by the board.

§ 4907. Expiration of chapter (Repealed).

2017 Repeal. Section 4907 was repealed October 30, 2017, P.L.725, No.44, effective immediately.

PART VI
ACTIONS, PROCEEDINGS AND OTHER MATTERS GENERALLY

Chapter

51. Preliminary Provisions
53. Bases of Jurisdiction and Interstate and International Procedure
55. Limitation of Time
57. Bonds and Recognizances
58. Forfeiture of Assets
59. Depositions and Witnesses
61. Rules of Evidence
62. Uniform Unsworn Declarations Act
62A. Protection of Victims of Sexual Violence or Intimidation
63. Juvenile Matters
64. Court-ordered Involuntary Treatment of Certain Sexually Violent Persons
65. Habeas Corpus
66. Prisoner Litigation
67. Protection from Abuse (Repealed)
67A. Recordings by Law Enforcement Officers
68. Forfeitures
69. Particular Rights and Immunities
70. Ignition Interlock Devices (Repealed)

Enactment. Part VI was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

CHAPTER 51
PRELIMINARY PROVISIONS

Sec.
5101. Remedy to exist for legal injury.
5101.1. Venue in medical professional liability actions.
5102. Place and form of filing applications for relief.
5103. Transfer of erroneously filed matters.
5104. Trial by jury.
5105. Right to appellate review.
5106. Change of venue.
5107. Service of process.
5108. Imprisonment for debt.
5110. Limited waiver of sovereign immunity (Repealed).
5111. Limitations on damages (Repealed).

Enactment. Chapter 51 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

§ 5101. Remedy to exist for legal injury.

Every person for a legal injury done him in his lands, goods, person, or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

(Sept. 28, 1978, P.L.788, No.152, eff. imd.; Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

Cross References. Section 5101 is referred to in section 5102 of this title.

§ 5101.1. Venue in medical professional liability actions.

(a) Declaration of policy.--In accordance with section 514(a) of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, and as a matter of public policy, the General Assembly further declares the need to change the venue requirements for medical professional liability actions.

(b) General rule.--Notwithstanding any other provision to the contrary, a medical professional liability action may be brought against a health care provider for a medical professional liability claim only in the county in which the cause of action arose.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Birth center." An entity licensed as a birth center under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Health care provider." A primary health care center, a personal care home licensed by the Department of Public Welfare pursuant to the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, or a person, including a corporation, university or other educational institution licensed or approved by the Commonwealth to provide health care or professional medical services as a physician, a certified nurse midwife, a podiatrist, hospital, nursing home, birth center, and an

officer, employee or agent of any of them acting in the course and scope of employment.

"Hospital." An entity licensed as a hospital under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, or the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Medical professional liability action." Any proceeding in which a medical professional liability claim is asserted, including an action in a court of law or an arbitration proceeding.

"Medical professional liability claim." Any claim seeking the recovery of damages or loss from a health care provider arising out of any tort or breach of contract causing injury or death resulting from the furnishing of health care services which were or should have been provided.

"Nursing home." An entity licensed as a nursing home under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Primary health care center." A community-based nonprofit corporation meeting standards prescribed by the Department of Health which provides preventive, diagnostic, therapeutic and basic emergency health care by licensed practitioners who are employees of the corporation or under contract to the corporation.

(Oct. 17, 2002, P.L.880, No.127, eff. 60 days; Dec. 9, 2002, P.L.1705, No.215, eff. 60 days)

2002 Amendments. Act 127 added section 5101.1 and Act 215 amended the def. of "health care provider" in subsec. (c). Section 5 of Act 127 provided that section 5101.1 shall apply to all medical professional liability actions filed on or after the effective date of section 5.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (c), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Cross References. Section 5101.1 is referred to in section 931 of this title.

§ 5102. Place and form of filing applications for relief.

Applications for relief to any court under section 5101 (relating to remedy to exist for legal injury) or under any other provision of law, or documents relating to a matter before a magisterial district judge, shall be filed in such office and in such form as may be prescribed by general rule or rule of court.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 5103. Transfer of erroneously filed matters.

(a) General rule.--If an appeal or other matter is taken to or brought in a court or magisterial district of this Commonwealth which does not have jurisdiction of the appeal or other matter, the court or magisterial district judge shall not quash such appeal or dismiss the matter, but shall transfer the record thereof to the proper tribunal of this Commonwealth, where the appeal or other matter shall be treated as if originally filed in the transferee tribunal on the date when

the appeal or other matter was first filed in a court or magisterial district of this Commonwealth. A matter which is within the exclusive jurisdiction of a court or magisterial district judge of this Commonwealth but which is commenced in any other tribunal of this Commonwealth shall be transferred by the other tribunal to the proper court or magisterial district of this Commonwealth where it shall be treated as if originally filed in the transferee court or magisterial district of this Commonwealth on the date when first filed in the other tribunal.

(b) Federal cases.--

(1) Subsection (a) shall also apply to any matter transferred or remanded by any United States court for a district embracing any part of this Commonwealth. In order to preserve a claim under Chapter 55 (relating to limitation of time), a litigant who timely commences an action or proceeding in any United States court for a district embracing any part of this Commonwealth is not required to commence a protective action in a court or before a magisterial district judge of this Commonwealth. Where a matter is filed in any United States court for a district embracing any part of this Commonwealth and the matter is dismissed by the United States court for lack of jurisdiction, any litigant in the matter filed may transfer the matter to a court or magisterial district of this Commonwealth by complying with the transfer provisions set forth in paragraph (2).

(2) Except as otherwise prescribed by general rules, or by order of the United States court, such transfer may be effected by filing a certified transcript of the final judgment of the United States court and the related pleadings in a court or magisterial district of this Commonwealth. The pleadings shall have the same effect as under the practice in the United States court, but the transferee court or magisterial district judge may require that they be amended to conform to the practice in this Commonwealth. Section 5535(a)(2)(i) (relating to termination of prior matter) shall not be applicable to a matter transferred under this subsection.

(c) Interdivisional transfers.--If an appeal or other matter is taken to, brought in, or transferred to a division of a court to which such matter is not allocated by law, the court shall not quash such appeal or dismiss the matter, but shall transfer the record thereof to the proper division of the court, where the appeal or other matter shall be treated as if originally filed in the transferee division on the date first filed in a court or magisterial district.

(d) Definition.--As used in this section "tribunal" means a court or magisterial district judge or other judicial officer of this Commonwealth vested with the power to enter an order in a matter, the Board of Claims, the Board of Property, the Office of Administrator for Arbitration Panels for Health Care and any other similar agency.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsecs. (a), (b) and (d). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Saved from Suspension. Pennsylvania Rule of Civil Procedure for District Justices No. 1082, as amended April 25, 1979,

provided that section 5103(a) shall not be deemed suspended or affected. Rules 1001 through 1082 relate to appellate proceedings with respect to judgments and other decisions of district justices in civil matters. Act 207 of 2004 changed justices of the peace to magisterial district judges. Rule 1082 can now be found in the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.

Cross References. Section 5103 is referred to in sections 708, 5503 of this title.

§ 5104. Trial by jury.

(a) General rule.--Except where the right to trial by jury is enlarged by statute, trial by jury shall be as heretofore, and the right thereof shall remain inviolate. Trial by jury may be waived in the manner prescribed by general rules.

(b) Civil verdicts.--In any civil case a verdict rendered by at least five-sixths of the jury shall be the verdict of the jury and shall have the same effect as a unanimous verdict of the jury.

(c) Criminal matters.--In criminal cases the Commonwealth shall have the same right to trial by jury as does the accused. (Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (a) and added subsec. (c).

§ 5105. Right to appellate review.

(a) General rule.--There is a right of appeal under this subsection from the final order (including an order defined as a final order by general rule) of every:

(1) Court or magisterial district judge of this Commonwealth to the court having jurisdiction of such appeals.

(2) Government unit which is an administrative agency within the meaning of section 9 of Article V of the Constitution of Pennsylvania to the court having jurisdiction of such appeals. An order is appealable under this paragraph notwithstanding the fact that it is not appealable under Chapter 7 of Title 2 (relating to judicial review).

(3) Appointive judicial officer to the court by which such officer was appointed.

(b) Successive appeals.--Except as otherwise provided in this subsection, the rights conferred by subsection (a) are cumulative, so that a litigant may as a matter of right cause a final order of any tribunal in any matter which itself constitutes an appeal to such tribunal, to be further reviewed by the court having jurisdiction of appeals from such tribunal. Except as provided in section 723 (relating to appeals from the Commonwealth Court) there shall be no right of appeal from the Superior Court or the Commonwealth Court to the Supreme Court under this section or otherwise.

(c) Interlocutory appeals.--There shall be a right of appeal from such interlocutory orders of tribunals and other government units as may be specified by law. The governing authority shall be responsible for a continuous review of the operation of section 702(b) (relating to interlocutory appeals by permission) and shall from time to time establish by general rule rights to appeal from such classes of interlocutory orders, if any, from which appeals are regularly permitted pursuant to section 702(b).

(d) Scope of appeal.--

(1) Except as otherwise provided in this subsection an appeal under this section shall extend to the whole record, with like effect as upon an appeal from a judgment entered

upon the verdict of a jury in an action at law and the scope of review of the order shall not be limited as on broad or narrow certiorari.

(2) An order which is appealable by reason of subsection (a)(2), but which would not be appealable under Chapter 7 of Title 2 or under any other corresponding provision of law, shall not be reversed or modified on appeal unless the appellant would be entitled to equivalent relief upon an action in the nature of equity, replevin, mandamus or quo warranto or for declaratory judgment or for a writ of certiorari or prohibition or otherwise objecting to such order.

(3) Nothing in this subsection shall supersede any general rule or rule of court or any unsuspended statute authorizing or requiring an appellate court to receive additional evidence or to hear the appeal de novo.

(4) Except as otherwise prescribed by general rule and section 1123(a.1) (relating to jurisdiction and venue), an appeal from a final order of the minor judiciary shall be de novo under procedures established by general rule.

(e) Supersedeas.--An appeal shall operate as a supersedeas to the extent and upon the conditions provided or prescribed by law. Unless a supersedeas is entered no appeal from an order concerning the validity of a will or other instrument or the right to the possession of or to administer any real or personal property shall suspend the powers or prejudice the acts of the appointive judicial officer, personal representative or other person acting thereunder.

(f) Effect of reversal or modification.--The reversal or modification of any order of a court or any determination of any other government unit in a matter in which the court or government unit has jurisdiction of the sale, mortgage, exchange or conveyance of real or personal property shall not impair or divest any estate or interest acquired thereunder by a person not a party to the appeal.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Oct. 12, 1984, P.L.959, No.187, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a)(1). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1984 Amendment. Act 187 amended subsec. (d).

1982 Amendment. Act 326 amended subsec. (f).

1980 Amendment. Act 142 amended subsecs. (c) and (d).

1978 Amendment. Act 53 amended subsecs. (a), (d) and (e) and added subsec. (f).

Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 3159(b)(7), adopted April 20, 1998, provided that section 5105(f) shall not be deemed suspended or affected by Rules 3101 through 3149 relating to enforcement of money judgments for the payment of money.

Cross References. Section 5105 is referred to in sections 724, 9730 of this title; section 2547 of Title 15 (Corporations and Unincorporated Associations); section 902 of Title 66 (Public Utilities).

§ 5106. Change of venue.

The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be provided or prescribed by law.

§ 5107. Service of process.

Process may be served or executed on any day of the week except at any church, synagogue, meetinghouse or any place of worship.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 19, 1984, P.L.1089, No.218, eff. imd.; June 25, 1997, P.L.293, No.28, eff. imd.; June 18, 1998, P.L.640, No.84, eff. 120 days)

1998 Amendment. Act 84 overlooked the amendment by Act 28 of 1997, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 5107.

§ 5108. Imprisonment for debt.

(a) Constitutional restriction.--The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors in such manner as shall be provided or prescribed by law.

(b) Statutory restriction.--Except in an action for fines and penalties, or as punishment for contempt, or to prevent departure from the Commonwealth, a defendant may not be arrested in any civil matter.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 added section 5108.

§ 5110. Limited waiver of sovereign immunity (Repealed).

1980 Repeal. Section 5110 was repealed October 5, 1980, P.L.693, No.142, effective in 60 days. The subject matter is now contained in Chapter 85 of this title.

§ 5111. Limitations on damages (Repealed).

1980 Repealed. Section 5111 was repealed October 5, 1980, P.L.693, No.142, effective in 60 days. The subject matter is now contained in Chapter 85 of this title.

CHAPTER 53
BASES OF JURISDICTION AND INTERSTATE AND INTERNATIONAL PROCEDURE

Subchapter

A. General Provisions
B. Interstate and International Procedure
B.1. Foreign Depositions and Subpoenas
C. Child Custody Jurisdiction (Repealed)

Enactment. Chapter 53 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Cross References. Chapter 53 is referred to in section 1579 of Title 15 (Corporations and Unincorporated Associations).

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

5301. Persons.
5302. Land.
5303. Chattels.
5304. Documents.
5305. Corporate shares.

5306. Obligations.
5307. Status.
5308. Necessary minimum contacts.

§ 5301. Persons.

(a) General rule.--The existence of any of the following relationships between a person and this Commonwealth shall constitute a sufficient basis of jurisdiction to enable the tribunals of this Commonwealth to exercise general personal jurisdiction over such person, or his personal representative in the case of an individual, and to enable such tribunals to render personal orders against such person or representative:

(1) Individuals.--

(i) Presence in this Commonwealth at the time when process is served.

(ii) Domicile in this Commonwealth at the time when process is served.

(iii) Consent, to the extent authorized by the consent.

(2) Corporations.--

(i) Incorporation under or qualification as a foreign corporation under the laws of this Commonwealth.

(ii) Consent, to the extent authorized by the consent.

(iii) The carrying on of a continuous and systematic part of its general business within this Commonwealth.

(3) Partnerships, limited partnerships, partnership associations, professional associations, unincorporated associations and similar entities.--

(i) Formation under or qualification as a foreign entity under the laws of this Commonwealth.

(ii) Consent, to the extent authorized by the consent.

(iii) The carrying on of a continuous and systematic part of its general business within this Commonwealth.

(b) Scope of jurisdiction.--When jurisdiction over a person is based upon this section any cause of action may be asserted against him, whether or not arising from acts enumerated in this section. Discontinuance of the acts enumerated in subsection (a)(2)(i) and (iii) and (3)(i) and (iii) shall not affect jurisdiction with respect to any act, transaction or omission occurring during the period such status existed. (Apr. 28, 1978, P.L.202, No.53, eff. 60 days; July 10, 1981, P.L.237, No.77, eff. 60 days)

Cross References. Section 5301 is referred to in section 5322 of this title; section 2576 of Title 15 (Corporations and Unincorporated Associations); section 1502 of Title 17 (Credit Unions).

§ 5302. Land.

The tribunals of this Commonwealth shall have jurisdiction over land situated within this Commonwealth whether or not the persons owning or claiming interests therein are subject to the jurisdiction of the tribunals of this Commonwealth.

Cross References. Section 5302 is referred to in section 2576 of Title 15 (Corporations and Unincorporated Associations).

§ 5303. Chattels.

The tribunals of this Commonwealth shall have jurisdiction over chattels situated within this Commonwealth whether or not the persons owning or claiming interests therein are subject to the jurisdiction of the tribunals of this Commonwealth.

Cross References. Section 5303 is referred to in section 2576 of Title 15 (Corporations and Unincorporated Associations).

§ 5304. Documents.

The tribunals of this Commonwealth shall have jurisdiction over documents situated within this Commonwealth whether or not the persons owning or claiming interests therein are subject to the jurisdiction of the tribunals of this Commonwealth.

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

Cross References. Section 5304 is referred to in section 2576 of Title 15 (Corporations and Unincorporated Associations).

§ 5305. Corporate shares.

The tribunals of this Commonwealth shall have jurisdiction, whether or not the persons owning or claiming interests in the shares or share certificates are subject to the jurisdiction of the tribunals of this Commonwealth:

(1) Over shares in a corporation incorporated under the laws of this Commonwealth (subject to the limitations of Title 13 (relating to commercial code)).

(2) Over share certificates which are located within this Commonwealth.

(3) Over shares in a corporation represented by share certificates located within this Commonwealth if the law of the jurisdiction of incorporation embodies the share in the share certificates.

(Nov. 1, 1979, P.L.255, No.86, eff. Jan. 1, 1980)

Cross References. Section 5305 is referred to in section 2576 of Title 15 (Corporations and Unincorporated Associations).

§ 5306. Obligations.

The tribunals of this Commonwealth shall have jurisdiction over obligations owed by persons who are subject to the jurisdiction of the tribunals of this Commonwealth whether or not the persons to whom the obligations are owed are subject to the jurisdiction of the tribunals of this Commonwealth.

Cross References. Section 5306 is referred to in section 2576 of Title 15 (Corporations and Unincorporated Associations).

§ 5307. Status.

The judicial jurisdiction over status granted to the courts of this Commonwealth by the Constitution and statutes of this Commonwealth may be exercised:

(1) to the extent permitted by the Constitution of the United States, except as limited by the Constitution and laws of this Commonwealth; and

(2) in the manner permitted by the laws of this Commonwealth.

Cross References. Section 5307 is referred to in section 2576 of Title 15 (Corporations and Unincorporated Associations).

§ 5308. Necessary minimum contacts.

The tribunals of this Commonwealth may exercise jurisdiction under this subchapter only where the contact with this Commonwealth is sufficient under the Constitution of the United States.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 added section 5308.

Cross References. Section 5308 is referred to in section 2576 of Title 15 (Corporations and Unincorporated Associations).

SUBCHAPTER B
INTERSTATE AND INTERNATIONAL PROCEDURE

Sec.

5321. Short title of subchapter.
5322. Bases of personal jurisdiction over persons outside this Commonwealth.
5323. Service of process on persons outside this Commonwealth.
5324. Assistance to tribunals and litigants outside this Commonwealth with respect to service.
5325. When and how a deposition may be taken outside this Commonwealth.
5326. Assistance to tribunals and litigants outside this Commonwealth with respect to depositions (Repealed).
5327. Determination of foreign law.
5328. Proof of official records.
5329. Other provisions of law unaffected.

§ 5321. Short title of subchapter.

This subchapter shall be known and may be cited as the "Uniform Interstate and International Procedure Act."

Cross References. Section 5321 is referred to in section 2576 of Title 15 (Corporations and Unincorporated Associations).

§ 5322. Bases of personal jurisdiction over persons outside this Commonwealth.

(a) General rule.--A tribunal of this Commonwealth may exercise personal jurisdiction over a person (or the personal representative of a deceased individual who would be subject to jurisdiction under this subsection if not deceased) who acts directly or by an agent, as to a cause of action or other matter arising from such person:

(1) Transacting any business in this Commonwealth. Without excluding other acts which may constitute transacting business in this Commonwealth, any of the following shall constitute transacting business for the purpose of this paragraph:

(i) The doing by any person in this Commonwealth of a series of similar acts for the purpose of thereby realizing pecuniary benefit or otherwise accomplishing an object.

(ii) The doing of a single act in this Commonwealth for the purpose of thereby realizing pecuniary benefit or otherwise accomplishing an object with the intention of initiating a series of such acts.

(iii) The shipping of merchandise directly or indirectly into or through this Commonwealth.

(iv) The engaging in any business or profession within this Commonwealth, whether or not such business requires license or approval by any government unit of this Commonwealth.

(v) The ownership, use or possession of any real property situate within this Commonwealth.

(2) Contracting to supply services or things in this Commonwealth.

(3) Causing harm or tortious injury by an act or omission in this Commonwealth.

(4) Causing harm or tortious injury in this Commonwealth by an act or omission outside this Commonwealth.

(5) Having an interest in, using, or possessing real property in this Commonwealth.

(6) (i) Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting.

(ii) Being a person who controls, or who is a director, officer, employee or agent of a person who controls, an insurance company incorporated in this Commonwealth or an alien insurer domiciled in this Commonwealth.

(iii) Engaging in conduct described in section 504 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921.

(7) Accepting election or appointment or exercising powers under the authority of this Commonwealth as a:

(i) Personal representative of a decedent.

(ii) Guardian of a minor or incapacitated person.

(iii) Trustee or other fiduciary.

(iv) Director or officer of a corporation.

(8) Executing any bond of any of the persons specified in paragraph (7).

(9) Making application to any government unit for any certificate, license, permit, registration or similar instrument or authorization or exercising any such instrument or authorization.

(10) Committing any violation within the jurisdiction of this Commonwealth of any statute, home rule charter, local ordinance or resolution, or rule or regulation promulgated thereunder by any government unit or of any order of court or other government unit.

(b) Exercise of full constitutional power over nonresidents.--In addition to the provisions of subsection (a) the jurisdiction of the tribunals of this Commonwealth shall extend to all persons who are not within the scope of section 5301 (relating to persons) to the fullest extent allowed under the Constitution of the United States and may be based on the most minimum contact with this Commonwealth allowed under the Constitution of the United States.

(c) Scope of jurisdiction.--When jurisdiction over a person is based solely upon this section, only a cause of action or other matter arising from acts enumerated in subsection (a), or from acts forming the basis of jurisdiction under subsection (b), may be asserted against him.

(d) Service outside this Commonwealth.--When the exercise of personal jurisdiction is authorized by this section, service of process may be made outside this Commonwealth.

(e) Inconvenient forum.--When a tribunal finds that in the interest of substantial justice the matter should be heard in another forum, the tribunal may stay or dismiss the matter in whole or in part on any conditions that may be just.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Apr. 16, 1992, P.L.108, No.24, eff. 60 days)

1992 Amendment. Act 24 amended subsec. (a).

Cross References. Section 5322 is referred to in sections 5323, 5329, 62A05 of this title; section 2576 of Title 15 (Corporations and Unincorporated Associations); section 6103 of Title 23 (Domestic Relations).

§ 5323. Service of process on persons outside this Commonwealth.

(a) Manner of service.--When the law of this Commonwealth authorizes service of process outside this Commonwealth, the

service, when reasonably calculated to give actual notice, may be made:

(1) By personal delivery in the manner prescribed for service within this Commonwealth.

(2) In the manner provided or prescribed by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction.

(3) By any form of mail addressed to the person to be served and requiring a signed receipt.

(4) As directed by the foreign authority in response to a letter rogatory.

(5) As directed by a court.

(b) Proof of service.--Proof of service outside this Commonwealth may be made by affidavit of the individual who made the service or in the manner provided or prescribed by the law of this Commonwealth, the order pursuant to which the service is made, or the law of the place in which the service is made for proof of service in an action in any of its courts of general jurisdiction. When service is made by mail, proof of service shall include a receipt signed by the addressee or other evidence of personal delivery to the addressee satisfactory to the tribunal.

(c) Individuals eligible to make service.--Service outside this Commonwealth may be made by an individual permitted to make service of process under the law of this Commonwealth or under the law of the place in which the service is made or who is designated by a tribunal of this Commonwealth.

(d) Certain individuals to be served.--When the law of this Commonwealth requires that in order to effect service one or more designated individuals be served, service outside this Commonwealth under section 5322 (relating to bases of personal jurisdiction over persons outside this Commonwealth) must be made upon the designated individual or individuals.

Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 449, adopted June 3, 1994, provided that section 5323 shall not be deemed suspended or affected by Rules 400 through 441 relating to service of original process and other legal papers.

Cross References. Section 5323 is referred to in section 5329 of this title; section 2576 of Title 15 (Corporations and Unincorporated Associations).

§ 5324. Assistance to tribunals and litigants outside this Commonwealth with respect to service.

(a) General rule.--A court of record of this Commonwealth may order service upon any person who is domiciled or can be found within this Commonwealth of any document issued in connection with a matter in a tribunal outside this Commonwealth. The order may be made upon application of any interested person or in response to a letter rogatory issued by a tribunal outside this Commonwealth and shall direct the manner of service.

(b) Court order not necessary.--Service in connection with a matter in a tribunal outside this Commonwealth may be made within this Commonwealth without an order of court.

(c) Effect on recognition of order.--Service under this section does not, of itself, require the recognition or enforcement of an order rendered outside this Commonwealth.

Cross References. Section 5324 is referred to in section 5329 of this title.

§ 5325. When and how a deposition may be taken outside this Commonwealth.

(a) General rule.--A deposition to obtain testimony or documents or other things in a matter pending in this Commonwealth may be taken outside this Commonwealth:

(1) On reasonable notice in writing to all parties, setting forth the time and place for taking the deposition, the name and address of each person to be examined, if known, and if not known, a general description sufficient to identify him or the particular class or group to which he belongs and the name or descriptive title of the person before whom the deposition will be taken. The deposition may be taken before a person authorized to administer oaths in the place in which the deposition is taken by the law thereof or by the law of this Commonwealth or the United States.

(2) Before a person commissioned by the tribunal of this Commonwealth. The person so commissioned has the power by virtue of his commission to administer any necessary oath.

(3) Pursuant to a letter rogatory issued by the court. A letter rogatory may be addressed "To the Appropriate Authority in (here name the state or country)."

(4) In any manner before any person, at any time or place, or upon any notice stipulated by the parties. A person designated by the stipulation has the power by virtue of his designation to administer any necessary oath.

(b) Commission or letter rogatory.--A commission or a letter rogatory shall be issued after notice and application to the court, and on terms that are just and appropriate. It is not requisite to the issuance of a commission or a letter rogatory that the taking of the deposition in any other manner is impracticable or inconvenient, and both a commission and a letter rogatory may be issued in proper cases. Evidence obtained in a foreign country in response to a letter rogatory need not be excluded merely for the reason that it is not a verbatim transcript or that the testimony was not taken under oath or for any similar departure from the requirements for depositions taken within this Commonwealth.

(c) Deposition prior to commencement of matter.--When no matter is pending, a tribunal of this Commonwealth may authorize a deposition to be taken outside this Commonwealth of any person regarding any matter that may be cognizable in any tribunal of this Commonwealth. Subject to general rules, the tribunal may prescribe the manner in which and the terms upon which the deposition shall be taken.

Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 4023, adopted November 20, 1978, provided that section 5325 shall not be deemed suspended or affected. Rules 4001 through 4025 relate to depositions and discovery.

Cross References. Section 5325 is referred to in sections 5329, 5919 of this title.

§ 5326. Assistance to tribunals and litigants outside this Commonwealth with respect to depositions (Repealed).

2012 Repeal. Section 5326 was repealed October 24, 2012, P.L.1459, No.183, effective in 60 days.

§ 5327. Determination of foreign law.

(a) Notice.--A party who intends to raise an issue concerning the law of any jurisdiction or governmental unit thereof outside this Commonwealth shall give notice in his pleadings or other reasonable written notice.

(b) Materials to be considered.--In determining the law of any jurisdiction or governmental unit thereof outside this Commonwealth, the tribunal may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under the rules of evidence.

(c) Court decision and review.--The court, not jury, shall determine the law of any governmental unit outside this Commonwealth. The determination of the tribunal is subject to review on appeal as a ruling on a question of law.

Cross References. Section 5327 is referred to in section 5329 of this title.

§ 5328. Proof of official records.

(a) Domestic record.--An official record kept within the United States, or any state, district, commonwealth, territory, insular possession thereof, or the Panama Canal Zone, the Trust Territory of the Pacific Islands, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied by a certificate that the officer has the custody. The certificate may be made by a judge of a court of record having jurisdiction in the governmental unit in which the record is kept, authenticated by the seal of the court, or by any public officer having a seal of office and having official duties in the governmental unit in which the record is kept, authenticated by the seal of his office.

(b) Foreign record.--A foreign official record, or an entry therein, when admissible for any purpose, may be evidenced by an official publication or copy thereof, attested by a person authorized to make the attestation, and accompanied by a final certification as to the genuineness of the signature and official position:

(1) of the attesting person; or

(2) of any foreign official whose certificate of genuineness of signature and official position either:

(i) relates to the attestation; or

(ii) is in a chain of certificates of genuineness of signature and official position relating to the attestation.

A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of the documents, the tribunal may, for good cause shown, admit an attested copy without final certification or permit the foreign official record to be evidenced by an attested summary with or without a final certification.

(c) Alternative method for certain domestic and foreign records.--The statutes, codes, written laws, executive acts, or legislative or judicial proceedings of any domestic or foreign jurisdiction or governmental unit thereof may also be evidenced by any publication proved to be commonly accepted as proof thereof in the tribunals having jurisdiction in that governmental unit.

(d) Lack of record.--A written statement that after diligent search no record or entry of a specified tenor is found to exist in the records designated by the statement, authenticated as provided in this section in the case of a domestic record, or complying with the requirements of this section for a summary

in the case of a record in a foreign country, is admissible as evidence that the records contain no such record or entry.

Cross References. Section 5328 is referred to in sections 5329, 6105, 6110 of this title; section 202 of Title 15 (Corporations and Unincorporated Associations).

§ 5329. Other provisions of law unaffected.

Except as otherwise provided in this subchapter, this subchapter does not repeal or modify any law of this Commonwealth:

(1) Authorizing the exercise of jurisdiction on any basis other than the bases specified in section 5322 (relating to bases of personal jurisdiction over persons outside this Commonwealth).

(2) Permitting a procedure for service or for obtaining testimony, documents, or other things for use in this Commonwealth or in a tribunal outside this Commonwealth other than the procedures prescribed in section 5323 (relating to service of process on persons outside this Commonwealth) through section 5326 (relating to assistance to tribunals and litigants outside this Commonwealth with respect to depositions).

(3) Authorizing the determination of foreign law or the proof of official records or any entry or lack of entry therein by any method other than the methods prescribed in section 5327 (relating to determination of foreign law) and section 5328 (relating to proof of official records).

Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 449, adopted June 3, 1994, provided that section 5329 shall not be deemed suspended or affected by Rules 400 through 441 relating to service of original process and other legal papers.

References in Text. Section 5326, referred to in this section, is repealed.

SUBCHAPTER B.1
FOREIGN DEPOSITIONS AND SUBPOENAS

Sec.

5331. Short title of subchapter.
5332. Scope of subchapter.
5333. Definitions.
5334. Principles of construction.
5335. Issuance of subpoena.
5336. Pennsylvania rules applicable.
5337. Application to court.

Enactment. Subchapter B.1 was added October 24, 2012, P.L.1459, No.183, effective in 60 days.

Request for Discovery. Section 3 of Act 183 of 2012 provided that Subchapter B.1 applies to requests for discovery in cases pending on the effective date of section 3.

§ 5331. Short title of subchapter.

This subchapter shall be known and may be cited as the Uniform Interstate Depositions and Discovery Act.

§ 5332. Scope of subchapter.

This subchapter shall apply to any civil action or proceeding in a foreign jurisdiction where discovery is sought in this Commonwealth.

§ 5333. 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:

"Foreign jurisdiction." A state other than Pennsylvania.

"Foreign subpoena." A subpoena issued under authority of a court of record of a foreign jurisdiction.

"Person." An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

"Prothonotary." The term includes a clerk of court, where applicable.

"State." A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe or any territory or insular possession subject to the jurisdiction of the United States.

"Subpoena." A document, however denominated, issued under authority of a court of record requiring a person to:

(1) attend and give testimony at a deposition, hearing or trial;

(2) produce and permit inspection and copying of designated books, documents, records, electronically stored information or tangible things in the possession, custody or control of the person; or

(3) permit inspection of premises under the control of the person.

§ 5334. Principles of construction.

In applying and construing this subchapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 5335. Issuance of subpoena.

(a) General rule.--To request issuance of a subpoena under this section, a party must submit a foreign subpoena to a prothonotary in the jurisdiction in which the person who is the subject of the order resides, is employed or regularly transacts business in person. A request for the issuance of a subpoena under this subchapter does not constitute an appearance in the courts of this Commonwealth.

(b) Duty of prothonotary.--A prothonotary in receipt of a foreign subpoena shall, in accordance with that court's procedure, promptly issue a subpoena for service upon the person to whom the foreign subpoena is directed.

(c) Contents of subpoena.--A subpoena under subsection (b) must:

(1) Incorporate the terms used in the foreign subpoena.

(2) Contain or be accompanied by the names, addresses and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(d) Voluntary compliance.--A person within this Commonwealth not served with a subpoena under this section may voluntarily give his testimony or statement or produce documents or other things for use in a matter before a tribunal outside this Commonwealth.

Cross References. Section 5335 is referred to in section 5337 of this title.

§ 5336. Pennsylvania rules applicable.

The Pennsylvania Rules of Civil Procedure and any statutes relating to service of subpoenas and compliance with subpoenas

shall apply to all subpoenas issued under this subchapter. Such rules shall include, but are not limited to, the following:

No. 4009.21 (relating to Subpoena Upon a Person Not a Party for Production of Documents and Things. Prior Notice. Objections).

No. 4009.22 (relating to Service of Subpoena).

No. 4009.23 (relating to Certificate of Compliance By a Person Not a Party. Notice of Documents or Things Received).

No. 4009.24 (relating to Notice of Intent to Serve Subpoena. Objection to Subpoena. Forms).

No. 4009.25 (relating to Certificate Prerequisite to Service of Subpoena. Form).

No. 4009.26 (relating to Subpoena to Produce Documents or Things. Form).

No. 4009.27 (relating to Certificate of Compliance. Form).

§ 5337. Application to court.

(a) General rule.--An application to a court for a protective order or to enforce, quash or modify a subpoena issued by a prothonotary under section 5335 (relating to issuance of subpoena) must comply with the rules and statutes of this Commonwealth and be submitted to the court that ordered service of the subpoena.

(b) Authority for order.--Upon application, the court may proceed as provided by the applicable rules and laws of this Commonwealth, including, but not limited to: section 4132 (relating to attachment and summary punishment for contempts); Chapter 59 (relating to depositions and witnesses); Pa.R.C.P. Nos. 4011 (relating to Limitation of Scope of Discovery and Deposition) and 4012 (relating to Protective Orders).

SUBCHAPTER C
CHILD CUSTODY JURISDICTION
(Repealed)

1990 Repeal. Subchapter C (§§ 5341 - 5366) was added October 5, 1980, P.L.693, No.142, and repealed December 19, 1990, P.L.1240, No.206, effective in 90 days. The subject matter is now contained in Subchapter C of Chapter 53 of Title 23 (Domestic Relations).

CHAPTER 55
LIMITATION OF TIME

Subchapter

A. General Provisions
B. Civil Actions and Proceedings
C. Criminal Proceedings
D. Appeals

Enactment. Chapter 55 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Special Provisions in Appendix. See section 25 of Act 142 of 1976 in the appendix to this title for special provisions relating to the effect of Act 142 on periods of limitations applicable under prior law.

Cross References. Chapter 55 is referred to in sections 763, 933, 1722, 5103, 7538 of this title; section 108 of Title

18 (Crimes and Offenses); section 921 of Title 30 (Fish); section 6302 of Title 75 (Vehicles).

SUBCHAPTER A
GENERAL PROVISIONS

Sec.
5501. Scope of chapter.
5502. Method of computing periods of limitation generally.
5503. Commencement of matters.
5504. Judicial extension of time.
5505. Modification of orders.

§ 5501. Scope of chapter.

(a) General rule.--An action, proceeding or appeal must be commenced within the time specified in or pursuant to this chapter unless, in the case of a civil action or proceeding, a different time is provided by this title or another statute or a shorter time which is not manifestly unreasonable is prescribed by written agreement.

(b) Uniform Commercial Code.--The provisions of Title 13 (relating to commercial code), to the extent that they are inconsistent with this chapter, shall control over the provisions of this chapter.

(c) Equitable matters.--Nothing in this chapter shall modify the principles of waiver, laches and estoppel and similar principles heretofore applicable in equitable matters.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Nov. 1, 1979, P.L.255, No.86, eff. Jan. 1, 1980; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. imd.; July 11, 1996, P.L.607, No.104, eff. 60 days)

§ 5502. Method of computing periods of limitation generally.

(a) General rule.--The time within which a matter must be commenced under this chapter shall be computed, except as otherwise provided by subsection (b) or by any other provision of this chapter, from the time the cause of action accrued, the criminal offense was committed or the right of appeal arose.

(b) Implementing court rules.--Subsection (a) may be made more specifically applicable to particular classes of matters by general rules defining the acts, omissions or events from which the limitation shall be computed. Rules adopted pursuant to this section shall take effect only in the manner provided by section 503(b) (relating to procedures).

§ 5503. Commencement of matters.

(a) General rule.--A matter is commenced for the purposes of this chapter when a document embodying the matter is filed in an office authorized by section 5103 (relating to transfer of erroneously filed matters) or by any other provision of law to receive such document.

(b) Implementing court rules.--Subsection (a) may be made more specifically applicable to particular classes of matters, including interparty claims therein, by general rules further defining the document which when filed shall constitute the commencement of a matter.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (b).

Cross References. Section 5503 is referred to in section 5552 of this title.

§ 5504. Judicial extension of time.

(a) General rule.--Except as provided in section 1722 (c) (relating to time limitations) or in subsection (b) of this section, the time limited by this chapter shall not be extended by order, rule or otherwise.

(b) Fraud.--The time limited by this chapter may be extended to relieve fraud or its equivalent, but there shall be no extension of time as a matter of indulgence or with respect to any criminal proceeding.

§ 5505. Modification of orders.

Except as otherwise provided or prescribed by law, a court upon notice to the parties may modify or rescind any order within 30 days after its entry, notwithstanding the prior termination of any term of court, if no appeal from such order has been taken or allowed.

Cross References. Section 5505 is referred to in section 3332 of Title 23 (Domestic Relations).

SUBCHAPTER B
CIVIL ACTIONS AND PROCEEDINGS

Sec.

5521. Limitations on foreign claims.
5522. Six months limitation.
5523. One year limitation.
5524. Two year limitation.
5524.1. Limitation and application for asbestos claims (Unconstitutional).
5525. Four year limitation.
5526. Five year limitation.
5527. Six year limitation.
5527.1. Ten year limitation.
5527.2. Mesne profits.
5527.3. Reimbursement.
5528. Fifteen year limitation.
5529. Twenty year limitation.
5530. Twenty-one year limitation.
5531. No limitation.
5532. Absence or concealment.
5533. Infancy, insanity or imprisonment.
5534. War.
5535. Effect of other actions and proceedings.
5536. Construction projects.
5537. Land surveying.
5538. Landscape architecture.
5539. Real estate appraisals.

Existing Actions and Proceedings. Section 25(a) of Act 142 of 1976 provided that any civil action or proceeding: (1) the time heretofore limited by statute for the commencement of which is reduced by any provision of Act 142; and (2) which is not fully barred by statute on the day prior to the effective date of Act 142; may be commenced within one year after the effective date of Act 142, or within the period heretofore limited by statute, whichever is less, notwithstanding any provisions of Subchapter B of this chapter or any other provision of Act 142 providing a shorter limitation.

Cross References. Subchapter B is referred to in section 2310 of Title 58 (Oil and Gas).

§ 5521. Limitations on foreign claims.

(a) Short title of section.--This section shall be known and may be cited as the "Uniform Statute of Limitations on Foreign Claims Act."

(b) General rule.--The period of limitation applicable to a claim accruing outside this Commonwealth shall be either that provided or prescribed by the law of the place where the claim accrued or by the law of this Commonwealth, whichever first bars the claim.

(c) Definition.--As used in this section "claim" means any right of action which may be asserted in a civil action or proceeding and includes, but is not limited to, a right of action created by statute.

Cross References. Section 5521 is referred to in section 5531 of this title.

§ 5522. Six months limitation.

(a) Notice prerequisite to action against government unit.--

(1) Within six months from the date that any injury was sustained or any cause of action accrued, any person who is about to commence any civil action or proceeding within this Commonwealth or elsewhere against a government unit for damages on account of any injury to his person or property under Chapter 85 (relating to matters affecting government units) or otherwise shall file in the office of the government unit, and if the action is against a Commonwealth agency for damages, then also file in the office of the Attorney General, a statement in writing, signed by or in his behalf, setting forth:

(i) The name and residence address of the person to whom the cause of action has accrued.

(ii) The name and residence address of the person injured.

(iii) The date and hour of the accident.

(iv) The approximate location where the accident occurred.

(v) The name and residence or office address of any attending physician.

(2) If the statement provided for by this subsection is not filed, any civil action or proceeding commenced against the government unit more than six months after the date of injury to person or property shall be dismissed and the person to whom any such cause of action accrued for any injury to person or property shall be forever barred from proceeding further thereon within this Commonwealth or elsewhere. The court shall excuse failure to comply with this requirement upon a showing of reasonable excuse for failure to file such statement.

(3) In the case of a civil action or proceeding against a government unit other than the Commonwealth government:

(i) The time for giving such written notice does not include the time during which an individual injured is unable, due to incapacitation or disability from the injury, to give notice, not exceeding 90 days of incapacity.

(ii) If the injuries to an individual result in death, the time for giving notice shall commence with such death.

(iii) Failure to comply with this subsection shall not be a bar if the government unit had actual or constructive notice of the incident or condition giving rise to the claim of a person.

(b) Commencement of action required.--The following actions and proceedings must be commenced within six months:

(1) An action against any officer of any government unit for anything done in the execution of his office, except an action subject to another limitation specified in this subchapter.

(2) A petition for the establishment of a deficiency judgment following execution and delivery of the sheriff's deed for the property sold in connection with the execution proceedings referenced in the provisions of section 8103(a) (relating to deficiency judgments).

(3) (Repealed).

(4) An action under section 4563(c) (relating to civil remedy available).

(5) An action or proceeding to set aside a judicial sale of property.

(6) A petition for redetermination of fair market value pursuant to section 8103(f.1)(4) following execution and delivery of the sheriff's deed for the property sold in connection with the execution proceedings referenced under section 8103.

(c) Exception.--This section shall not apply to any civil action or proceeding brought under section 8522(b)(10) (relating to exceptions to sovereign immunity) or 8542(b)(9) (relating to exceptions to governmental immunity).

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; July 9, 1992, P.L.507, No.97, eff. one year; Dec. 21, 1998, P.L.1082, No.144, eff. imd.; Nov. 24, 2004, P.L.1243, No.152, eff. 60 days; Mar. 14, 2014, P.L.46, No.20, eff. imd.; Nov. 26, 2019, P.L.641, No.87, eff. Nov. 26, 2019)

2019 Amendment. Act 87 added subsec. (c). See sections 9 and 10(3) of Act 87 in the appendix to this title for special provisions relating to severability and applicability.

2014 Amendment. Act 20 reenacted subsec. (b)(2) and (6), retroactive to January 24, 2005.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

1992 Repeal. Act 97 repealed subsec. (b)(3).

1982 Amendment. Act 326 amended subsecs. (a)(2) and (b). Section 403 of Act 326 provided that the amendments to Chapter 55 effected by Act 326 shall apply only to causes of action which accrue after the effective date of Act 326.

1980 Amendment. Act 142 added present section 5522 and repealed former section 5522 relating to the same subject matter. Section 221(i)(2) of Act 142 provided that, notwithstanding 1 Pa.C.S. § 1957 (relating to ineffective provisions not revived by reenactment in amendatory statutes), it is hereby declared to be the intent of paragraph (1) to restore 42 Pa.C.S. § 5522 to its status prior to the repeal effected by section 802(b) of the act of November 26, 1978, P.L.1399, No.330, known as the Political Subdivision Tort Claims Act, except as otherwise expressly provided by such section as reenacted and amended hereby.

Cross References. Section 5522 is referred to in section 8103 of this title.

§ 5523. One year limitation.

The following actions and proceedings must be commenced within one year:

(1) An action for libel, slander or invasion of privacy.

(2) An action upon a bond given as security by a party in any matter, except a bond given by a condemnor in an eminent domain proceeding.

(3) An action upon any payment or performance bond.

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

1982 Amendment. Section 403 of Act 326 provided that the amendments to Chapter 55 effected by Act 326 shall apply only to causes of action which accrue after the effective date of Act 326.

§ 5524. Two year limitation.

The following actions and proceedings must be commenced within two years:

(1) An action for assault, battery, false imprisonment, false arrest, malicious prosecution or malicious abuse of process.

(2) An action to recover damages for injuries to the person or for the death of an individual caused by the wrongful act or neglect or unlawful violence or negligence of another.

(3) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof.

(4) An action for waste or trespass of real property.

(5) An action upon a statute for a civil penalty or forfeiture.

(6) An action against any officer of any government unit for the nonpayment of money or the nondelivery of property collected upon on execution or otherwise in his possession.

(7) Any other action or proceeding to recover damages for injury to person or property which is founded on negligent, intentional, or otherwise tortious conduct or any other action or proceeding sounding in trespass, including deceit or fraud, except an action or proceeding subject to another limitation specified in this subchapter.

(8) An action to recover damages for injury to a person or for the death of a person caused by exposure to asbestos shall be commenced within two years from the date on which the person is informed by a licensed physician that the person has been injured by such exposure or upon the date on which the person knew or in the exercise of reasonable diligence should have known that the person had an injury which was caused by such exposure, whichever date occurs first.

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Dec. 17, 2001, P.L.904, No.101, eff. 60 days; Nov. 24, 2004, P.L.1243, No.152, eff. imd.)

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

Cross References. Section 5524 is referred to in section 1553 of Title 15 (Corporations and Unincorporated Associations).

§ 5524.1. Limitation and application for asbestos claims (Unconstitutional).

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 5525. Four year limitation.

(a) General rule.--Except as provided for in subsection (b), the following actions and proceedings must be commenced within four years:

(1) An action upon a contract, under seal or otherwise, for the sale, construction or furnishing of tangible personal property or fixtures.

(2) Any action subject to 13 Pa.C.S. § 2725 (relating to statute of limitations in contracts for sale).

(3) An action upon an express contract not founded upon an instrument in writing.

(4) An action upon a contract implied in law, except an action subject to another limitation specified in this subchapter.

(5) An action upon a judgment or decree of any court of the United States or of any state.

(6) An action upon any official bond of a public official, officer or employee.

(7) An action upon a negotiable or nonnegotiable bond, note or other similar instrument in writing. Where such an instrument is payable upon demand, the time within which an action on it must be commenced shall be computed from the later of either demand or any payment of principal of or interest on the instrument.

(8) An action upon a contract, obligation or liability founded upon a writing not specified in paragraph (7), under seal or otherwise, except an action subject to another limitation specified in this subchapter.

(b) Special provisions.--An action subject to section 8315 (relating to damages in actions for identity theft) must be commenced within four years of the date of the offense or four years from the date of the discovery of the identity theft by the plaintiff.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; June 19, 2002, P.L.430, No.62, eff. 60 days)

Cross References. Section 5525 is referred to in section 5529 of this title.

§ 5526. Five year limitation.

The following actions and proceedings must be commenced within five years:

(1) An action for revival of a judgment lien on real property.

(2) An action for specific performance of a contract for sale of real property or for damages for noncompliance therewith.

(3) An action to enforce any equity of redemption or any implied or resulting trust as to real property.

(4) (Deleted by amendment).

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; May 4, 2006, P.L.112, No.34, eff. 120 days)

2006 Amendment. Act 34 deleted par. (4). Section 6(1) of Act 34 provided that Act 34 shall apply to all condemnations effected on or after the effective date of section 6. Section (6)(3) of Act 34 provided that the amendment of par. (4) shall apply only to causes of action which accrue after the effective date of section 6.

§ 5527. Six year limitation.

(a) Eminent domain.--

(1) (i) If a condemnor has filed a declaration of taking, a petition for the appointment of viewers for

the assessment of damages under 26 Pa.C.S. (relating to eminent domain) must be filed within six years from the date on which the condemnor first made payment in accordance with 26 Pa.C.S. § 307(a) or (b) (relating to possession, right of entry and payment of compensation).

(ii) If payment is not required to be made under 26 Pa.C.S. § 307(a) to obtain possession, a petition for the appointment of viewers must be filed within six years of the filing of the declaration of taking.

(2) If the condemnor has not filed a declaration of taking, a petition for the appointment of viewers for the assessment of damages under 26 Pa.C.S. must be filed within six years from the date on which the asserted taking, injury or destruction of the property occurred or could reasonably have been discovered by the condemnee.

(b) Other civil action or proceeding.--Any civil action or proceeding which is neither subject to another limitation specified in this subchapter nor excluded from the application of a period of limitation by section 5531 (relating to no limitation) must be commenced within six years.

(Dec. 5, 1980, P.L.1104, No.189, eff. imd.; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; May 4, 2006, P.L.112, No.34, eff. 120 days)

2006 Amendment. Section 6(1) of Act 34 provided that Act 34 shall apply to all condemnations effected on or after the effective date of section 6. Section (6)(3) of Act 34 provided that the amendment of section 5527 shall apply only to causes of action which accrue after the effective date of section 6.

Cross References. Section 5527 is referred to in section 5527.2 of this title.

§ 5527.1. Ten year limitation.

(a) Adverse possession.--Title to real property may be acquired after no less than 10 years of actual, continuous, exclusive, visible, notorious, distinct and hostile possession of the real property.

(b) Contiguous lots.--

(1) Where an additional lot abuts and is contiguous to real property and has been regularly used as part of and incident to the real property, a possessor who seeks to acquire title to real property under this section may also include the contiguous lot in the action to quiet title under subsection (c).

(2) In order to acquire title to the contiguous lot, the possessor must show that:

(i) The area of the contiguous lot as described by the metes and bounds does not exceed a total area of one-half acre when combined with the real property.

(ii) The possessor has made actual, continuous, exclusive, visible, notorious, distinct and hostile possession of the contiguous lot for a period of not less than 10 years.

(c) Quiet title action required.--

(1) A possessor who seeks to acquire title to real property under this section must, after meeting the requirements of subsections (a) and (b), commence a quiet title action and provide notice as required in this section.

(2) Notice of the action shall include information relating to the respondent's opportunity to cure as specified in subsection (d) and shall be provided to the record owners, their heirs, successors and assigns.

(3) Notice shall be provided in a form approved by rule of the Pennsylvania Supreme Court, which form shall include the metes and bounds description, deed reference, street address, postal zip code, uniform parcel identifier or tax parcel number and the notices of the one-year period to cure as stated in subsection (d).

(d) One-year notice.--

(1) The record owners or their heirs, successors and assigns shall have one year in which to respond by commencing an action in ejectment against the possessor, which action disputes the claim of adverse possession.

(2) (i) If an action in ejectment is so filed and served in accordance with the requirements of this section and the verdict and judgment in the ejectment action are rendered in favor of the record owners, or their heirs, successors and assigns, then both the 10-year statute of limitations set forth in this section and the 21-year statute of limitations set forth in section 5530 (relating to twenty-one year limitation) are tolled, and the court shall render a judgment in favor of the record owners, or their heirs, successors and assigns, disposing of the quiet title action.

(ii) The period for running the statute of limitations for any subsequent claim seeking title by adverse possession under this section or section 5530 shall commence at a date not earlier than the date of the judgment granting the relief requested in the ejectment action.

(3) If no action in ejectment is so filed and served within the one-year period, then judgment may be entered by the court granting title to the real property by adverse possession under this section and the Pennsylvania Rules of Civil Procedure.

(4) A judgment granting title by adverse possession under this section shall not, in and of itself:

(i) discharge, terminate or give rise to a presumption of satisfaction or release of any interest in the property that runs with title to the property, including, but not limited to, easements, profits, covenants, mortgages, liens, judgments and leases;

(ii) otherwise extend or limit the period of time in which claims relating to the property may be asserted against a possessor granted title by a judgment of adverse possession; or

(iii) supersede any applicable provision of law, including, but not limited to, the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, or a zoning code of a city of the first class or city of the second class as the case may be, and any subdivision or land use ordinance, to the extent applicable, then in effect in the jurisdiction where the subject property is located. Nothing contained in this section shall limit the otherwise applicable jurisdiction of any zoning officer, zoning hearing board, zoning board of adjustment or governing body with respect to the subject property.

(e) Limitations.--This section shall not apply to real property that is part of a common interest ownership community established under 68 Pa.C.S. Pt. II Subpts. B (relating to condominiums), C (relating to cooperatives) and D (relating to planned communities).

(f) Nonapplicability.--This section shall not apply to real property that is:

(1) part of a common interest ownership community established under 68 Pa.C.S. Pt. II Subpt. B, C or D; or

(2) owned by the United States, the Commonwealth, a local government, or any agency, authority or other unit of the United States, the Commonwealth or local government, including, but not limited to, a redevelopment authority, municipal authority and school district or joint agency or authority of the United States, the Commonwealth or local government unit.

(g) Nonexclusive remedy.--The relief available under this section is intended to be cumulative and not exclusive of any other rights or remedies that may be available under law or equity, including, but not limited to, the determination of title to a decedent's interest in real estate under 20 Pa.C.S. § 3546 (relating to determination of title to decedent's interest in real estate).

(h) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Real property." Real estate not exceeding one-half acre in area that is:

(1) Improved by a single-family dwelling that is and has been occupied by a possessor seeking title under this section for the full 10 years.

(2) Identified as a separate lot in a recorded conveyance, recorded subdivision plan or recorded official map or plan of a municipality.

"Single-family dwelling." A residence designed for occupancy by one household, whether detached from or attached to other structures.

(June 19, 2018, P.L.223, No.34, eff. one year)

2018 Amendment. Act 34 added section 5527.1.

Cross References. Section 5527.1 is referred to in sections 5527.2, 5527.3, 5530 of this title.

§ 5527.2. Mesne profits.

(a) General rule.--Record owners, their heirs, successors and assigns shall have the right to seek any mesne profits in an action in ejectment filed in response to the notice served under section 5527.1 (relating to ten year limitation) or waive the right to such recovery.

(b) Limitation on recovery.--Recovery shall be limited to the mesne profits applicable to the six-year period ending with the commencement of the action in ejectment under section 5527(b) (relating to six year limitation).

(June 19, 2018, P.L.223, No.34, eff. one year)

2018 Amendment. Act 34 added section 5527.2.

§ 5527.3. Reimbursement.

The defendant in the ejectment action under section 5527.1 (relating to ten year limitation) shall have the right to recover such costs for maintenance, improvements, repairs, renovations, taxes or other such expenses to benefit the real property as the defendant can prove by a preponderance of the evidence that were or should have been the responsibility of the record owners, their heirs, successors and assigns.

(June 19, 2018, P.L.223, No.34, eff. one year)

2018 Amendment. Act 34 added section 5527.3.

§ 5528. Fifteen year limitation.

Except as otherwise provided by section 17 (relating to periods of limitation) of the act of August 9, 1971 (P.L.286, No.74), known as the "Disposition of Abandoned and Unclaimed Property Act," an action for escheat, or for payment into the State Treasury without escheat, must be commenced within 15 years after the property sought in such action shall have first escheated or become escheatable or payable into the State Treasury under any statute.

References in Text. The act of August 9, 1971, P.L.286, No.74, known as the Disposition of Abandoned and Unclaimed Property Act, referred to in this section, was repealed by the act of December 9, 1982, P.L.1057, No.248. The subject matter is now contained in Article XIII.1 of the act of April 9, 1929, P.L.343, No.176, known as The Fiscal Code.

§ 5529. Twenty year limitation.

(a) Execution against personal property.--An execution against personal property must be issued within 20 years after the entry of the judgment upon which the execution is to be issued.

(b) Instruments under seal.--

(1) Notwithstanding section 5525(7) (relating to four year limitation), an action upon an instrument in writing under seal must be commenced within 20 years.

(2) (Deleted by amendment).

(Dec. 5, 1980, P.L.1104, No.189, eff. imd.; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; June 18, 1998, P.L.536, No.77, eff. imd.; June 25, 2018, P.L.348, No.46, eff. imd.)

2018 Amendment. Act 46 deleted subsec. (b)(2).

1982 Amendment. Section 403 of Act 326 provided that the amendments to Chapter 55 effected by Act 326 shall apply only to causes of action which accrue after the effective date of Act 326.

§ 5530. Twenty-one year limitation.

(a) General rule.--The following actions and proceedings must be commenced within 21 years:

(1) Except as provided in section 5527.1 (relating to ten year limitation), an action for the possession of real property.

(2) An action for the payment of any ground rent, annuity or other charge upon real property, or any part or portion thereof. If this paragraph shall operate to bar any payment of such a rent, annuity or charge, the rent, annuity or charge to which the payment relates shall be extinguished and no further action may be commenced with respect to subsequent payments.

(3) (Deleted by amendment).

(b) Entry upon land.--No entry upon real property shall toll the running of the period of limitation specified in subsection (a)(1), unless a possessory action shall be commenced therefor within one year after entry. Such an entry and commencement of a possessory action, without recovery therein, shall not toll the running of such period of limitation in respect of another possessory action, unless such other possessory action is commenced within one year after the termination of the first.

(May 4, 2006, P.L.112, No.34, eff. 120 days; June 19, 2018, P.L.223, No.34, eff. one year)

2018 Amendment. Act 34 amended subsec. (a)(1).

2006 Amendment. Act 34 deleted subsec. (a)(3). Section 6(1) of Act 34 provided that Act 34 shall apply to all condemnations effected on or after the effective date of section 6. Section (6)(3) of Act 34 provided that the amendment of subsec. (a)(3) shall apply only to causes of action which accrue after the effective date of section 6.

Cross References. Section 5530 is referred to in section 5527.1 of this title.

§ 5531. No limitation.

The following actions and proceedings may be commenced at any time notwithstanding any other provision of this subchapter except section 5521 (relating to limitations on foreign claims):

(1) An action against an attorney at law by or on behalf of a client to enforce any implied or resulting trust as to real property.

(2) An action by the Commonwealth, a county or an institution district against the real or personal property of persons who were public charges, including mental patients, to recover the cost of their maintenance and support.

(3) An action by the Commonwealth, a county or an institution district against the real or personal property of persons who were legally liable to pay for the maintenance and support of persons who were public charges, including mental patients, to recover the cost of their maintenance and support.

Cross References. Section 5531 is referred to in section 5527 of this title.

§ 5532. Absence or concealment.

(a) General rule.--If, when a cause of action accrues against a person, he is without this Commonwealth, the time within which the action or proceeding must be commenced shall be computed from the time he comes into or returns to this Commonwealth. If, after a cause of action has accrued against a person, he departs from this Commonwealth and remains continuously absent therefrom for four months or more, or he resides within this Commonwealth under a false name which is unknown to the person entitled to commence the action or proceeding, the time of his absence or residence within this Commonwealth under such a false name is not a part of the time within which the action or proceeding must be commenced.

(b) Exception.--Subsection (a) does not apply in any of the following cases:

(1) While there is in force a designation, voluntary or involuntary, made pursuant to law, of a person to whom process may be delivered within this Commonwealth with the same effect as if served personally within this Commonwealth.

(2) While a foreign corporation has one or more officers or other persons in this Commonwealth on whom process against such corporation may be served.

(3) While jurisdiction over the person of the defendant can be obtained without personal delivery of process to him within this Commonwealth.

(c) Fraudulent concealment.--In the case of a civil action or proceeding against the trustee of an express or implied trust, the time within which such an action or proceeding by or on behalf of a beneficiary on account of fraud must be commenced shall be computed from the discovery of the fraud, or when, by reasonable diligence, the person defrauded might have discovered the fraud. This subsection shall not prevent a

bona fide purchaser for value from pleading the applicable statute of limitations.

§ 5533. Infancy, insanity or imprisonment.

(a) General rule.--Except as otherwise provided by statute, insanity or imprisonment does not extend the time limited by this subchapter for the commencement of a matter.

(b) Infancy.--

(1) (i) If an individual entitled to bring a civil action is an unemancipated minor at the time the cause of action accrues, the period of minority shall not be deemed a portion of the time period within which the action must be commenced. Such person shall have the same time for commencing an action after attaining majority as is allowed to others by the provisions of this subchapter.

(ii) As used in this paragraph, the term "minor" shall mean any individual who has not yet attained 18 years of age.

(2) (i) If an individual entitled to bring a civil action arising from sexual abuse is under 18 years of age at the time the cause of action accrues, the individual shall have a period of 37 years after attaining 18 years of age in which to commence an action for damages regardless of whether the individual files a criminal complaint regarding the sexual abuse.

(i.1) If an individual entitled to bring a civil action arising from sexual abuse is at least 18 and less than 24 years of age at the time the cause of action occurs, the individual shall have until attaining 30 years of age to commence an action for damages regardless of whether the individual files a criminal complaint regarding the sexual abuse.

(ii) For the purposes of this paragraph, the term "sexual abuse" shall include, but not be limited to, the following sexual activities between an individual who is 23 years of age or younger and an adult, provided that the individual bringing the civil action engaged in such activities as a result of forcible compulsion or by threat of forcible compulsion which would prevent resistance by a person of reasonable resolution:

(A) sexual intercourse, which includes penetration, however slight, of any body part or object into the sex organ of another;

(B) deviate sexual intercourse, which includes sexual intercourse per os or per anus; and

(C) indecent contact, which includes any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire in either person.

(iii) For purposes of this paragraph, "forcible compulsion" shall have the meaning given to it in 18 Pa.C.S. § 3101 (relating to definitions).

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; May 30, 1984, P.L.337, No.67, eff. 30 days; June 28, 2002, P.L.518, No.86, eff. 60 days; Nov. 26, 2019, P.L.641, No.87, eff. Nov. 26, 2019)

2019 Amendment. Act 87 amended subsec. (b)(2). See sections 9 and 10(1) and (2) of Act 87 in the appendix to this title for special provisions relating to severability and applicability.

2002 Amendment. Act 86 amended subsec. (b). Section 3 of Act 86 provided that the amendment of subsec. (b) shall not be

applied to revive an action which has been barred by an existing statute of limitations on the effective date of Act 86.

§ 5534. War.

(a) Cause of action accruing in foreign country.--Where a cause of action, whether originally accrued in favor of a resident or nonresident of this Commonwealth, accrued in a foreign country with which the United States or any of its allies were then or subsequently at war, or territory then or subsequently occupied by the government of such foreign country, the time which elapsed between the commencement of the war, or of such occupation, and the termination of hostilities with such country, or of such occupation, is not a part of the time within which the civil action or proceeding must be commenced, notwithstanding any other provision of this subchapter.

(b) Alien a party.--Where a person is unable to commence an action or proceeding within this Commonwealth because any party is an alien subject or citizen of a foreign country at war with the United States or any of its allies, whether the cause of action accrued during or prior to the war, the time which elapsed between the commencement of the war and the termination of hostilities with such country is not a part of the time within which the civil action or proceeding must be commenced, notwithstanding any other provision of this subchapter.

(c) Nonenemy in enemy country or enemy-occupied territory.--Where a person entitled to commence an action or proceeding, other than a person entitled to the benefits of subsection (b), is a resident of, or a sojourner in, a foreign country with which the United States or any of its allies are at war, or territory occupied by the government of such foreign country, the period of such residence or sojourn during which the war continues or the territory is so occupied is not a part of the time within which the civil action or proceeding must be commenced, notwithstanding any other provision of this subchapter.

§ 5535. Effect of other actions and proceedings.

(a) Termination of prior matter.--

(1) If a civil action or proceeding is timely commenced and is terminated, a party, or his successor in interest, may, notwithstanding any other provision of this subchapter, commence a new action or proceeding upon the same cause of action within one year after the termination and any other party may interpose any defense or claim which might have been interposed in the original action or proceeding.

(2) Paragraph (1) does not apply to:

(i) An action to recover damages for injury to the person or for the death of an individual caused by the wrongful act or neglect or unlawful violence or negligence of another.

(ii) An action or proceeding terminated by a voluntary nonsuit, a discontinuance, a dismissal for neglect to prosecute the action or proceeding, or a final judgment upon the merits.

(b) Stay of matter.--Where the commencement of a civil action or proceeding has been stayed by a court or by statutory prohibition, the duration of the stay is not a part of the time within which the action or proceeding must be commenced.

(c) Arbitration.--Where it shall have been finally determined by a court that a party is not obligated to submit a claim to arbitration, the time which elapsed between the demand for arbitration and the final determination by a court that there is no obligation to arbitrate is not a part of the

time within which a civil action or proceeding upon such claim must be commenced. The time within which the action or proceeding must be commenced shall not be extended by this subsection beyond one year after such final determination by a court.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

1980 Amendment. Act 142 amended subsec. (c).
1978 Amendment. Act 53 amended subsec. (a).
Cross References. Section 5535 is referred to in section 5103 of this title.

§ 5536. Construction projects.

(a) General rule.--Except as provided in subsection (b), a civil action or proceeding brought against any person lawfully performing or furnishing the design, planning, supervision or observation of construction, or construction of any improvement to real property must be commenced within 12 years after completion of construction of such improvement to recover damages for:

(1) Any deficiency in the design, planning, supervision or observation of construction or construction of the improvement.

(2) Injury to property, real or personal, arising out of any such deficiency.

(3) Injury to the person or for wrongful death arising out of any such deficiency.

(4) Contribution or indemnity for damages sustained on account of any injury mentioned in paragraph (2) or (3).

(b) Exceptions.--

(1) If an injury or wrongful death shall occur more than ten and within 12 years after completion of the improvement a civil action or proceeding within the scope of subsection (a) may be commenced within the time otherwise limited by this subchapter, but not later than 14 years after completion of construction of such improvement.

(2) The limitation prescribed by subsection (a) shall not be asserted by way of defense by any person in actual possession or control, as owner, tenant or otherwise, of such an improvement at the time any deficiency in such an improvement constitutes the proximate cause of the injury or wrongful death for which it is proposed to commence an action or proceeding.

(c) No extension of limitations.--This section shall not extend the period within which any civil action or proceeding may be commenced under any provision of law.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsecs. (a) and (b).

§ 5537. Land surveying.

All actions to recover any or all damages against any person engaged in the practice of land surveying occurring as the result of any deficiency, defect, omission, error or miscalculation shall be commenced within 12 years from the time the services are performed. Any such action not commenced within this 12-year period shall be forever barred. The cause of action in such cases shall accrue when the services are performed. Furthermore, any action shall be commenced within four years from the time that such cause of action was discovered, but no later than during this 12-year limitation period. In any event, no action shall be commenced after the 12 years from the time that the services are performed. The term "practice of land

surveying" shall be the same as defined under the act of May 23, 1945 (P.L.913, No.367), known as the Engineer, Land Surveyor and Geologist Registration Law.
(June 30, 1988, P.L.464, No.79, eff. imd.; July 7, 2006, P.L.348, No.72, eff. 60 days)

§ 5538. Landscape architecture.

(a) General rule.--All actions to recover any or all damages against any person engaged in the practice of landscape architecture occurring as the result of any deficiency, defect, omission, error or miscalculation shall be commenced within 12 years from the time the services are performed. Any such action not commenced within this 12-year period shall be forever barred. The cause of action shall accrue upon substantial completion of the project. Nothing in this section shall be construed as extending the period prescribed by the laws of this Commonwealth for the bringing of any action. The term "practice of landscape architecture" shall be the same as defined in the act of January 24, 1966 (1965 P.L.1527, No.535), known as the Landscape Architects' Registration Law.

(b) Exception.--The limitation prescribed by subsection (a) shall not be asserted by way of defense by any person in actual possession or control, as owner, tenant or otherwise, of such an improvement at the time any deficiency in such an improvement constitutes the proximate cause of the injury or wrongful death for which it is proposed to commence an action or proceeding.
(June 30, 1988, P.L.464, No.79, eff. imd.)

1988 Amendment. Act 79 added section 5538.

§ 5539. Real estate appraisals.

(a) General rule.--Except as provided under subsection (b), an action to recover damages against a real estate appraiser arising out of the appraiser's real estate appraisal activity shall be brought within five years after the date the appraisal was conducted.

(b) Exception.--An action to recover damages against a real estate appraiser under subsection (a) may be filed more than five years after the date the appraisal was conducted if:

(1) there is evidence of fraud or intentional misrepresentation on the part of the real estate appraiser; or

(2) the appraisal was performed for a consumer as part of the purchase or sale of single-family residential real property not involving a lender.

(Dec. 22, 2021, P.L.452, No.93, eff. 60 days)

2021 Amendment. Act 93 added section 5539. Section 2 of Act 93 provided that the five-year period of repose under section 5539 shall not apply to a cause of action which has accrued on or before the effective date of section 2.

SUBCHAPTER C
CRIMINAL PROCEEDINGS

Sec.

5551. No limitation applicable.
5552. Other offenses.
5553. Summary offenses involving vehicles.
5554. Tolling of statute.

Prior Crimes and Offenses. Section 25(c) of Act 142 of 1976 provided that the period of limitations specified in Act 142

with respect to crimes and offenses shall not apply to crimes and offenses committed before the effective date of Title 18 (Crimes and Offenses) and the prior statutes of limitation are hereby continued in force as to such crimes and offenses.

Cross References. Subchapter C is referred to in section 7507.1 of Title 18 (Crimes and Offenses).

§ 5551. No limitation applicable.

A prosecution for the following offenses may be commenced at any time:

(1) Murder.

(2) Voluntary manslaughter.

(3) Conspiracy to commit murder or solicitation to commit murder if a murder results from the conspiracy or solicitation.

(4) Any felony alleged to have been perpetrated in connection with a murder of the first or second degree, as set forth in 18 Pa.C.S. § 2502(a) or (b) and (d) (relating to murder).

(5) A violation of 75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury) or 3732 (relating to homicide by vehicle) if the accused was the driver of a vehicle involved in an accident resulting in the death of any person.

(6) A violation of 18 Pa.C.S. § 2702(a)(1), (2), (4) or (7) (relating to aggravated assault) if the accused knew the victim was a law enforcement officer and the law enforcement officer was acting within the scope of the officer's duties.

(7) An offense under any of the following provisions of 18 Pa.C.S. (relating to crimes and offenses), or a conspiracy or solicitation to commit an offense under any of the following provisions of 18 Pa.C.S. if the offense results from the conspiracy or solicitation, if the victim was under 18 years of age at the time of the offense:

Section 3011(b) (relating to trafficking in individuals).

Section 3012 (relating to involuntary servitude) as it relates to sexual servitude.

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3124.2 (relating to institutional sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 4302 (relating to incest).

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 14, 1984, P.L.986, No.199, eff. 60 days; Dec. 19, 1984, P.L.1089, No.218, eff. imd.; Apr. 5, 1990, P.L.113, No.27, eff. 60 days; July 17, 2007, P.L.123, No.37, eff. 60 days; Nov. 26, 2019, P.L.641, No.87, eff. Nov. 26, 2019)

2019 Amendment. Act 87 added par. (7). See sections 9 and 10(1) of Act 87 in the appendix to this title for special provisions relating to severability and applicability.

2007 Amendment. Act 37 amended the entire section. Section 5 of Act 37 provided that the addition of par. (6) which provides for a new statute of limitations for certain violations of 18 Pa.C.S. § 2702(a)(1), (2), (4) or (7) shall apply to such

aggravated assaults committed after the effective date of section 5.

Cross References. Section 5551 is referred to in sections 5552, 8522, 8542 of this title.

§ 5552. Other offenses.

(a) General rule.--Except as otherwise provided in this subchapter, a prosecution for an offense must be commenced within two years after it is committed.

(b) Major offenses.--A prosecution for any of the following offenses must be commenced within five years after it is committed:

(1) Under the following provisions of Title 18 (relating to crimes and offenses):

Section 901 (relating to criminal attempt) involving attempt to commit murder where no murder occurs.

Section 902 (relating to criminal solicitation) involving solicitation to commit murder where no murder occurs.

Section 903 (relating to criminal conspiracy) involving conspiracy to commit murder where no murder occurs.

Section 911 (relating to corrupt organizations).

Section 2702 (relating to aggravated assault).

Section 2706 (relating to terroristic threats).

Section 2713 (relating to neglect of care-dependent person).

Section 2901 (relating to kidnapping).

Section 3301 (relating to arson and related offenses).

Section 3502 (relating to burglary).

Section 3701 (relating to robbery).

Section 3921 (relating to theft by unlawful taking or disposition) through section 3933 (relating to unlawful use of computer).

Section 4101 (relating to forgery).

Section 4107 (relating to deceptive or fraudulent business practices).

Section 4108 (relating to commercial bribery and breach of duty to act disinterestedly).

Section 4109 (relating to rigging publicly exhibited contest).

Section 4117 (relating to insurance fraud).

Section 4701 (relating to bribery in official and political matters) through section 4703 (relating to retaliation for past official action).

Section 4902 (relating to perjury) through section 4912 (relating to impersonating a public servant).

Section 4952 (relating to intimidation of witnesses or victims).

Section 4953 (relating to retaliation against witness, victim or party).

Section 5101 (relating to obstructing administration of law or other governmental function).

Section 5111 (relating to dealing in proceeds of unlawful activities).

Section 5512 (relating to lotteries, etc.) through section 5514 (relating to pool selling and bookmaking).

Section 5902(b) (relating to prostitution and related offenses).

Section 6111(g)(2) and (4) (relating to sale or transfer of firearms).

(2) Any offense punishable under section 13(f) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(3) Any conspiracy to commit any of the offenses set forth in paragraphs (1) and (2) and any solicitation to commit any of the offenses in paragraphs (1) and (2) if the solicitation results in the completed offense.

(4) Under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

(5) Under the act of November 24, 1998 (P.L.874, No.110), known as the Motor Vehicle Chop Shop and Illegally Obtained and Altered Property Act.

(b.1) Major sexual offenses.--Except as provided in section 5551(7) (relating to no limitation applicable), a prosecution for any of the following offenses under Title 18 must be commenced within 12 years after it is committed:

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3124.2 (relating to institutional sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 4302 (relating to incest).

Section 6312 (relating to sexual abuse of children).

(c) Exceptions.--If the period prescribed in subsection (a), (b) or (b.1) has expired, a prosecution may nevertheless be commenced for:

(1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself not a party to the offense, but in no case shall this paragraph extend the period of limitation otherwise applicable by more than three years.

(2) Any offense committed by a public officer or employee in the course of or in connection with his office or employment at any time when the defendant is in public office or employment or within five years thereafter, but in no case shall this paragraph extend the period of limitation otherwise applicable by more than eight years.

(3) Any sexual offense committed against a minor who is less than 18 years of age any time up to the later of the period of limitation provided by law after the minor has reached 18 years of age or the date the minor reaches 55 years of age. As used in this paragraph, the term "sexual offense" means a crime under the following provisions of Title 18 or a conspiracy or solicitation to commit an offense under any of the following provisions of Title 18 if the offense results from the conspiracy or solicitation:

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 4304 (relating to endangering welfare of children).

Section 6301 (relating to corruption of minors).

Section 6312(b) (relating to sexual abuse of children).

Section 6320 (relating to sexual exploitation of children).

(3.1) Any sexual offense committed against an individual who is 23 years of age or younger any time up to the later

of the period of limitation provided by law after the individual has reached 24 years of age or 20 years after the date of the offense. As used in this paragraph, the term "sexual offense" means a crime under the following provisions of Title 18 or a conspiracy or solicitation to commit an offense under any of the following provisions of Title 18 if the offense results from the conspiracy or solicitation:

Section 3011(a) (relating to trafficking in individuals) as it relates to sexual servitude.

Section 3012 (relating to involuntary servitude) as it relates to sexual servitude.

Section 3121(a) and (b).

Section 3123(a).

Section 3124.1.

Section 3124.2(a) and (b).

Section 3125(a).

Section 3126.

Section 3127.

Section 4302(a).

(4) An offense in violation of 18 Pa.C.S. § 6111(c) or (g), within one year of its discovery by State or local law enforcement, but in no case shall this paragraph extend the period of limitation otherwise applicable by more than eight years.

(5) An offense under 18 Pa.C.S. § 3011 or 3012 in which the victim of human trafficking was not a minor any time up to ten years from the date of the last offense under this paragraph committed against the victim.

(6) An offense under 18 Pa.C.S. § 3012 involving labor servitude while the victim was a minor any time up to ten years after the victim reaches 18 years of age.

(c.1) Genetic identification evidence.--Notwithstanding any provision of law to the contrary, if evidence of a misdemeanor sexual offense set forth in subsection (c)(3) or (3.1) or a felony offense is obtained containing human deoxyribonucleic acid (DNA) which is subsequently used to identify an otherwise unidentified individual as the perpetrator of the offense, the prosecution of the offense may be commenced within the period of limitations provided for the offense or one year after the identity of the individual is determined, whichever is later.

(d) Commission of offense.--An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the complicity of the defendant therein is terminated. Time starts to run on the day after the offense is committed.

(e) Commencement of prosecution.--Except as otherwise provided by general rule adopted pursuant to section 5503 (relating to commencement of matters), a prosecution is commenced either when an indictment is found or an information under section 8931(b) (relating to indictment and information) is issued, or when a warrant, summons or citation is issued, if such warrant, summons or citation is executed without unreasonable delay.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 4, 1978, P.L.873, No.168, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; May 13, 1982, P.L.417, No.122, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Dec. 14, 1984, P.L.986, No.199, eff. 60 days; Dec. 19, 1984, P.L.1089, No.218, eff. imd.; Dec. 19, 1990, P.L.1341, No.208, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; Mar. 29, 1996, P.L.51, No.17, eff. 60 days; Dec. 21, 1998, P.L.1086,

No.145, eff. 60 days; Dec. 20, 2000, P.L.976, No.136, eff. imd.; Nov. 21, 2001, P.L.844, No.86, eff. 60 days; June 28, 2002, P.L.518, No.86, eff. 60 days; Nov. 30, 2004, P.L.1428, No.185, eff. imd.; July 7, 2006, P.L.378, No.81, eff. 7 days; Nov. 29, 2006, P.L.1581, No.179, eff. 60 days; Oct. 17, 2008, P.L.1628, No.131, eff. 60 days; July 2, 2014, P.L.945, No.105, eff. 60 days; Nov. 26, 2019, P.L.641, No.87, eff. Nov. 26, 2019)

2019 Amendment. Act 87 amended subsecs. (b.1), (c)(3) and (c.1) and added subsec. (c)(3.1). See sections 9 and 10(1) of Act 87 in the appendix to this title for special provisions relating to severability and applicability.

2014 Amendment. Act 105 amended subsec. (c)(3) and added subsec. (c)(5) and (6).

2008 Amendment. Act 131 amended subsec. (b)(1) and added subsec. (c)(4).

2006 Amendments. Act 81 amended subsec. (b.1) and Act 179 amended subsec. (c)(3). Section 5 of Act 81 provided that Act 81 shall apply to all actions instituted on or after the effective date of Act 81.

2004 Amendment. Act 185 added subsec. (c.1).

2002 Amendment. Act 86 amended subsecs. (b)(1) and (c) and added subsec. (b.1).

2001 Amendment. Act 86 amended subsec. (b).

1984 Amendments. Acts 199 and 218 amended subsecs. (a) and (b). The amendments by Acts 199 and 218 are identical.

References in Text. Section 3933 of Title 18 (Crimes and Offenses) is repealed. The subject matter is now contained in section 7611 of Title 18.

Sections 4907 and 4908 of Title 18 are repealed.

The act of November 24, 1998, P.L.874, No.110, known as the Motor Vehicle Chop Shop and Illegally Obtained and Altered Property Act, referred to in par. (7), was repealed by the act of October 25, 2012, P.L.1645, No.203. The subject matter is now contained in Chapter 77 of Title 18.

The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (b), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Cross References. Section 5552 is referred to in section 903 of Title 18 (Crimes and Offenses).

§ 5553. Summary offenses involving vehicles.

(a) General rule.--Except as provided in subsection (b) or (c), proceedings for summary offenses under Title 75 (relating to vehicles) must be commenced within 30 days after the commission of the alleged offense or within 30 days after the discovery of the commission of the offense or the identity of the offender, whichever is later, and not thereafter.

(b) Minor offenses.--(Deleted by amendment).

(c) Exceptions.--

(1) Where proceedings are timely commenced against a person reasonably believed to have committed the summary offense or offenses charged and it subsequently appears that a person other than the person charged is the offender, proceedings may be commenced against the other person within 30 days after the identity of the person is discovered and not thereafter.

(2) Proceedings for summary offenses under Title 75 may be commenced within 365 days after the commission of the offense, the discovery of the commission of the offense or the discovery of the identity of the offender, whichever is

later, and not thereafter if the offense involved an accident resulting in the bodily injury or death of any person.

(3) Where a police officer reasonably believes that there are multiple summary offenses arising out of the same conduct or the same criminal episode and that an offense under 75 Pa.C.S. § 1543 (relating to driving while operating privilege is suspended or revoked) has occurred, proceedings on all summary offenses arising from the conduct or episode may be commenced at the same time and must be commenced within 30 days after the commission of the alleged offenses or within 30 days after the discovery of the commission of the offenses or the identity of the offender or within 30 days after the police officer receives verification of the basis for the suspension from the Department of Transportation as required under 75 Pa.C.S. § 1543(d), whichever is later, and not thereafter.

(d) Local ordinances on overtime parking.--Local ordinances pertaining to overtime parking shall be subject to the provisions of this section.

(e) Disposition of proceedings within three years.--No proceedings shall be held or action taken pursuant to a summary offense under Title 75 subsequent to three years after the commission of the offense.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; June 15, 1982, P.L.512, No.141, eff. 60 days; Nov. 29, 2004, P.L.1325, No.166, eff. 60 days; Nov. 29, 2004, P.L.1364, No.176, eff. imd.)

2004 Amendments. Act 166 amended subsecs. (c) and (e) and Act 176 amended subsecs. (a) and (c) and deleted subsec. (b). Act 176 overlooked the amendment by Act 166, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 5553.

Cross References. Section 5553 is referred to in section 5554 of this title.

§ 5554. Tolling of statute.

Except as provided by section 5553(e) (relating to disposition of proceedings within two years), the period of limitation does not run during any time when:

(1) the accused is continuously absent from this Commonwealth or has no reasonably ascertainable place of abode or work within this Commonwealth;

(2) a prosecution against the accused for the same conduct is pending in this Commonwealth; or

(3) a child is under 18 years of age, where the crime involves injuries to the person of the child caused by the wrongful act, or neglect, or unlawful violence, or negligence of the child's parents or by a person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; July 10, 1985, P.L.193, No.49, eff. 60 days)

SUBCHAPTER D
APPEALS

Sec.

5571. Appeals generally.
5571.1. Appeals from ordinances, resolutions, maps, etc.
5572. Time of entry of order.
5573. Effect of application for rehearing.

5574. Effect of application for amendment to qualify for interlocutory appeal.

Cross References. Subchapter D is referred to in section 1722 of this title.

§ 5571. Appeals generally.

(a) General rule.--The time for filing an appeal, a petition for allowance of appeal, a petition for permission to appeal or a petition for review of a quasi-judicial order, in the Supreme Court, the Superior Court or the Commonwealth Court shall be governed by general rules. No other provision of this subchapter shall be applicable to matters subject to this subsection.

(b) Other courts.--Except as otherwise provided in subsections (a) and (c) and in section 5571.1 (relating to appeals from ordinances, resolutions, maps, etc.), an appeal from a tribunal or other government unit to a court or from a court to an appellate court must be commenced within 30 days after the entry of the order from which the appeal is taken, in the case of an interlocutory or final order.

(c) Exceptions.--

(1) Election cases.--The time for appeal from an order in any matter arising under the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code," or any other statute relating to registration or elections shall, if such statutes provide for a lesser time for appeal, be governed by the appropriate provision of such statutes.

(2) Financing cases.--The time for appeal from an order in any matter arising under the act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act," or any other statute relating to the incurring of debt by a government unit, shall if such statutes provide for a lesser time for appeal, be governed by the appropriate provision of such statutes.

(3) Probate matters.--The time for appeal from an order of a register of wills under Title 20 (relating to decedents, estates and fiduciaries) shall, if such statute provides a greater time for appeal, be governed by the appropriate provision of such statute.

(4) Execution matters.--The time for appeal from an order of any system or related personnel entered in connection with enforcement of attachments, judgments or similar process or orders shall be governed by general rule.

(5) (Deleted by amendment).

(6) Implied determinations.--When pursuant to law a determination is deemed to have been made by reason of the expiration of a specified period of time after submission of a matter to a tribunal or other government unit or after another prior event, any person affected may treat the expiration of such period as equivalent to the entry of an order for purposes of appeal and any person affected shall so treat the expiration of the period where the person has actual knowledge (other than knowledge of the mere lapse of time) that an implied determination has occurred.

(d) Interlocutory appeals.--A petition for permission to appeal from an interlocutory order must be filed within 30 days after its entry.

(e) Action following grant of permission to appeal.--The period limited by this section is tolled by the filing of a petition for permission to appeal. If the petition is granted further proceedings in the matter, including any time

limitations, shall be governed by general rules or rules of court, and not by the provisions of subsections (b) through (d).

(f) Cross appeals.--An appellee may be permitted by general rules or rules of court to take an appeal within the time limited by rule from an order from which another party has taken a timely appeal, notwithstanding the fact that the time otherwise limited by this section has expired.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 9, 2002, P.L.1705, No.215, eff. imd.; July 4, 2008, P.L.325, No.40, eff. imd.)

Saved from Suspension. Pennsylvania Rule of Civil Procedure for District Justices No. 1082, as amended April 25, 1979, provided that section 5571(b), (c)(4) and (f) shall not be deemed suspended or affected. Rules 1001 through 1082 relate to appellate proceedings with respect to judgments and other decisions of justices of the peace in civil matters. Act 207 of 2004 changed justices of the peace to magisterial district judges. Rule 1082 can now be found in the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.

References in Text. The act of July 12, 1972, P.L.781, No.185, known as the Local Government Unit Debt Act, referred to in subsec. (c), was repealed by the act of December 19, 1996, P.L.1158, No.177. The subject matter is now contained in Subpart B of Part VIII of Title 53 (Municipalities Generally).

Cross References. Section 5571 is referred to in section 7361 of this title; section 2547 of Title 15 (Corporations and Unincorporated Associations); section 8854 of Title 53 (Municipalities Generally).

§ 5571.1. Appeals from ordinances, resolutions, maps, etc.

(a) Applicability; court of common pleas.--

(1) This section shall apply to any appeal raising questions relating to an alleged defect in the process of or procedure for enactment or adoption of any ordinance, resolution, map or similar action of a political subdivision.

(2) An appeal pursuant to this section shall be to the court of common pleas.

(b) Appeals of defects in statutory procedure.--

(1) Any appeal raising questions relating to an alleged defect in statutory procedure shall be brought within 30 days of the intended effective date of the ordinance.

(2) Except as provided in subsection (c), it is the express intent of the General Assembly that this 30-day limitation shall apply regardless of the ultimate validity of the challenged ordinance.

(c) Exemption from limitation.--An appeal shall be exempt from the time limitation in subsection (b) if the party bringing the appeal establishes that, because of the particular nature of the alleged defect in statutory procedure, the application of the time limitation under subsection (b) would result in an impermissible deprivation of constitutional rights.

(d) Presumptions.--Notwithstanding any other provision of law, appeals pursuant to this section shall be subject to and in accordance with the following:

(1) An ordinance shall be presumed to be valid and to have been enacted or adopted in strict compliance with statutory procedure.

(2) In all cases in which an appeal filed in court more than two years after the intended effective date of the ordinance is allowed to proceed in accordance with subsection

(c), the political subdivision involved and residents and landowners within the political subdivision shall be presumed to have substantially relied upon the validity and effectiveness of the ordinance.

(3) An ordinance shall not be found void from inception unless the party alleging the defect in statutory procedure meets the burden of proving the elements set forth in subsection (e).

(e) Burden of proof.--Notwithstanding any other provision of law, an ordinance shall not be found void from inception except as follows:

(1) In the case of an appeal brought within the 30-day time limitation of subsection (b), the party alleging the defect must meet the burden of proving that there was a failure to strictly comply with statutory procedure.

(2) In the case of an appeal which is exempt from the 30-day time limitation in accordance with subsection (c), the party alleging the defect must meet the burden of proving each of the following:

(i) That there was a failure to strictly comply with statutory procedure.

(ii) That there was a failure to substantially comply with statutory procedure which resulted in insufficient notification to the public of impending changes in or the existence of the ordinance, so that the public would be prevented from commenting on those changes and intervening, if necessary, or from having knowledge of the existence of the ordinance.

(iii) That there exist facts sufficient to rebut any presumption that may exist pursuant to subsection (d)(2) that would, unless rebutted, result in a determination that the ordinance is not void from inception.

(f) Void ordinances.--A determination that an ordinance is void from inception shall not affect any previously acquired rights of property owners who have exercised good faith reliance on the validity of the ordinance prior to the determination.

(g) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Intended effective date." Notwithstanding the validity of the challenged ordinance, the effective date specified in the challenged ordinance or, if no effective date is specified, the date 60 days after the date the ordinance would have been finally adopted but for the alleged defect in the process of enactment or adoption.

"Ordinance." An ordinance, resolution, map or similar action of a political subdivision.

"Statutory procedure." The preenactment and postenactment procedures prescribed by statute or ordinance in adopting an ordinance.

(July 4, 2008, P.L.325, No.40, eff. imd.)

2008 Amendment. Act 40 added section 5571.1.

Cross References. Section 5571.1 is referred to in section 5571 of this title.

§ 5572. Time of entry of order.

The date of service of an order of a government unit, which shall be the date of mailing if service is by mail, shall be deemed to be the date of entry of the order for the purposes of this subchapter. The date of entry of an order of a court or magisterial district judge may be specified by general rules.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 5573. Effect of application for rehearing.

If an application for rehearing or reconsideration of an order is made to a tribunal the effect thereof on the time for appeal from such order shall be governed by general rules adopted pursuant to section 1722(a) (relating to adoption of administrative and procedural rules).

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

§ 5574. Effect of application for amendment to qualify for interlocutory appeal.

If an application is made to a tribunal within 30 days after the entry of an interlocutory order not appealable as a matter of right for an amendment of such order to set forth expressly the statement specified in section 702(b) (relating to interlocutory appeals by permission), the time for filing a petition for permission to appeal from such order shall run from the entry of the order denying the amendment or amending the order, as the case may be.

CHAPTER 57
BONDS AND RECOGNIZANCES

Subchapter

A. General Provisions
B. Bail Bondsmen
C. Special Provisions

Enactment. Chapter 57 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

5701. Right to bail.
5702. Bail to be governed by general rules.

§ 5701. Right to bail.

All prisoners shall be bailable by sufficient sureties, unless:

(1) for capital offenses or for offenses for which the maximum sentence is life imprisonment; or

(2) no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community when the proof is evident or presumption great.

(Aug. 27, 2009, P.L.376, No.39, eff. imd.)

§ 5702. Bail to be governed by general rules.

Except as otherwise provided by this title and the laws relating to the regulation of surety companies, all matters relating to the fixing, posting, forfeiting, exoneration and distribution of bail and recognizances shall be governed by general rules.

SUBCHAPTER B

BAIL BONDSMEN

Sec.
5741. Definitions.
5742. Licensure required.
5743. Issuance of license (Repealed).
5743.1. Authorization to conduct business within each county.
5744. Office.
5745. Suspension or nonrenewal of license for unpaid bail forfeitures.
5746. Suspension or revocation of authority to conduct business in a county.
5747. Statements by fidelity or surety companies (Repealed).
5747.1. Forfeited undertaking.
5748. Maximum premiums (Repealed).
5748.1. Private cause of action.
5749. Prohibitions and penalties.
5750. Third-party sureties.

Subchapter Heading. The heading of Subchapter B was amended July 2, 2015, P.L.110, No.16, effective in 120 days.

§ 5741. Definitions.

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

"Bail bondsman." A person who engages in the business of giving bail as a surety for compensation.

"Department." The Insurance Department of the Commonwealth.

"Insurer." As defined in section 601-A of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921.

"Office of the clerk." The office of the clerk of the court of common pleas of each judicial district in which a person engages in the business of a bail bondsman.

"Professional bondsman." (Deleted by amendment).

"Surety." A person who pledges security, whether or not for compensation, in exchange for the release from custody of a person charged with a crime prior to adjudication.

(July 2, 2015, P.L.110, No.16, eff. 120 days)

2015 Amendment. See section 12 of Act 16 of 2015 in the appendix to this title for special provisions relating to licensure as insurance producer.

§ 5742. Licensure required.

No person shall engage in, or continue to engage in, the business of a bail bondsman unless the person has been licensed by the department as an insurance producer under Article VI-A of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921, and possesses a casualty line of authority.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days; July 2, 2015, P.L.110, No.16, eff. 120 days)

2015 Amendment. See section 12 of Act 16 of 2015 in the appendix to this title for special provisions relating to licensure as insurance producer.

§ 5743. Issuance of license (Repealed).

2015 Repeal. Section 5743 was repealed July 2, 2015, P.L.110, No.53, effective in 120 days.

§ 5743.1. Authorization to conduct business within each county.

A bail bondsman shall only be authorized to conduct business in a county when the bail bondsman provides all of the following documents to the office of the clerk:

(1) A copy of the license issued to the bail bondsman by the department.

(2) A statement identifying an office address for service of legal process.

(3) A qualifying power of attorney issued by an insurer authorizing the bail bondsman as a producer on behalf of the insurer. The qualifying power of attorney must set forth, in clear and unambiguous terms, the maximum monetary authority of the bail bondsman per bond.

(July 2, 2015, P.L.110, No.16, eff. 120 days)

2015 Amendment. Act 16 added section 5743.1. See section 12 of Act 16 of 2015 in the appendix to this title for special provisions relating to licensure as insurance producer.

§ 5744. Office.

No privileges or rights conferred by any license issued under the provisions of this subchapter shall be exercised by a bail bondsman, unless such bail bondsman has and shall thereafter maintain an office that is geographically located in this Commonwealth and eligible to receive original process and other legal papers as set forth by the Pennsylvania Rules of Civil Procedure or other applicable court rule.

(July 2, 2015, P.L.110, No.16, eff. 120 days)

2015 Amendment. See section 12 of Act 16 of 2015 in the appendix to this title for special provisions relating to licensure as insurance producer.

§ 5745. Suspension or nonrenewal of license for unpaid bail forfeitures.

(a) General rule.--If the court of common pleas for the county where the bail bondsman is authorized to conduct business has been unable to collect unpaid forfeitures after a period of six months or if a penalty is warranted under section 5750(c) (relating to third-party sureties), the court, upon petition of the county solicitor or district attorney, shall issue an order directing the department to:

(1) prohibit the renewal of a license of the bail bondsman; or

(2) immediately suspend the license of the bail bondsman.

(b) Notice to bail bondsman and insurer.--Prior to the issuance of an order to suspend or nonrenew a license, the bail bondsman and insurer who issued the qualifying power of attorney shall both be given advance notice by certified mail, return receipt requested. The notice shall specify all of the following:

(1) The amount of forfeitures and penalties under section 5750(c)(2)(i), if applicable.

(2) How, when and where the notice can be contested.

(3) That the grounds for contesting the notice shall be limited to mistakes of fact. Mistakes of fact shall be limited to errors in the amount of forfeitures owed or mistaken identity of the bail bondsman as the person who was subject to the bail forfeiture order.

(4) That an order to the department to automatically suspend or nonrenew the license will occur in all cases 30 days after delivery of the notice by certified mail, return receipt requested, unless the amount of forfeitures and penalties, providing the basis for issuance of the order,

is paid, a periodic payment schedule is approved by the court or the individual is excused from payment due to a mistake of fact.

(c) Order.--The following shall apply:

(1) Thirty days after the issuance of the notice, if the bail bondsman has not paid the amount of forfeitures and penalties, the court shall direct or cause an order to be issued to the department to suspend or deny renewal of a license. Upon receipt, the department shall immediately comply with the order or directive. The department shall have no authority to stay implementation of the order or to hold a hearing except in cases of mistaken identity. A copy of the order issued by the court shall be served upon the bail bondsman and insurer by certified mail, return receipt requested.

(2) To contest an order, the bail bondsman or insurer must appear before the court no later than ten days after issuance of the order. The grounds for contesting shall be limited to mistakes of fact. If it is determined, after a hearing by the court, that a mistake of fact has occurred, the action shall be modified accordingly within ten days.

(3) A person whose license has been suspended or not renewed by the department pursuant to this section is prohibited from engaging in the business of a bail bondsman in any county in this Commonwealth.

(d) Implementation.--The department may promulgate regulations necessary for the administration of this section.

(e) Construction.--This section shall apply in addition to the provisions of Article VI-A of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921, and shall supersede any conflicting provision in any other state law unless the provision specifically references this section and provides to the contrary.

(f) Immunity.--The court, department, county solicitor, district attorney or an employee of any of these entities, or any person appointed by these entities, shall not be subject to civil or criminal liability for carrying out its duties under this section.

(July 2, 2015, P.L.110, No.16, eff. 120 days)

2015 Amendment. See section 12 of Act 16 of 2015 in the appendix to this title for special provisions relating to licensure as insurance producer.

Cross References. Section 5745 is referred to in section 5750 of this title.

§ 5746. Suspension or revocation of authority to conduct business in a county.

(a) General rule.--Upon petition of the district attorney or county solicitor to suspend or revoke the authority of a bondsman to conduct business in a county that has been granted under this subchapter, a rule shall issue out of the court of common pleas, returnable not less than ten days after the issuance thereof. It shall be sufficient service of the said rule upon any bail bondsman to send by certified mail, return receipt requested, to the address filed by the bail bondsman with the office of the clerk pursuant to this subchapter.

(b) Grounds for suspension or revocation.--Any authority granted under the provisions of this subchapter may be suspended or revoked by any court of common pleas for good cause, or for any one or more of the following causes:

(1) Violation of any of the provisions of this subchapter.

(2) Fraudulently obtaining a license from the department or fraudulently obtaining authority to conduct business under the provisions of this subchapter.

(3) Upon conviction for any criminal offense under the laws of this Commonwealth or under the laws of the United States or any other jurisdiction.

(4) Upon being adjudged bankrupt or insolvent.

(5) Failing to pay any judgment rendered on any forfeited undertaking in any court of competent jurisdiction.

(6) Any interference or attempted interference with the administration of justice.

(July 2, 2015, P.L.110, No.16, eff. 120 days)

2015 Amendment. See section 12 of Act 16 of 2015 in the appendix to this title for special provisions relating to licensure as insurance producer.

Cross References. Section 5746 is referred to in sections 5747.1, 5750 of this title.

§ 5747. Statements by fidelity or surety companies (Repealed).

2015 Repeal. Section 5747 was repealed July 2, 2015, P.L.110, No.16, effective in 120 days.

§ 5747.1. Forfeited undertaking.

(a) General rule.--If a defendant in a criminal prosecution fails to appear for any scheduled court proceeding, the defendant's bail may be revoked and notice of revocation shall serve as notice of intent to forfeit the bail of the defendant. The notice or order of revocation shall be served by the office of the clerk to the defendant, surety or bail bondsman and insurer who has issued the qualifying power of attorney for the bail bondsman by certified mail, return receipt requested.

(b) Payment.--The following shall apply:

(1) Ninety days from the date of the service of the notice of revocation or order of revocation, the revocation shall become a judgment of forfeiture, payment of which shall be immediately required by the defendant or surety. Failure of a bail bondsman to make a timely payment of a forfeiture judgment shall result in the district attorney or county solicitor commencing proceedings to suspend or nonrenew the license of the bail bondsman otherwise consistent with section 5746 (relating to suspension or revocation of authority to conduct business in a county).

(2) Payment of forfeited undertaking shall be made directly to the office of the clerk not later than the close of business on the 91st day following the service of the notice of revocation. If the defendant has been recovered and placed into custody through the efforts of the bail bondsman or proof has been provided to the court that the defendant was discovered by the bail bondsman to be in custody in another jurisdiction prior to the 91st day, no payment of the forfeited undertaking shall be required. If the defendant is placed into custody or discovered to be in custody, the court shall set aside the bail revocation and may release the defendant with the reinstitution of bail pursuant to the Pennsylvania Rules of Criminal Procedure. The bail bondsman shall not be continued by the court as surety on reinstated bail unless a written consent is signed by the bail bondsman agreeing to such extension of suretyship.

(3) Failure to render payment of the forfeited undertaking by close of business on the 91st day shall bar any right of remission to collect funds pursuant to the forfeited undertaking.

(4) The office of the clerk shall provide a summary quarterly statement of all overdue forfeited undertakings which have not been paid by each bail bondsman and insurer. The bail bondsman or insurer shall be afforded 30 days from the date of the statement to render payment of the forfeited undertakings. Failure to render payment by close of business on the 31st day shall result in suspension of the ability to conduct business of both the bail bondsman and the insurer in that judicial district until such time as payment is rendered in full. The bail bondsman may be subject to formal suspension or nonrenewal proceedings pursuant to section 5746. In addition, the insurer may be subjected to further administrative penalties, to be determined by the department, consistent with the act of July 22, 1974 (P.L.589, No.205), known as the Unfair Insurance Practices Act, or other applicable law.

(5) If the defendant is recovered after the 91st day following the forfeiture, a surety may petition the court in which the revocation and forfeiture occurred to remit all or a portion of the funds collected in exchange for the absence of the defendant. The court shall remit payment as follows:

(i) If the defendant is recovered between the 91st day and six months after the order of revocation or forfeiture, the surety shall recover the full value of the forfeited amount of the bond, less an administrative fee in the amount of $250.

(ii) If the defendant is recovered between six months and one year after the order of revocation or forfeiture, the surety shall recover 80% of the value of the forfeited amount of the bond.

(iii) If the defendant is recovered between one and two years after the order of revocation or forfeiture, the surety shall recover 50% of the value of the forfeited amount of the bond.

(6) No third-party surety shall be responsible to render payment on a forfeited undertaking if the revocation of bail is sought for failure of the defendant to comply with the conditions of the defendant's release other than appearance. Any violation of performance conditions by a defendant shall be deemed as a violation of a court order, subject to a conviction for indirect contempt of court for violating a court order instituting terms and conditions of release of the defendant and all associated penalties.

(July 2, 2015, P.L.110, No.16, eff. 120 days)

2015 Amendment. Act 16 added section 5747.1. See section 12 of Act 16 of 2015 in the appendix to this title for special provisions relating to licensure as insurance producer.

§ 5748. Maximum premiums (Repealed).

2015 Repeal. Section 5748 was repealed July 2, 2015, P.L.110, No.16, effective in 120 days.

§ 5748.1. Private cause of action.

(a) Self-policing.--A bail bondsman or insurer who determines that a competitor has engaged in an activity that is in violation of any provision of this chapter may commence a cause of action seeking monetary damages, declaratory judgment or injunctive relief from the court of common pleas of the county in which the violation occurred. The violation must be proven by clear and convincing evidence.

(b) Frivolous actions.--A bail bondsman or insurer who wrongfully commences a baseless action, knowingly without any merit or evidence, shall be subject to actual damages in the amount of the costs of the defense of the suit and punitive damages of an amount equal to those costs that constitute actual damages.
(July 2, 2015, P.L.110, No.16, eff. 120 days)

2015 Amendment. Act 16 added section 5748.1. See section 12 of Act 16 of 2015 in the appendix to this title for special provisions relating to licensure as insurance producer.

§ 5749. Prohibitions and penalties.

(a) Licensing.--Any person who engages in the business of a bail bondsman without being registered and licensed in accordance with the provisions of this subchapter, or who engages in such business while his license is suspended or revoked, commits a misdemeanor of the third degree.

(b) Overcharging.--Any person charging or receiving directly or indirectly any greater compensation for acting as a bail bondsman than is provided by this subchapter commits a summary offense.

(c) Soliciting.--Any person who accepts any fee or compensation for obtaining a bondsman or a recognizance commits a summary offense.

(d) Other violations.--Any person who violates any section of this subchapter for which no specific penalty other than suspension or revocation of license is provided commits a summary offense.

(e) Public officials.--Any law enforcement officer, any employee of a penal institution, or any other system or related personnel, who has, directly or indirectly, any pecuniary interest in or derives any profit from the bonding business or activity of a bail bondsman commits a summary offense.

(f) Public solicitation.--Any bail bondsman who solicits business in any of the courts or on the premises of any tribunal of this Commonwealth, including any tribunal conducted by a magisterial district judge, commits a summary offense.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; July 2, 2015, P.L.110, No.16, eff. 120 days)

2105 Amendment. See section 12 of Act 16 of 2015 in the appendix to this title for special provisions relating to licensure as insurance producer.

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 5750. Third-party sureties.

(a) Responsibilities.--A third-party surety must report a violation of a bail bond condition if the violation is related to any of the following:

(1) A stay away order issued by a magisterial district judge, court of common pleas or other judicial officer.

(2) An order issued by a magisterial district judge, court of common pleas or other judicial officer under 23 Pa.C.S. Ch. 61 (relating to protection from abuse).

(3) An act that constitutes a crime of victim or witness intimidation as provided under 18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims).

(4) An act which would constitute a misdemeanor or felony under the following:

(i) 18 Pa.C.S. Ch. 25 (relating to criminal homicide).

(ii) 18 Pa.C.S. Ch. 27 (relating to assault).
(iii) 18 Pa.C.S. Ch. 29 (relating to kidnapping).
(iv) 18 Pa.C.S. Ch. 31 (relating to sexual offenses).
(v) 30 Pa.C.S. § 5502.1 (relating to homicide by watercraft while operating under influence).
(vi) The former 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance) in cases involving bodily injury.
(vii) 75 Pa.C.S. § 3732 (relating to homicide by vehicle).
(viii) 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).
(ix) 75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).

(5) A crime eligible for sentencing under section 9714(g) (relating to sentences for second and subsequent offenses).

(b) Reporting.--

(1) A third-party surety must:
(i) report a violation under subsection (a) within 24 hours after receiving notice of the violation, verbally or in writing, to the law enforcement agency in the jurisdiction responsible for the criminal case or where the violation occurred; and
(ii) confirm in writing to the office of the attorney for the Commonwealth responsible for prosecution of the case for which the defendant was admitted to bail within 48 hours of making the initial report to a law enforcement agency.

(2) The written confirmation under paragraph (1)(ii) must include the name of the defendant, the name of the third-party surety, the date of the violation, the date and time the third-party surety learned of the violation, the name of the law enforcement agency receiving the report and the date and time the third-party surety reported the violation to the law enforcement agency.

(3) The requirement under paragraph (1)(ii) may be satisfied by hand delivery, United States mail, facsimile or electronic mail.

(c) Penalty.--

(1) Except as provided under paragraph (4), a third-party surety who fails to comply with subsections (a) and (b) may be subject to a civil penalty if the attorney for the Commonwealth demonstrates that:
(i) the unreported violation of a condition identified under subsection (a) resulted in bodily injury or property damage in excess of $10,000; and
(ii) Either of the following apply:
(A) The terms of the bail condition are known to the third-party surety prior to bodily injury or property damage being sustained and the third-party surety received notice of the violation of the condition with sufficient reasonable time to make the report prior to the bodily injury or property damage being sustained.
(B) The third-party surety's failure to discover and report the violation was due to willful disregard to the safety of a witness, victim or the general public in circumstances related to the conditions under subsection (a).

(2) If a court of common pleas imposes a penalty under paragraph (1), a third-party surety shall be assessed a civil penalty in an amount of not less than $500 nor more than $5,000. The following shall apply:

(i) If the attorney for the Commonwealth is able to demonstrate that the third-party surety is a bail bondsman and the penalty is not paid within 90 days of being imposed, the court shall suspend the authority of the bail bondsman to operate as a bail bondsman in the county for 60 days and shall provide notice of the suspension to the surety insurer associated with the bail bondsman. If the penalty remains unpaid at the conclusion of the suspension, the attorney for the Commonwealth shall commence license revocation procedures under section 5745 (relating to suspension or nonrenewal of license for unpaid bail forfeitures) or 5746 (relating to suspension or revocation of authority to conduct business in a county).

(ii) Any funds received as a civil penalty under this paragraph must be retained and be used by the district attorney to provide victim services.

(3) If the third-party surety is a bail bondsman and has been penalized under paragraph (2) for three or more violations in a two-year period, the attorney for the Commonwealth may commence an action to revoke the bail bondsman's ability to conduct business under section 5745 or 5746.

(4) A civil penalty may not be assessed and a license suspension or revocation may not be imposed against a third-party surety for any of the following:

(i) Failure to report a known violation under subsection (a), if the third-party surety provides evidence that the violation was reported to a law enforcement agency under subsection (b).

(ii) Lack of knowledge of the bail conditions, if the third-party surety provides evidence that the third-party surety attempted to obtain information about the bail conditions which went unanswered or refused or that the bail conditions were altered subsequent to the defendant's release and the third-party surety lacked information about the amended conditions.

(iii) Willful disregard to the safety of a witness, victim or the general public, if:

(A) the third-party surety provides evidence that the third-party surety reviewed the bail conditions with the defendant within 24 hours of release and during instances of contact between the third-party surety and the defendant; and

(B) if the defendant indicated a willingness to commit a violation under subsection (a), the third-party surety reported the risk to the attorney for the Commonwealth or the law enforcement agency, if the attorney for the Commonwealth is unavailable.

(d) Bail forfeiture.--Nothing under this section shall preclude the attorney for the Commonwealth from seeking a bail forfeiture directly from the defendant.

(e) Applicability.--This section shall apply to third-party sureties.

(July 2, 2015, P.L.110, No.16, eff. 120 days)

2015 Amendment. Act 16 added section 5750. See section 12 of Act 16 of 2015 in the appendix to this title for special provisions relating to licensure as insurance producer.

Cross References. Section 5750 is referred to in section 5745 of this title.

SUBCHAPTER C
SPECIAL PROVISIONS

Sec.
5761. Bail in drug offenses.

Enactment. Subchapter C was added December 20, 2000, P.L.939, No.126, effective in 60 days.

§ 5761. Bail in drug offenses.

(a) Inquiry as to source.--When fixing and accepting bail for a person charged with a violation of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, the magisterial district judge or judge shall determine the source of the currency, bonds, realty or other property used for the payment of the bail or the procurement of a surety bond, as the case may be, being posted by or on behalf of the defendant. The magisterial district judge or judge may request such information as needed to identify the direct or indirect sources, derivation or ownership of the currency or other property used for the payment of bail or procurement of a bond.

(b) Drug proceeds unacceptable.--If the magisterial district judge or judge determines that the bail or surety bond is being financed from funds derived from violations of The Controlled Substance, Drug, Device and Cosmetic Act, the security shall not be accepted, and other security shall be required for the defendant to be admitted to bail.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

CHAPTER 58
FORFEITURE OF ASSETS

Sec.
§ 5801. Scope of chapter.
§ 5802. Controlled substances forfeiture.
§ 5803. Asset forfeiture.
§ 5804. (Reserved).
§ 5805. Forfeiture procedure.
§ 5806. Motion for return of property.
§ 5806.1. (Reserved).
§ 5806.2. (Reserved).
§ 5807. Restrictions on use.
§ 5807.1. Prohibition on adoptive seizures.
§ 5807.2. Federal reporting requirements.
§ 5808. Exceptions.

Enactment. Chapter 58 was added June 29, 2017, P.L.247, No.13, effective July 1, 2017.

§ 5801. Scope of chapter.

This chapter relates to asset forfeiture.

§ 5802. Controlled substances forfeiture.

The following shall be subject to forfeiture to the Commonwealth and no property right shall exist in them:

(1) All drug paraphernalia, controlled substances or other drugs which have been manufactured, distributed, dispensed or acquired in violation of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(2) All raw materials, products and equipment of any kind which are used or intended for use in manufacturing, compounding, processing, delivering, importing or exporting any controlled substance or other drug in violation of The Controlled Substance, Drug, Device and Cosmetic Act.

(3) All property which is used or intended for use as a container for property described in paragraph (1) or (2).

(4) All conveyances, including aircraft, vehicles or vessels, which are used or are intended for use to transport, or in any manner to facilitate the transportation, sale, receipt, possession or concealment of property described in paragraph (1) or (2), except that:

(i) no bona fide security interest retained or acquired under 13 Pa.C.S. (relating to commercial code) by any merchant dealing in new or used aircraft, vehicles or vessels, or retained or acquired by any licensed or regulated finance company, bank or lending institution, or by any other business regularly engaged in the financing or lending on the security of such aircraft, vehicles or vessels, shall be subject to forfeiture or impairment; and

(ii) no conveyance shall be forfeited under this chapter for a violation of section 13(a)(31) of The Controlled Substance, Drug, Device and Cosmetic Act.

(5) All books, records and research, including formulas, microfilm, tapes and data, which are used or intended for use in violation of The Controlled Substance, Drug, Device and Cosmetic Act.

(6) (i) All of the following:

(A) Money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of The Controlled Substance, Drug, Device and Cosmetic Act, and all proceeds traceable to such an exchange.

(B) Money, negotiable instruments, securities or other things of value used or intended to be used to facilitate any violation of The Controlled Substance, Drug, Device and Cosmetic Act.

(C) Real property used or intended to be used to facilitate any violation of The Controlled Substance, Drug, Device and Cosmetic Act other than a violation of section 13(a)(16) or (31) of The Controlled Substance, Drug, Device and Cosmetic Act, including structures or other improvements thereon, and including any right, title and interest in the whole or any lot or tract of land and any appurtenances or improvements, which is used or intended to be used in any manner or part to commit or to facilitate the commission of a violation of The Controlled Substance, Drug, Device and Cosmetic Act, and things growing on, affixed to and found in the land.

(ii) The money and negotiable instruments found in close proximity to controlled substances possessed in violation of The Controlled Substance, Drug, Device and Cosmetic Act shall be rebuttably presumed to be proceeds derived from the selling of a controlled substance in violation of The Controlled Substance, Drug, Device and Cosmetic Act.

(iii) No valid lien or encumbrance on real property shall be subject to forfeiture or impairment under this paragraph. A lien which is fraudulent or intended to avoid forfeiture under this chapter shall be invalid.

(7) Any firearms, including, but not limited to, rifles, shotguns, pistols, revolvers, machine guns, zip guns or any type of prohibited offensive weapon, as that term is defined in 18 Pa.C.S. § 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms), which are used or intended for use to facilitate a violation of The Controlled Substance, Drug, Device and Cosmetic Act. Firearms as are found in close proximity to illegally possessed controlled substances shall be rebuttably presumed to be used or intended for use to facilitate a violation of The Controlled Substance, Drug, Device and Cosmetic Act. All weapons forfeited under this chapter shall be immediately destroyed by the receiving law enforcement agency.

Cross References. Section 5802 is referred to in section 5803 of this title.

§ 5803. Asset forfeiture.

(a) Applicability.--Notwithstanding any law to the contrary, this section shall apply to forfeitures conducted under the following:

(1) 4 Pa.C.S. § 1518 (relating to prohibited acts; penalties).

(2) 18 Pa.C.S. § 910 (relating to manufacture, distribution, use or possession of devices for theft of telecommunications services).

(3) 18 Pa.C.S. § 2717 (relating to terrorism).

(3.1) 18 Pa.C.S. § 2807 (relating to forfeiture).

(4) 18 Pa.C.S. § 3141 (relating to general rule).

(5) 18 Pa.C.S. § 4116 (relating to copying; recording devices).

(6) 18 Pa.C.S. § 4119 (relating to trademark counterfeiting).

(7) 18 Pa.C.S. § 5513 (relating to gambling devices, gambling, etc.).

(8) 18 Pa.C.S. § 5707 (relating to seizure and forfeiture of electronic, mechanical or other devices).

(9) 18 Pa.C.S. § 6501 (relating to scattering rubbish).

(10) 18 Pa.C.S. § 7707 (relating to loss of property rights to Commonwealth).

(11) 30 Pa.C.S. § 927 (relating to forfeiture of fish and devices).

(12) Section 5802 (relating to controlled substances forfeiture).

(13) 75 Pa.C.S. § 4909 (relating to transporting foodstuffs in vehicles used to transport waste).

(13.1) 75 Pa.C.S. § 3722 (relating to off-road vehicles in urban municipalities).

(14) 75 Pa.C.S. § 9405 (relating to forfeitures; process and procedures).

(b) Process and seizure of money and personal property.--Property subject to forfeiture may be seized by a law enforcement authority if any of the following apply:

(1) The seizure is incident to an arrest or a search under a search warrant or inspection under an administrative inspection warrant and there is reason to believe the property is subject to forfeiture.

(2) The property subject to seizure has been the subject of a prior judgment in favor of the Commonwealth in a criminal injunction or forfeiture proceeding under this chapter.

(3) There is probable cause to believe that the property is dangerous to health and safety and exigencies are likely to result in the destruction or removal of the property or in the property otherwise being made unavailable for forfeiture.

(4) There is probable cause to believe that the property has been used or is intended to be used in violation of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or another offense for which forfeiture is expressly authorized as a sanction.

(5) There is a warrant issued by a court of common pleas with appropriate jurisdiction.

(6) There is probable cause to believe that the property is subject to forfeiture and exigencies are likely to result in the destruction or removal of the property.

(b.1) Process and seizure of real property.--Real property subject to forfeiture under this chapter may be seized by the law enforcement authority upon process issued by a court of common pleas having jurisdiction over the property. Except as provided under this section, real property subject to forfeiture shall not be seized before the entry of an order of forfeiture and the owners or occupants of the real property shall not be evicted from or otherwise deprived of the use and enjoyment of real property that is the subject of a pending forfeiture action. The following shall apply:

(1) The filing of a lis pendens or the issuance of a temporary restraining order shall not constitute a seizure under this subsection.

(2) Real property may be seized prior to the entry of an order of forfeiture if:

(i) the district attorney or the Attorney General notifies the court that it intends to seize the property before a trial; and

(ii) the court:

(A) after causing notice to be served on the property owner and posted on the property and conducting a hearing in which the property owner has a meaningful opportunity to be heard, authorizes such seizure; or

(B) makes an ex parte determination that there is probable cause to believe that a nexus exists between the property and the criminal activity for which forfeiture is authorized and that exigent circumstances are presented that permit the district attorney or the Attorney General to seize the property without prior notice and an opportunity for the property owner to be heard.

(3) For purposes of paragraph (2)(ii)(B), exigent circumstances are presented where the district attorney or the Attorney General demonstrates that less restrictive

measures, such as a lis pendens, temporary restraining order or security bond, would not suffice to protect the Commonwealth's interest in preventing the sale, destruction or continued unlawful use of the real property.

(4) If the court authorizes a seizure of real property under paragraph (2)(ii)(B), it shall conduct a prompt postseizure hearing at which the claimant shall have an opportunity to contest the Commonwealth's continuing custody of the property.

(c) Issuance of process.--If seizure without process occurs under subsection (b) or (b.1), proceedings for the issuance of process shall be instituted as soon as feasible.

(d) Custody of property.--Property taken or detained under this section shall not be subject to replevin and is deemed to be in the custody of the law enforcement authority subject only to the orders and decrees of the court of common pleas having jurisdiction over the forfeiture proceedings of the district attorney or the Attorney General. When property is seized under this chapter, the law enforcement authority shall place the property in a secure area or facility and either:

(1) remove the property to a secure area or facility designated by the law enforcement authority; or

(2) require that the district attorney or Attorney General take custody of the property and remove the property to an appropriate location for disposition in accordance with law.

(e) Receipt.--When property is seized, the law enforcement authority shall provide a receipt to the person in possession of the property or, in the absence of a person, leave a receipt in the place where the property was found, if reasonably possible. The receipt shall provide notice of the right of interest holders to seek the return of the seized property under this chapter. This section shall not apply if law enforcement is otherwise required to provide a receipt for the property.

(f) Use of property held in custody.--When property is forfeited under this chapter, the property shall be transferred to the custody of the district attorney, if the law enforcement authority seizing the property has local or county jurisdiction, or the Attorney General, if the law enforcement authority seizing the property has Statewide jurisdiction. The district attorney or the Attorney General, where appropriate, may:

(1) retain the property for official use; or

(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public, except that the proceeds from the sale shall be used to pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs. The balance of the proceeds shall be used and distributed in accordance with this chapter.

(f.1) Prohibited sales.--Sale of forfeited property to an employee of the district attorney or Attorney General, an individual related to an employee by blood or marriage or an employee of another law enforcement authority is prohibited.

(g) Use of cash or proceeds of property.--Cash or proceeds of property, subject to forfeiture under section 5802 and transferred to the custody of the district attorney under subsection (f) shall be placed in the operating fund of the county in which the district attorney is elected. The appropriate county authority shall immediately release from the operating fund, without restriction, a like amount for the use of the district attorney for the enforcement of or prevention

of a violation of the provisions of The Controlled Substance, Drug, Device and Cosmetic Act. The funds shall be maintained in an account or accounts separate from other revenues of the office. The entity having budgetary control shall not anticipate future forfeitures or proceeds from future forfeitures in adoption and approval of the budget for the district attorney.

(h) Distribution of property among law enforcement authorities.--If both State and municipal law enforcement authorities were substantially involved in effecting the seizure, the court having jurisdiction over the forfeiture proceedings shall equitably distribute the property between the district attorney and the Attorney General.

(i) Authorization to utilize property.--Cash or proceeds of property subject to forfeiture under section 5802 and transferred to the custody of the district attorney or Attorney General under subsection (f) shall be utilized by the district attorney or Attorney General for the enforcement of or prevention of a violation of the provisions of The Controlled Substance, Drug, Device and Cosmetic Act. In appropriate cases, the district attorney and the Attorney General may designate proceeds from the forfeited property to be utilized by community-based drug and crime-fighting programs and for relocation and protection of witnesses in criminal cases. Real property may be transferred to a nonprofit organization to alleviate blight resulting from violations of The Controlled Substance, Drug, Device and Cosmetic Act.

(j) Annual audit of forfeited property.--Every county in this Commonwealth shall provide, through the controller, board of auditors or other appropriate auditor and the district attorney, an annual audit of all forfeited property and proceeds obtained under this chapter. The audit shall not be made public but shall be submitted to the Office of Attorney General. By September 30 of each year, the county shall report all forfeited property and proceeds obtained under this chapter and the disposition of the property during the preceding year to the Attorney General. The Attorney General and each district attorney shall maintain and create appropriate records to account for the property forfeited in a fiscal year and the use made of the property forfeited. Each audit shall include:

(1) Date property was seized.

(2) The type of property seized.

(3) Where property was seized.

(4) The approximate value.

(5) The alleged criminal behavior with which the property is associated.

(6) The disposition or use of property forfeited.

(7) Whether the forfeiture was related to a criminal case and the outcome of the criminal case.

(8) Date of forfeiture decision.

(k) Annual report and confidential information.--The Attorney General shall annually submit a report to the Appropriations Committee and Judiciary Committee of the Senate and to the Appropriations Committee and Judiciary Committee of the House of Representatives specifying the forfeited property or proceeds of the forfeited property obtained under this chapter during the fiscal year beginning July 1, and the following shall apply:

(1) The report shall include all information required under subsection (j) subject to the limitations provided under paragraph (2).

(2) The Attorney General shall adopt procedures and guidelines, which shall be public, governing the release of

information by the Attorney General or the district attorney to protect the confidentiality of forfeited property or proceeds used in ongoing law enforcement activities.

(k.1) Reporting.--By November 30 of each year, the Office of Attorney General shall notify the Appropriations Committee and Judiciary Committee of the Senate and the Appropriations Committee and Judiciary Committee of the House of Representatives of any county which has not submitted an audit and complied with the requirements in subsection (j).

(l) Proceeds and appropriations.--The proceeds or future proceeds from forfeited property under this chapter shall be in addition to any appropriation made to the Office of Attorney General. The Attorney General shall maintain proceeds from property forfeited to the Office of Attorney General in an account or accounts separate from any other account maintained by the Office of Attorney General.

(Oct. 19, 2018, P.L.535, No.80, eff. 30 days; July 11, 2022, P.L.1596, No.92, eff. 60 days)

2022 Amendment. Act 92 added subsec. (a)(13.1).

2018 Amendment. Act 80 added subsec. (a)(3.1). Act 80 of 2018 shall be referred to as the "Timothy J. Piazza Antihazing Law." Section 7 of Act 80 provided that the addition of subsec. (a)(3.1) shall apply to causes of action which accrue on or after the effective date of section 7.

Special Provisions in Appendix. See section 12 of Act 13 of 2017 in the appendix to this title for special provisions relating to forfeitures.

Cross References. Section 5803 is referred to in section 5807.2 of this title; section 1518 of Title 4 (Amusements); sections 910, 2717, 2807, 3141, 4116, 4119, 5513, 5707, 6501, 7707 of Title 18 (Crimes and Offenses); section 927 of Title 30 (Fish); sections 3722, 4909, 9405 of Title 75 (Vehicles).

§ 5804. (Reserved).

§ 5805. Forfeiture procedure.

(a) General procedure.--The proceedings for the forfeiture or condemnation of property, the sale of which is provided for in this chapter, shall be in rem, in which the Commonwealth shall be the plaintiff and the property the defendant. A forfeiture petition signed by the Attorney General, deputy attorney general, district attorney or assistant district attorney shall be filed in the court of common pleas of the judicial district where the property is seized or located, verified by oath or affirmation of an officer. If criminal charges have been filed and a prosecution is pending, the petition shall be filed in the same judicial district as the criminal charges in all instances except those involving real property. Each petition relating to real property shall be filed in the jurisdiction where the real property is located.

(1) Each forfeiture petition shall contain the following:

(i) A description of the property actually seized or constructively seized, including, but not limited to, if known, the address of any real property, the exact dollar amount of any United States currency, or the approximate value of any negotiable instrument or security and the make, model, year and license plate number of any vehicle.

(ii) A statement of the time and place where seized.

(iii) The owner, if known.

(iv) The person or persons in possession at the time of seizure, if known.

(v) An allegation that the property is subject to forfeiture and an averment of material facts supporting the forfeiture action.

(vi) A prayer for an order of forfeiture that the property be adjudged forfeited to the Commonwealth unless cause is shown to the contrary.

(2) The following shall apply:

(i) A claimant shall file an answer setting forth a right of possession of the property within 30 days of service of the forfeiture petition. The answer shall be in writing and filed to the docket number in the court of common pleas and shall be signed by the claimant or the claimant's attorney.

(ii) The following shall apply:

(A) Prior to filing an answer to a forfeiture petition, a claimant may file a motion to stay the forfeiture proceedings if the claimant has been criminally charged in a case associated with the forfeiture matter. If the motion is properly filed, it shall be granted.

(B) The claimant shall have 30 days from the date the stay is lifted to file an answer in accordance with this paragraph.

(3) After the answer is filed, the parties shall be permitted to conduct discovery.

(b) Notice to property owners.--

(1) A copy of the forfeiture petition required under subsection (a) shall be served personally or by certified mail on the owner, if known, and on each person in possession at the time of the seizure, if known. The copy shall have endorsed a notice, as follows:

To the claimant of within described property:

You are required to file an answer to this petition, setting forth your title in, and right to possession of, said property within 30 days from the service hereof, and you are also notified that, if you fail to file the answer, a decree of forfeiture and condemnation will be entered against the property.

(2) The notice under paragraph (1) must be signed by the Attorney General, deputy attorney general, district attorney, deputy district attorney or assistant district attorney and contain accurate contact information for the signatory.

(c) Substitute notice.--

(1) If the owner of the property is unknown, there was no person in possession of the property when seized or the owner or each person in possession at the time of the seizure cannot be personally served or located within the jurisdiction of the court, notice of the petition shall be given by the Commonwealth through an advertisement in at least one newspaper of general circulation published in the county where the property has been seized, once a week for two successive weeks.

(2) Notwithstanding any other law, no other advertisement shall be necessary.

(3) The notice shall contain a statement of the seizure of the property with a description of the property and the place and date of seizure and shall direct any claimants to the property to file a claim on or before a date given in the notice, which shall not be less than 30 days from the date of the first publication.

(4) If no claims are filed within 30 days of publication, the Commonwealth may move for default judgment.

(d) Property owners not in jurisdiction.--For purposes of this section, the owner or other person cannot be found in the jurisdiction of the court if:

(1) a copy of the petition is mailed to the last known address by certified mail and is returned without delivery;

(2) personal service is attempted once, but cannot be made at the last known address; and

(3) a copy of the petition is left at the last known address unless the address does not exist.

(d.1) Proof of notice.--The Commonwealth shall file proof of notice with the court. Forfeiture shall not be ordered if the court finds that proof does not exist that the notice requirements contained under subsections (b), (c) and (d), if applicable, have been met.

(e) Notice automatically waived.--The notice provisions of this section shall be automatically waived if the owner, without good cause, fails to appear in court in response to a subpoena and a bench warrant is issued on the underlying criminal charges. If good cause has not been demonstrated, the Commonwealth may move for default judgment.

(f) Release of seized property pending conclusion of proceedings.--

(1) A claimant to property subject to forfeiture is permitted to seek the immediate release of seized property if:

(i) the claimant has a possessory interest in the property;

(ii) the claimant has sufficient ties to the community to provide assurance that the property will be available at the time of the trial;

(iii) the continued possession by the Commonwealth pending the final disposition of forfeiture proceedings will cause substantial hardship to the claimant, such as preventing the functioning of a legitimate business, preventing the claimant from working or leaving the claimant homeless;

(iv) the claimant's likely hardship from the continued possession by the Commonwealth of the seized property outweighs the risk that the property will be destroyed, damaged, lost, concealed or transferred if the property is returned to the claimant during the pendency of the forfeiture proceeding; and

(v) none of the conditions under paragraph (6) apply.

(2) The following shall apply:

(i) The claimant under paragraph (1) may file a motion in the court of common pleas in which the forfeiture petition has been filed or, if no forfeiture petition has been filed, in the court of common pleas in the jurisdiction in which the property was seized. The motion shall be served upon the district attorney or Attorney General who has jurisdiction over the case.

(ii) The motion described in this subsection shall set forth the basis on which the requirements of paragraph (1) have been met.

(3) If the Commonwealth establishes that the claimant's motion is meritless, the court shall deny the motion. In response to a motion under this subsection, the Commonwealth may, in appropriate cases, submit evidence ex parte in order

to avoid disclosing any matter that may adversely affect an ongoing criminal investigation or pending criminal trial.

(4) The following shall apply:

(i) The court shall order that the property be returned to the claimant pending completion of the forfeiture proceeding if:

(A) a motion is filed under paragraph (2); and

(B) following a hearing, the claimant has demonstrated that the requirements of paragraph (1) have been met.

(ii) If the motion addresses currency, monetary instruments or electronic funds, the claimant must establish by a preponderance of the evidence a documented and noncriminal source of the currency, monetary instrument or electronic fund. The requirement under this subparagraph shall be in addition to the requirements under subparagraph (i).

(5) If the court grants a motion under paragraph (4):

(i) the court may enter any order necessary to ensure that the value of the property is maintained while the forfeiture action is pending, including:

(A) permitting the inspection, photographing and the taking of inventory of the property;

(B) fixing a bond; and

(C) requiring the claimant to obtain or maintain insurance on the subject property;

(ii) the Commonwealth may place a lien against the property or file a lis pendens to ensure that the property is not transferred to another person; and

(iii) if the property in question is currency, monetary instruments or electronic funds, the court shall fix a bond as provided under paragraph (5.1).

(5.1) For the purposes of paragraph (5)(iii), the following shall apply to the fixing of a bond sufficient to secure the value of the currency, monetary instruments or electronic funds:

(i) If the value of the currency, monetary instruments or electronic funds is less than $2,000, the court may order the fixing of a bond.

(ii) If the value of the currency, monetary instruments or electronic funds is at least $2,000, but less than $5,000, the court may order the fixing of a bond. If the court finds that the claimant has not demonstrated his or her ability to ensure the availability of the currency at the time of the forfeiture trial, the court shall order the fixing of a bond.

(iii) If the value of the currency, monetary instruments or electronic funds is $5,000 or more, the court shall order the fixing of a bond.

(6) This subsection shall not apply if the seized property:

(i) is contraband;

(ii) is evidence which shall include, but not be limited to, proceeds from a violation of law;

(iii) by reason of design or other characteristic, is particularly suited for use in illegal activities; or

(iv) is likely to be used to commit additional criminal acts if returned to the claimant.

(7) A party to a proceeding under this subsection shall not be estopped from raising in any other proceeding any

claim or issue presented to or decided by the court under this subsection.

(g) (Reserved).

(h) (Reserved).

(i) Trial time.--On the filing of an answer setting forth a right of possession, the case shall be deemed at issue and a time shall be fixed for the trial. A judicial district shall not require the parties to proceed through local rules of arbitration.

(j) Burden of proof.--

(1) The burden shall be on the Commonwealth to establish in the forfeiture petition that the property is subject to forfeiture.

(2) If the Commonwealth satisfies the burden under paragraph (1), the burden shall be on the claimant to show by a preponderance of the evidence that:

(i) the claimant is the owner of the property or the holder of a chattel mortgage or contract of conditional sale on the property or holds some other documented interest in the property; and

(ii) the claimant lawfully acquired the property.

(3) If the claimant satisfies the burden under paragraph (2), the burden shall be on the Commonwealth to establish by clear and convincing evidence that the property in question was unlawfully used, possessed or otherwise subject to the forfeiture.

(4) If the Commonwealth satisfies the burden under paragraph (3) and the claimant alleges that he did not have knowledge of the unlawful activity or consent to the unlawful activity, the burden shall be on the Commonwealth to establish by clear and convincing evidence:

(i) that the property was unlawfully used or possessed by the claimant; or

(ii) if it appears that the property was unlawfully used or possessed by a person other than the claimant, that the person unlawfully used or possessed the property with the claimant's knowledge and consent.

(k) Proportionality.--

(1) If the court determines that the forfeiture petition shall be granted, the claimant, prior to entry of an order of forfeiture, may petition the court to determine whether the forfeiture is constitutionally excessive.

(2) If the court finds that the forfeiture is grossly disproportional to the offense, the court shall reduce or eliminate the forfeiture as necessary to avoid a constitutional violation.

(l) Disclaimed property.--A defendant in a criminal case who disclaims ownership of property during the criminal case may not claim ownership during a subsequent forfeiture proceeding.

(m) Procedure following acquittal.--The following shall apply:

(1) If the owner of the property is acquitted of all crimes which authorize forfeiture, there shall be a rebuttable presumption that the property was lawfully used or possessed by the claimant.

(2) If the owner of the property is acquitted of all crimes which authorize forfeiture, the owner shall be entitled to a hearing under section 5806 (relating to motion for return of property).

(3) If the forfeiture petition relating to the property at issue has already been litigated, this section shall not apply.

(4) As used in this subsection, the term "acquittal" shall not include plea agreements, acceptance of Accelerated Rehabilitative Disposition or any other form of preliminary disposition.

Special Provisions in Appendix. See section 12 of Act 13 of 2017 in the appendix to this title for special provisions relating to forfeitures.

Cross References. Section 5805 is referred to in section 1518 of Title 4 (Amusements); sections 910, 2717, 2807, 3141, 4116, 4119, 5513, 5707, 6501, 7707 of Title 18 (Crimes and Offenses); section 927 of Title 30 (Fish); sections 3722, 4909, 9405 of Title 75 (Vehicles).

§ 5806. Motion for return of property.

(a) Motion.--The following shall apply:

(1) A person aggrieved by a search and seizure may move for the return of the property seized by filing a motion in the court of common pleas in the judicial district where the property is located.

(2) The filer under paragraph (1) must serve the Commonwealth.

(3) Upon proof of service, the court shall schedule a prompt hearing on the motion and shall notify the Commonwealth. A hearing on the motion shall, to the extent practicable and consistent with the interests of justice, be held within 30 days of the filing of the motion.

(4) The assigned judge may require the filing of an answer.

(5) If a forfeiture petition was filed by the Commonwealth before the filing of a motion for return of property, the motion shall be assigned to the same judge for disposition, as practicable.

(b) Contents of motion.--A motion under this section shall:

(1) Be signed by the petitioner under penalty of perjury.

(2) Describe the nature and extent of the petitioner's right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the property and any additional facts supporting the petitioner's claim. The information shall include:

(i) A description of the property seized.

(ii) A statement of the time and place where seized, if known.

(iii) The owner, if known.

(iv) The person in possession, if known.

(3) Identify the relief sought, which may include:

(i) Return of the petitioner's property.

(ii) Reimbursement for the petitioner's legal interest in the property.

(iii) Severance of the petitioner's property from the forfeited property.

(iv) Any relief the court deems appropriate and just.

Special Provisions in Appendix. See section 12 of Act 13 of 2017 in the appendix to this title for special provisions relating to forfeitures.

Cross References. Section 5806 is referred to in section 5805 of this title; section 1518 of Title 4 (Amusements); sections 910, 2717, 2807, 3141, 4116, 4119, 5513, 5707, 6501, 7707 of Title 18 (Crimes and Offenses); section 927 of Title 30 (Fish); sections 3722, 4909, 9405 of Title 75 (Vehicles).

§ 5806.1. (Reserved).

§ 5806.2. (Reserved).

§ 5807. Restrictions on use.

Property, money or other things of value received by a State law enforcement authority under any of the following laws may not be used for contributions to political campaigns, expenses related to judicial trainings or the purchase of alcoholic beverages:

(1) A Federal law which authorizes the sharing or transfer of all or a portion of forfeited property or the proceeds of the sale of forfeited property to a State law enforcement authority.

(2) A State law which authorizes forfeiture.

Special Provisions in Appendix. See section 12 of Act 13 of 2017 in the appendix to this title for special provisions relating to forfeitures.

Cross References. Section 5807 is referred to in section 1518 of Title 4 (Amusements); sections 910, 2717, 2807, 3141, 4116, 4119, 5513, 5707, 6501, 7707 of Title 18 (Crimes and Offenses); section 927 of Title 30 (Fish); sections 3722, 4909, 9405 of Title 75 (Vehicles).

§ 5807.1. Prohibition on adoptive seizures.

State law enforcement authorities shall not refer seized property to a Federal agency seeking the adoption by the Federal agency of the seized property. Nothing under this chapter shall prohibit the Federal Government or any of its agencies from seeking Federal forfeiture of the same property under any Federal forfeiture law.

Special Provisions in Appendix. See section 12 of Act 13 of 2017 in the appendix to this title for special provisions relating to forfeitures.

Cross References. Section 5807.1 is referred to in section 1518 of Title 4 (Amusements); sections 910, 2717, 2807, 3141, 4116, 4119, 5513, 5707, 6501, 7707 of Title 18 (Crimes and Offenses); section 927 of Title 30 (Fish); sections 3722, 4909, 9405 of Title 75 (Vehicles).

§ 5807.2. Federal reporting requirements.

The audit required under section 5803(j) (relating to asset forfeiture) shall include a copy of each equitable sharing agreement and certification form filed with the United States Department of Justice within the last 12 months.

§ 5808. Exceptions.

(a) Contraband.--Nothing in this chapter shall be construed to apply to the forfeiture of the following:

(1) Items bearing a counterfeit mark under 18 Pa.C.S. § 4119 (relating to trademark counterfeiting).

(2) Liquor, alcohol or malt or brewed beverages illegally manufactured or possessed under section 601 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

(3) Unlawfully stamped cigarettes under section 307 of the act of December 30, 2003 (P.L.441, No.64), known as the Tobacco Product Manufacturer Directory Act.

(4) Unstamped cigarettes under section 1285 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(b) Abandoned and unclaimed property.--This chapter shall not apply to abandoned or unclaimed property under Article XIII.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

Special Provisions in Appendix. See section 12 of Act 13 of 2017 in the appendix to this title for special provisions relating to forfeitures.

Cross References. Section 5808 is referred to in section 1518 of Title 4 (Amusements); sections 910, 2717, 2807, 3141, 4116, 4119, 5513, 5707, 6501, 7707 of Title 18 (Crimes and Offenses); section 927 of Title 30 (Fish); sections 3722, 4909, 9405 of Title 75 (Vehicles).

CHAPTER 59
DEPOSITIONS AND WITNESSES

Subchapter

A. Witnesses Generally
B. Securing Attendance of Witnesses in Criminal Proceedings
C. Rendition of Prisoners as Witnesses in Criminal Proceedings
D. Child Victims and Witnesses
E. Victims and Witnesses with Intellectual Disabilities or Autism

Enactment. Chapter 59 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Cross References. Chapter 59 is referred to in section 5337 of this title.

SUBCHAPTER A
WITNESSES GENERALLY

Sec.

5901. Judicial oath.
5902. Effect of religious beliefs.
5903. Compensation and expenses of witnesses.
5904. Subpoena of witnesses.
5905. Subpoenas.

CRIMINAL PROCEEDINGS

5911. Competency of witnesses generally.
5912. Effect of prior convictions.
5913. Spouses as witnesses against each other.
5914. Confidential communications between spouses.
5915. Testimony by spouse in rebuttal.
5916. Confidential communications to attorney.
5917. Notes of evidence at former trial.
5918. Examination of defendant as to other offenses.
5919. Depositions in criminal matters.
5920. Expert testimony in certain criminal proceedings.

CIVIL MATTERS

5921. Interest not to disqualify.
5922. Disqualification by perjury.
5923. Confidential communications between spouses.
5924. Spouses as witnesses against each other.
5925. Testimony by married person against spouse in rebuttal.
5926. Testimony by spouse after attack on character or conduct.
5927. Actions by spouse to recover separate property.
5928. Confidential communications to attorney.
5929. Physicians not to disclose information.
5930. Surviving party as witness, in case of death, mental incapacity, etc.
5931. Incompetent witnesses.
5932. Witness competent to testify against interest; to become competent upon release of interest.
5933. Competency of surviving party.
5934. Notes of evidence at former trial.
5935. Examination of person adversely interested.
5936. Medical testimony by deposition.

CERTAIN PRIVILEGES AND IMMUNITIES

5941. Persons who may be compelled to testify.
5942. Confidential communications to news reporters.
5943. Confidential communications to clergymen.
5944. Confidential communications to psychiatrists or licensed psychologists.
5945. Confidential communications to school personnel.
5945.1. Confidential communications with sexual assault counselors.
5945.2. Confidential communications to crime stopper or similar anticrime program.
5945.3. Confidential communications with human trafficking caseworkers.
5946. Competency of certain witnesses where political subdivision is a party.
5947. Immunity of witnesses.
5948. Confidential communications to qualified professionals.
5949. Confidential mediation communications and documents.
5950. Confidential communications involving law enforcement officers.
5951. Confidential communications involving public safety responders and corrections officers.
5952. Confidential communications to peer support members.

§ 5901. Judicial oath.

(a) General rule.--Every witness, before giving any testimony shall take an oath in the usual or common form, by laying the hand upon an open copy of the Holy Bible, or by lifting up the right hand and pronouncing or assenting to the following words: "I, A. B., do swear by Almighty God, the searcher of all hearts, that I will , and that as I shall answer to God at the last great day." Which oath so taken by persons who conscientiously refuse to take an oath in the common form shall be deemed and taken in law to have the same effect as an oath taken in common form.

(b) Right to affirm.--The affirmation may be administered in any judicial proceeding instead of the oath, and shall have the same effect and consequences, and any witness who desires to affirm shall be permitted to do so.

§ 5902. Effect of religious beliefs.

(a) Religious opinions not to disqualify.--The capacity of any person to testify in any judicial proceeding shall not be affected by his opinions on matters of religion.

(b) Religious belief may not be shown.--No witness shall be questioned, in any judicial proceeding, concerning his religious belief; nor shall any evidence be heard upon the subject, for the purpose of affecting either his competency or credibility.

(c) Definitions.--As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Judicial proceedings." Includes all matters of whatever nature, relating to practice in or authorized by any tribunal whether of record or not of record, within this Commonwealth.

"Witness." Includes every person who shall make statements, either oral or written, in any judicial proceeding.

§ 5903. Compensation and expenses of witnesses.

(a) Scope.--The provisions of this section apply to a witness served with a subpoena to testify before any government unit (except the minor judiciary) or before the Philadelphia Municipal Court, but do not affect:

(1) The right of a witness who gives expert testimony to receive additional per diem compensation therefor.

(2) The compensation of a witness from another jurisdiction who appears to testify in a criminal proceeding in this Commonwealth by virtue of process issued under the authority of such other jurisdiction.

(b) Compensation.--Every witness, except a salaried police officer attending a coroner's inquest during working hours, shall be paid at the rate of $5 per day during the necessary period of attendance. A witness under the act of March 30, 1937 (P.L.115, No.40), known as "The First Class City Permanent Registration Act" shall be paid at the rate of $20 per day.

(c) Travel.--Every witness, except a salaried police officer attending a coroner's inquest during working hours, shall be paid mileage at the rate of 7¢ for each mile circular actually and necessarily travelled between the place named in the subpoena and the place of residence of the witness.

(d) Lodging and subsistence.--When a matter is prolonged from one day to the next a witness necessarily present on both days who resides more than 50 miles by the usually-travelled route from the place named in the subpoena and who remains there overnight shall be paid commutation of lodging and subsistence for each such night in an additional amount equal to the per diem witness fee.

(e) Adjournments and postponements.--When a matter is adjourned, continued or postponed for more than one day, or is prolonged from one week to the next, a witness necessarily present both before and after such interval and who returns to the place of residence of the witness during such interval shall be paid one additional travel allowance for each such interval.

(f) Multiple matters.--A witness necessarily present for more than one matter at the same place during any day shall receive only one payment for compensation and expenses under this section.

(g) Witness not called.--A witness who attends any matter under subpoena, but who is not called to testify therein, shall receive the same compensation and expenses as if actually called to testify.

(h) Payment at time of service of subpoena.--At the time a witness is served with a subpoena for any civil matter the witness shall, upon demand, be paid the witness fee for one day and travel expense provided in this section.

(i) Certification.--The person disbursing compensation and expenses to a witness under this section may require that the

witness first certify under 18 Pa.C.S. § 4904(b) (relating to statements "under penalty") that the compensation and expenses paid do not exceed the amount specified by this section.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

1980 Amendment. Act 142 amended subsec. (a).
1978 Amendment. Act 53 added section 5903.
References in Text. The act of March 30, 1937, P.L.115, No.40, known as The First Class City Permanent Registration Act, referred to in subsec. (b), was repealed by the act of June 30, 1995, P.L.170, No.25, known as the Pennsylvania Voter Registration Act, which was repealed by the act of January 31, 2002, P.L.18, No.3. The subject matter is now contained in Title 25 (Elections).
Cross References. Section 5903 is referred to in sections 6158, 7309 of this title; section 1601 of Title 25 (Elections); section 1108 of Title 65 (Public Officers).

§ 5904. Subpoena of witnesses.

(a) Method of service.--In addition to any other method of service provided by law, a subpoena may be served upon a witness in a criminal proceeding by registered or certified mail, return receipt requested, or by first class mail.
(b) Proof of service.--A completed return receipt shall be prima facie evidence of service of the subpoena.
(c) Duration.--A subpoena shall remain in force until the termination of the criminal proceeding.
(d) Bench warrants.--Upon proof of service of a subpoena, the court may issue a bench warrant for any witness who fails to appear in response to a subpoena. However, such warrant cannot be issued if service has been by first class mail.
(Nov. 26, 1978, P.L.1264, No.301, eff. imd.)

1978 Amendment. Act 301 added section 5904.

§ 5905. Subpoenas.

Every court of record shall have power in any civil or criminal matter to issue subpoenas to testify, with or without a clause of duces tecum, into any county of this Commonwealth to witnesses to appear before the court or any appointive judicial officer. Subpoenas shall be in the form prescribed by general rules.
(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

1980 Amendment. Act 142 added section 5905.

CRIMINAL PROCEEDINGS

§ 5911. Competency of witnesses generally.

Except as otherwise provided in this subchapter, all persons shall be fully competent witnesses in any criminal proceeding before any tribunal.

§ 5912. Effect of prior convictions.

No person shall be deemed incompetent or otherwise disqualified as a witness in any criminal proceeding by reason of the person's having been convicted of perjury or subornation of or solicitation to commit perjury, but such conviction may be shown for the purpose of affecting the person's credibility.
(Apr. 22, 1993, P.L.2, No.2, eff. imd.)

1993 Amendment. Section 2 of Act 2 provided that the amendment of section 5912 shall apply to all criminal cases pending on the effective date of Act 2.

§ 5913. Spouses as witnesses against each other.

Except as otherwise provided in this subchapter, in a criminal proceeding a person shall have the privilege, which he or she may waive, not to testify against his or her then lawful spouse except that there shall be no such privilege:

(1) in proceedings for desertion and maintenance;

(2) in any criminal proceeding against either for bodily injury or violence attempted, done or threatened upon the other, or upon the minor children of said husband and wife, or the minor children of either of them, or any minor child in their care or custody, or in the care or custody of either of them;

(3) applicable to proof of the fact of marriage, in support of a criminal charge of bigamy alleged to have been committed by or with the other; or

(4) in any criminal proceeding in which one of the charges pending against the defendant includes murder, involuntary deviate sexual intercourse or rape.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; June 29, 1989, P.L.69, No.16, eff. imd.)

1989 Amendment. Section 2 of Act 16 provided that Act 16 shall apply to all criminal cases pending on the effective date of Act 16.

§ 5914. Confidential communications between spouses.

Except as otherwise provided in this subchapter, in a criminal proceeding neither husband nor wife shall be competent or permitted to testify to confidential communications made by one to the other, unless this privilege is waived upon the trial.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

§ 5915. Testimony by spouse in rebuttal.

In any criminal proceeding brought against the husband or wife, if the defendant makes defense at the trial upon any ground which attacks the character or conduct of his or her spouse, the spouse attacked shall be a competent witness in rebuttal for the Commonwealth.

§ 5916. Confidential communications to attorney.

In a criminal proceeding counsel shall not be competent or permitted to testify to confidential communications made to him by his client, nor shall the client be compelled to disclose the same, unless in either case this privilege is waived upon the trial by the client.

Cross References. Section 5916 is referred to in sections 4415, 4436 of this title; sections 566, 586 of Title 2 (Administrative Law and Procedure); section 6311.1 of Title 23 (Domestic Relations).

§ 5917. Notes of evidence at former trial.

Whenever any person has been examined as a witness, either for the Commonwealth or for the defense, in any criminal proceeding conducted in or before a court of record, and the defendant has been present and has had an opportunity to examine or cross-examine, if such witness afterwards dies, or is out of the jurisdiction so that he cannot be effectively served with a subpoena, or if he cannot be found, or if he becomes incompetent to testify for any legally sufficient reason properly proven, notes of his examination shall be competent evidence upon a subsequent trial of the same criminal issue. For the purpose of contradicting a witness the testimony given by him in another or in a former proceeding may be orally proved.

§ 5918. Examination of defendant as to other offenses.

No person charged with any crime and called as a witness in his own behalf, shall be asked, or if asked, shall be required to answer, any question tending to show that he has committed, or been charged with, or been convicted of any offense other than the one wherewith he shall then be charged, or tending to show that he has been of bad character or reputation unless:

(1) he shall have at such trial, personally or by counsel, asked questions of the witness for the prosecution with a view to establish his own good reputation or character, or has given evidence tending to prove his own good character or reputation; or

(2) he shall have testified at such trial against a co-defendant, charged with the same offense.

§ 5919. Depositions in criminal matters.

The testimony of witnesses taken in accordance with section 5325 (relating to when and how a deposition may be taken outside this Commonwealth) may be read in evidence upon the trial of any criminal matter unless it shall appear at the trial that the witness whose deposition has been taken is in attendance, or has been or can be served with a subpoena to testify, or his attendance otherwise procured, in which case the deposition shall not be admissible.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

§ 5920. Expert testimony in certain criminal proceedings.

(a) Scope.--This section applies to all of the following:

(1) A criminal proceeding for any crime listed under Subchapter H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders) of Chapter 97.

(2) A criminal proceeding for an offense, including attempt, solicitation or conspiracy, under any of the following provisions of 18 Pa.C.S. (relating to crimes and offenses):

(i) Chapter 30 (relating to human trafficking), if the offense involved sexual servitude.

(ii) Chapter 31 (relating to sexual offenses).

(iii) Section 4302 (relating to incest).

(iv) Section 4304 (relating to endangering welfare of children), if the offense involved sexual contact with the victim.

(v) Section 5902(b) or (b.1) (relating to prostitution and related offenses).

(vi) Section 6301(a)(1)(i) (relating to corruption of minors), if the offense involved sexual contact with the victim.

(vii) Section 6301(a)(1)(ii).

(viii) Section 6312 (relating to sexual abuse of children).

(ix) Section 6318 (relating to unlawful contact with minor).

(x) Section 6320 (relating to sexual exploitation of children).

(3) A criminal proceeding for a domestic violence offense.

(b) Qualifications and use of experts.--

(1) In a criminal proceeding subject to this section, a witness may be qualified by the court as an expert if the witness has specialized knowledge beyond that possessed by the average layperson based on the witness's experience with, or specialized training or education in, criminal justice,

behavioral sciences or victim services issues, related to sexual violence or domestic violence, that will assist the trier of fact in understanding the dynamics of sexual violence or domestic violence, victim responses to sexual violence or domestic violence and the impact of sexual violence or domestic violence on victims during and after being assaulted.

(2) If qualified as an expert, the witness may testify to facts and opinions regarding specific types of victim responses and victim behaviors.

(3) The witness's opinion regarding the credibility of any other witness, including the victim, shall not be admissible.

(4) A witness qualified by the court as an expert under this section may be called by the attorney for the Commonwealth or the defendant to provide the expert testimony.

(c) Definitions.--As used in this section, the term "domestic violence" means an offense under 18 Pa.C.S. § 2701 (relating to simple assault), 2702 (relating to aggravated assault), 2709.1 (relating to stalking) or 2718 (relating to strangulation) perpetrated against a family or household member, as that term is defined in 23 Pa.C.S. § 6102 (relating to definitions).

(June 29, 2012, P.L.656, No.75, eff. 60 days; June 30, 2021, P.L.247, No.52, eff. 60 days)

2021 Amendment. Act 53 amended subsecs. (a) and (b)(1) and added subsec. (c).

2012 Amendment. Act 75 added section 5920. Section 2 of Act 75 provided that section 5920 shall apply to actions initiated on or after the effective date of section 2.

CIVIL MATTERS

§ 5921. Interest not to disqualify.

In any civil matter before any tribunal of this Commonwealth, or conducted by virtue of its order or direction, no liability merely for costs nor the right to compensation possessed by an executor, administrator or other trustee, nor any interest merely in the question on trial, nor any other interest, or policy of law, except as is provided in this subchapter, shall make any person incompetent as a witness.

§ 5922. Disqualification by perjury.

In a civil matter, a person who has been convicted in a court of this Commonwealth of perjury, which term is hereby declared to include subornation of or solicitation to commit perjury, shall not be a competent witness for any purpose, although his sentence may have been fully complied with, unless the judgment of conviction be judicially set aside or reversed, or unless the matter is one to redress or prevent injury or violence attempted, done or threatened to his person or property, in which cases he shall be permitted to testify.

Cross References. Section 5922 is referred to in section 5931 of this title.

§ 5923. Confidential communications between spouses.

Except as otherwise provided in this subchapter, in a civil matter neither husband nor wife shall be competent or permitted to testify to confidential communications made by one to the other, unless this privilege is waived upon the trial.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

Cross References. Section 5923 is referred to in section 5931 of this title.

§ 5924. Spouses as witnesses against each other.

(a) General rule.--In a civil matter neither husband nor wife shall be competent or permitted to testify against each other.

(b) Exception.--Subsection (a) shall not apply in an action or proceeding:

(1) For divorce, including ancillary proceedings for the partition or division of property.

(2) For support or relating to the protection or recovery of marital or separate property.

(3) For custody or care of children, including actions or proceedings relating to visitation rights and similar matters.

(4) Arising under 23 Pa.C.S. Ch. 61 (relating to protection from abuse).

(5) When a statute heretofore or hereafter enacted applicable to the action or proceeding provides either expressly or by necessary implication that spouses may testify therein against each other.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 19, 1990, P.L.1240, No.206, eff. 90 days)

Cross References. Section 5924 is referred to in section 5931 of this title.

§ 5925. Testimony by married person against spouse in rebuttal.

In any civil action brought against a married person, if the defendant makes defense at the trial upon any ground which attacks the character or conduct of the spouse, the spouse shall be a competent witness in rebuttal for the plaintiff.

(Oct. 4, 1978, P.L.909, No.173, eff. 60 days)

§ 5926. Testimony by spouse after attack on character or conduct.

In all civil actions brought by either the husband or wife, either the husband or the wife shall be a competent witness in rebuttal, when his or her character or conduct is attacked upon the trial thereof, but only in regard to the matter of his or her character or conduct.

§ 5927. Actions by spouse to recover separate property.

In any action brought by either the husband or wife to protect and recover the separate property of either, both shall be fully competent witnesses, except that neither may testify to confidential communications made by one or the other, unless this privilege is waived upon the trial.

§ 5928. Confidential communications to attorney.

In a civil matter counsel shall not be competent or permitted to testify to confidential communications made to him by his client, nor shall the client be compelled to disclose the same, unless in either case this privilege is waived upon the trial by the client.

Cross References. Section 5928 is referred to in sections 4415, 4436, 5931 of this title; sections 566, 586 of Title 2 (Administrative Law and Procedure); section 6311.1 of Title 23 (Domestic Relations).

§ 5929. Physicians not to disclose information.

No physician shall be allowed, in any civil matter, to disclose any information which he acquired in attending the patient in a professional capacity, and which was necessary to enable him to act in that capacity, which shall tend to blacken

the character of the patient, without consent of said patient, except in civil matters brought by such patient, for damages on account of personal injuries.

§ 5930. Surviving party as witness, in case of death, mental incapacity, etc.

Except as otherwise provided in this subchapter, in any civil action or proceeding, where any party to a thing or contract in action is dead, or has been adjudged a lunatic and his right thereto or therein has passed, either by his own act or by the act of the law, to a party on the record who represents his interest in the subject in controversy, neither any surviving or remaining party to such thing or contract, nor any other person whose interest shall be adverse to the said right of such deceased or lunatic party, shall be a competent witness to any matter occurring before the death of said party or the adjudication of his lunacy, unless the action or proceeding is by or against the surviving or remaining partners, joint promisors or joint promisees, of such deceased or lunatic party, and the matter occurred between such surviving or remaining partners, joint promisors or joint promisees and the other party on the record, or between such surviving or remaining partners, promisors or promisees and the person having an interest adverse to them, in which case any person may testify to such matters; or, unless the action is a possessory action against several defendants, and one or more of said defendants disclaims of record any title to the premises in controversy at the time the suit was brought and also pays into court the costs accrued at the time of his disclaimer, or gives security therefor as the court in its discretion may direct, in which case such disclaiming defendant shall be a fully competent witness; or, unless the issue or inquiry be devisavit vel non, or be any other issue or inquiry respecting the property of a deceased owner, and the controversy is between parties respectively claiming such property by devolution on the death of such owner, in which case all persons shall be fully competent witnesses. (Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

Cross References. Section 5930 is referred to in sections 5931, 5932 of this title.

§ 5931. Incompetent witnesses.

No person who is incompetent under section 5922 (relating to disqualification by perjury), section 5923 (relating to confidential communications between spouses), section 5924 (relating to spouses as witnesses against each other) and section 5928 (relating to confidential communications to attorney) shall become competent by the general language of section 5930 (relating to surviving party as witness, in case of death, mental incapacity, etc.).

§ 5932. Witness competent to testify against interest; to become competent upon release of interest.

Any person who is incompetent under section 5930 (relating to surviving party as witness, in case of death, mental incapacity, etc.) by reason of interest may nevertheless be called to testify against his own interest, and in that event he shall become a fully competent witness for either party. Such person shall also become fully competent for either party by filing of record a release or extinguishment of his interest.

§ 5933. Competency of surviving party.

(a) General rule.--In any civil action or proceeding before any tribunal of this Commonwealth, or conducted by virtue of its order or direction, although a party to the thing or contract in action may be dead or may have been adjudged a

lunatic, and his right thereto or therein may have passed, either by his own act or by the act of the law, to a party on record who represents his interest in the subject in controversy, nevertheless any surviving or remaining party to such thing or contract or any other person whose interest is adverse to the said right of such deceased or lunatic party, shall be a competent witness to any relevant matter, although it may have occurred before the death of said party or the adjudication of his lunacy, if and only if such relevant matter occurred between himself and another person who may be living at the time of the trial and may be competent to testify, and who does so testify upon the trial against such surviving or remaining party or against the person whose interest may be thus adverse, or if such relevant matter occurred in the presence or hearing of such other living or competent person.

(b) Testimony by deposition.--The testimony now made competent by subsection (a) may also be taken by commission or deposition in accordance with law, and, in that event, the deposition thus taken shall be competent evidence at the trial or hearing, although the person with whom or in whose presence or hearing such relevant matter occurred, may die or become incompetent after the taking of such deposition.

§ 5934. Notes of evidence at former trial.

Whenever any person has been examined as a witness in any civil matter before any tribunal of this Commonwealth or conducted by virtue of its order or direction, if such witness afterwards dies, or is out of the jurisdiction so that he cannot be effectively served with a subpoena, or if he cannot be found, or if he becomes incompetent to testify for any legally sufficient reason, and if the party, against whom notes of the testimony of such witness are offered, had actual or constructive notice of the examination and an opportunity to be present and examine or cross-examine, properly proven notes of the examination of such witness shall be competent evidence in any civil issue which may exist at the time of his examination, or which may be afterwards formed between the same parties and involving the same subject-matter as that upon which such witness was so examined. For the purpose of contradicting a witness, the testimony given by him in another or in a former proceeding may be orally proved.

§ 5935. Examination of person adversely interested.

In any civil action or proceeding, whether or not it is brought or defended by a person representing the interests of a deceased or lunatic assignor of any thing or contract in action, a party to the record, or a person for whose immediate benefit such proceeding is prosecuted or defended, or any director or other officer of a person which is a party to the record, or for the immediate benefit of which such action or proceeding is prosecuted or defended, or any other person whose interest is adverse to the party calling him as a witness, may be compelled by the adverse party to testify as if under cross-examination, subject to the rules of evidence applicable to witnesses under cross-examination, and the adverse party calling such witnesses shall not be concluded by his testimony, but such person so cross-examined shall become thereby a fully competent witness for the other party as to all relevant matters whether or not these matters were touched upon in his cross-examination, and also, where one of the several plaintiffs or defendants, or the person for whose immediate benefit such proceeding is prosecuted or defended, or such director or officer, or such other person having an adverse interest, is cross-examined under this section, his coplaintiffs or

codefendants, or fellow directors or officers, shall thereby become fully competent witnesses on their own behalf, or on behalf of the person of which they shall be directors or officers, as to all relevant matters, whether or not these matters were touched upon in such cross-examination.

§ 5936. Medical testimony by deposition.

(a) General rule.--The testimony of any physician licensed to practice medicine may be taken by oral interrogation in the manner prescribed by general rule for the taking of depositions.

(b) Admissibility.--A deposition taken under subsection (a) shall be admissible in a civil matter.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 added section 5936.

CERTAIN PRIVILEGES AND IMMUNITIES

§ 5941. Persons who may be compelled to testify.

(a) General rule.--Except defendants actually upon trial in a criminal proceeding, any competent witness may be compelled to testify in any matter, civil or criminal; but he may not be compelled to answer any question which, in the opinion of the trial judge, would tend to incriminate him; nor may the neglect or refusal of any defendant, actually upon trial in a criminal proceeding, to offer himself as a witness, be treated as creating any presumption against him, or be adversely referred to by court or counsel during the trial.

(b) Judgment debtor.--A judgment debtor may be compelled to answer all pertinent questions at any examination concerning his property, but he shall not be prosecuted, or subjected to any penalty or forfeiture, for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, except for perjury in giving such testimony.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

§ 5942. Confidential communications to news reporters.

(a) General rule.--No person engaged on, connected with, or employed by any newspaper of general circulation or any press association or any radio or television station, or any magazine of general circulation, for the purpose of gathering, procuring, compiling, editing or publishing news, shall be required to disclose the source of any information procured or obtained by such person, in any legal proceeding, trial or investigation before any government unit.

(b) Exception.--The provisions of subsection (a) insofar as they relate to radio or television stations shall not apply unless the radio or television station maintains and keeps open for inspection, for a period of at least one year from the date of the actual broadcast or telecast, an exact recording, transcription, kinescopic film or certified written transcript of the actual broadcast or telecast.

Cross References. Section 5942 is referred to in sections 4415, 4436 of this title; sections 566, 586 of Title 2 (Administrative Law and Procedure).

§ 5943. Confidential communications to clergymen.

No clergyman, priest, rabbi or minister of the gospel of any regularly established church or religious organization, except clergymen or ministers, who are self-ordained or who are members of religious organizations in which members other than the leader thereof are deemed clergymen or ministers, who while in the course of his duties has acquired information from any

person secretly and in confidence shall be compelled, or allowed without consent of such person, to disclose that information in any legal proceeding, trial or investigation before any government unit.

Cross References. Section 5943 is referred to in sections 4415, 4436 of this title; sections 566, 586 of Title 2 (Administrative Law and Procedure); section 6311.1 of Title 23 (Domestic Relations).

§ 5944. Confidential communications to psychiatrists or licensed psychologists.

No psychiatrist or person who has been licensed under the act of March 23, 1972 (P.L.136, No.52), to practice psychology shall be, without the written consent of his client, examined in any civil or criminal matter as to any information acquired in the course of his professional services in behalf of such client. The confidential relations and communications between a psychologist or psychiatrist and his client shall be on the same basis as those provided or prescribed by law between an attorney and client.

(Dec. 22, 1989, P.L.722, No.96, eff. 60 days)

Cross References. Section 5944 is referred to in sections 4415, 4436, 6352.2 of this title; sections 566, 586 of Title 2 (Administrative Law and Procedure).

§ 5945. Confidential communications to school personnel.

(a) General rule.--No guidance counselor, school nurse, school psychologist, or home and school visitor in the public schools or in private or parochial schools or other educational institutions providing elementary or secondary education, including any clerical worker of such schools and institutions, who, while in the course of his professional or clerical duties for a guidance counselor, home and school visitor, school nurse or school psychologist, has acquired information from a student in confidence shall be compelled or allowed:

(1) without the consent of the student, if the student is 18 years of age or over; or

(2) without the consent of his parent or guardian, if the student is under the age of 18 years;

to disclose such information in any legal proceeding, trial, or investigation before any government unit.

(b) Exemption.--Notwithstanding subsection (a), no such person shall be excused or prevented from complying with 23 Pa.C.S. Ch. 63 (relating to child protective services).

(Dec. 19, 1990, P.L.1240, No.206, eff. 90 days)

Cross References. Section 5945 is referred to in sections 4415, 4436 of this title; sections 566, 586 of Title 2 (Administrative Law and Procedure).

§ 5945.1. Confidential communications with sexual assault counselors.

(a) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Confidential communication." All information, oral or written, transmitted between a victim of sexual assault and a sexual assault counselor in the course of their relationship, including, but not limited to, any advice, reports, statistical data, memoranda, working papers, records or the like, given or made during that relationship, including matters transmitted between the sexual assault counselor and the victim through the use of an interpreter.

"Coparticipant." A victim participating in group counseling.

"Interpreter." A person who translates communications between a sexual assault counselor and a victim through the use of sign language, visual, oral or written translation.

"Rape crisis center." Any office, institution or center offering assistance to victims of sexual assault and their families through crisis intervention, medical and legal accompaniment and follow-up counseling.

"Sexual assault counselor." A person who is engaged in any office, institution or center defined as a rape crisis center under this section, who has undergone 40 hours of sexual assault training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling or assistance to victims of sexual assault.

"Victim." A person who consults a sexual assault counselor for the purpose of securing advice, counseling or assistance concerning a mental, physical or emotional condition caused or reasonably believed to be caused by a sexual assault. The term shall also include those persons who have a significant relationship with a victim of sexual assault and who seek advice, counseling or assistance from a sexual assault counselor concerning a mental, physical or emotional condition caused or reasonably believed to be caused by a sexual assault of a victim.

(b) Privilege.--

(1) No sexual assault counselor or an interpreter translating the communication between a sexual assault counselor and a victim may, without the written consent of the victim, disclose the victim's confidential oral or written communications to the counselor nor consent to be examined in any court or criminal proceeding.

(2) No coparticipant who is present during counseling may disclose a victim's confidential communication made during the counseling session nor consent to be examined in any civil or criminal proceeding without the written consent of the victim.

(Dec. 23, 1981, P.L.585, No.169, eff. 60 days; Dec. 17, 1990, P.L.737, No.183, eff. imd.; Dec. 20, 2000, P.L.742, No.105, eff. 60 days)

Cross References. Section 5945.1 is referred to in sections 4415, 4436, 5945.3, 62A03 of this title; sections 566, 586 of Title 2 (Administrative Law and Procedure).

§ 5945.2. Confidential communications to crime stopper or similar anticrime program.

(a) General rule.--No person engaged in, connected with or employed by any crime stopper or similar anticrime program shall be required in any manner to disclose the source of any information received, procured or obtained by such person or crime stopper or similar anticrime program in any legal proceeding, trial or investigation before any government unit.

(b) Definition.--As used in this section, "crime stopper or similar anticrime program" means a private, nonprofit organization that accepts and expends donations for rewards to persons who report to the organization information concerning criminal activity and that forwards the information to the appropriate law enforcement agency.

(Dec. 20, 2000, P.L.742, No.105, eff. 60 days)

2000 Amendment. Act 105 added section 5945.2.

Cross References. Section 5945.2 is referred to in sections 4415, 4436 of this title; sections 566, 586 of Title 2 (Administrative Law and Procedure).

§ 5945.3. Confidential communications with human trafficking caseworkers.

(a) Sexual assault counselors.--An individual qualified as a sexual assault counselor under section 5945.1(a) (relating to confidential communications with sexual assault counselors) may serve as a human trafficking counselor under this section.

(b) Privilege.--

(1) This subsection applies to all of the following:

(i) A human trafficking caseworker.

(ii) An interpreter.

(2) An individual designated in paragraph (1) may not disclose a confidential communication without the written consent of the victim of human trafficking who made the confidential communication.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Confidential communication." All information, oral or written, transmitted between a victim of human trafficking and a human trafficking caseworker in the course of their relationship. The term includes advice, reports, statistical data, memoranda, working papers and records, given or made during that relationship, including matters transmitted between the human trafficking caseworker and the victim through the use of an interpreter.

"Human trafficking caseworker." An individual:

(1) who is engaged by any organization whether financially compensated or not;

(2) whose primary purpose is the rendering of advice or assistance to a victim of human trafficking, as defined in 18 Pa.C.S. § 3001 (relating to definitions); and

(3) who:

(i) holds a master's degree or higher in counseling or a related field;

(ii) has an undergraduate degree or equivalent in a human services profession; or

(iii) is supervised by an individual qualified under subparagraph (i) or (ii) and has at least 80 hours of training received under that supervision in:

(A) the history of human trafficking;

(B) civil law and criminal law as they relate to human trafficking;

(C) societal attitudes toward human trafficking;

(D) peer counseling techniques;

(E) housing, public assistance and other financial resources available to meet the needs of victims of human trafficking;

(F) referral services available to victims of human trafficking;

(G) privileged communications; or

(H) human trauma therapy counseling.

"Interpreter." An individual who translates communications between a human trafficking caseworker and a victim of human trafficking through the use of sign language, visual, oral or written translation.

(July 2, 2014, P.L.945, No.105, eff. 60 days)

2014 Amendment. Act 105 added section 5945.3.

Cross References. Section 5945.3 is referred to in sections 4415, 4436 of this title.

§ 5946. Competency of certain witnesses where political subdivision is a party.

A person shall not be excluded from being a witness in any action or proceeding in which a political subdivision is a party or is interested because such person is or was an officer, rated citizen or inhabitant in such political subdivision or owns assessed or taxable property or is liable to the assessment or payment of taxes in such political subdivision.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

§ 5947. Immunity of witnesses.

(a) General rule.--Immunity orders shall be available under this section in all proceedings before:

(1) Courts.
(2) Grand juries.
(3) Investigating grand juries.
(4) The minor judiciary or coroners.

(b) Request and issuance.--The Attorney General or a district attorney may request an immunity order from any judge of a designated court, and that judge shall issue such an order, when in the judgment of the Attorney General or district attorney:

(1) the testimony or other information from a witness may be necessary to the public interest; and
(2) a witness has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

(c) Order to testify.--Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding specified in subsection (a), and the person presiding at such proceeding communicates to the witness an immunity order, that witness may not refuse to testify based on his privilege against self-incrimination.

(d) Limitation on use.--No testimony or other information compelled under an immunity order, or any information directly or indirectly derived from such testimony or other information, may be used against a witness in any criminal case, except that such information may be used:

(1) in a prosecution under 18 Pa.C.S. § 4902 (relating to perjury) or under 18 Pa.C.S. § 4903 (relating to false swearing);
(2) in a contempt proceeding for failure to comply with an immunity order; or
(3) as evidence, where otherwise admissible, in any proceeding where the witness is not a criminal defendant.

(e) Civil contempt.--Any person who shall fail to comply with an immunity order may be adjudged in civil contempt and committed to the county jail until such time as he purges himself of contempt by complying with the order, except that with regard to proceedings before grand juries or investigating grand juries, if the grand jury before which a person has been ordered to testify has been dissolved, he may then purge himself of contempt by complying before the designated court which issued the order.

(f) Criminal contempt.--In addition to civil contempt as provided in subsection (e), any person who shall fail to comply with an immunity order shall be guilty of criminal contempt, and upon conviction thereof, shall be sentenced to pay a fine

of not more than $1,000 or to undergo imprisonment for a period of not more than one year, or both.

(g) Definitions.--The following words and phrases when used in this section shall have, unless the context clearly indicates otherwise, the meanings given to them in this subsection:

"Designated court."

(1) In the case of proceedings before courts, countywide grand juries, countywide investigating grand juries, the minor judiciary or coroners: the court of common pleas of the judicial district in which the proceeding is taking place.

(2) In the case of proceedings before multicounty investigating grand juries: the judge of the court of common pleas designated as supervising judge of that grand jury.

"Immunity order." An order issued under this section by a designated court, directing a witness to testify or produce other information over a claim of privilege against self-incrimination.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 4, 1978, P.L.873, No.168, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

Cross References. Section 5947 is referred to in section 911 of Title 18 (Crimes and Offenses).

§ 5948. Confidential communications to qualified professionals.

Communications of a confidential character made by a spouse to a qualified professional as defined in 23 Pa.C.S. § 3103 (relating to definitions) shall be privileged and inadmissible in evidence in any matter under 23 Pa.C.S. Pt. IV (relating to divorce) or VI (relating to children and minors) unless the party concerned waives this privilege.

(Dec. 19, 1990, P.L.1240, No.206, eff. 90 days)

1990 Amendment. Act 206 added section 5948.

§ 5949. Confidential mediation communications and documents.

(a) General rule.--Except as provided in subsection (b), all mediation communications and mediation documents are privileged. Disclosure of mediation communications and mediation documents may not be required or compelled through discovery or any other process. Mediation communications and mediation documents shall not be admissible as evidence in any action or proceeding, including, but not limited to, a judicial, administrative or arbitration action or proceeding.

(b) Exceptions.--

(1) A settlement document may be introduced in an action or proceeding to enforce the settlement agreement expressed in the document, unless the settlement document by its terms states that it is unenforceable or not intended to be legally binding.

(2) To the extent that the communication or conduct is relevant evidence in a criminal matter, the privilege and limitation set forth in subsection (a) does not apply to:

(i) a communication of a threat that bodily injury may be inflicted on a person;

(ii) a communication of a threat that damage may be inflicted on real or personal property under circumstances constituting a felony; or

(iii) conduct during a mediation session causing direct bodily injury to a person.

(3) The privilege and limitation set forth under subsection (a) does not apply to a fraudulent communication during mediation that is relevant evidence in an action to

enforce or set aside a mediated agreement reached as a result of that fraudulent communication.

(4) Any document which otherwise exists, or existed independent of the mediation and is not otherwise covered by this section, is not subject to this privilege.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Mediation." The deliberate and knowing use of a third person by disputing parties to help them reach a resolution of their dispute. For purposes of this section, mediation commences at the time of initial contact with a mediator or mediation program.

"Mediation communication." A communication, verbal or nonverbal, oral or written, made by, between or among a party, mediator, mediation program or any other person present to further the mediation process when the communication occurs during a mediation session or outside a session when made to or by the mediator or mediation program.

"Mediation document." Written material, including copies, prepared for the purpose of, in the course of or pursuant to mediation. The term includes, but is not limited to, memoranda, notes, files, records and work product of a mediator, mediation program or party.

"Mediation program." A plan or organization through which mediators or mediation may be provided.

"Mediator." A person who performs mediation.

"Settlement document." A written agreement signed by the parties to the agreement.

(Feb. 7, 1996, P.L.7, No.3, eff. 60 days)

1996 Amendment. Act 3 added section 5949.

§ 5950. Confidential communications involving law enforcement officers.

(a) Disclosure.--Except as provided under subsection (c), a critical incident stress management team member who, while in the course of duty, has acquired information from any law enforcement officer in confidence may not be compelled or allowed without the consent of the law enforcement officer to disclose that information in a legal proceeding, trial or investigation before any government unit.

(b) Coparticipants.--Except as provided under subsection (c), a coparticipant who is present during the course of a critical incident stress management team intervention may not be compelled or allowed, without the consent of the affected law enforcement officer, to disclose any communication made during the intervention in a legal proceeding, trial or investigation before a government unit.

(c) Exceptions.--The privilege established under subsections (a) and (b) shall not apply if any of the following apply:

(1) The communication indicates clear and present danger to the law enforcement officer who received critical incident stress management services or to other individuals.

(2) The law enforcement officer who received critical incident stress management services gives express consent to the disclosure.

(3) The law enforcement officer who received critical incident stress management services is deceased and the surviving spouse or the executor or administrator of the estate of the deceased law enforcement officer gives express consent.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Coparticipant." An individual who participates in a group critical incident stress management team intervention.

"Critical incident." A situation responded to by a law enforcement officer which presents or involves either the death or serious bodily injury of an individual or the imminent potential of such death or serious bodily injury, or any situation faced by a law enforcement officer in the course of duty which causes or may cause the law enforcement officer to experience unusually strong negative emotional reactions.

"Critical Incident Stress Management Network." A network that meets the requirements of membership with the Pennsylvania Voluntary Critical Incident Stress Management Network as administered by the Department of Health and is registered with the International Critical Incident Stress Foundation.

"Critical incident stress management services." Consultation, risk assessment, education, intervention, briefing, defusing, debriefing, onsite services, referral and other crisis intervention services provided by a critical incident stress management team to a law enforcement officer prior to, during or after a critical incident.

"Critical incident stress management team member." An individual who is specially trained to provide critical incident stress management services as a member of a police agency or organization critical incident stress management team that holds membership in the Commonwealth's critical incident stress management network.

"Government unit." The General Assembly and its officers and agencies; the Governor and the departments, boards, commissions, authorities and officers and agencies of the Commonwealth or other instrumentalities thereof; any political subdivision, municipality, school district or other local authority and the departments, boards, commissions, authorities and officers and agencies of such political subdivisions or other instrumentalities thereof; and any court or other officer or agency of the unified judicial system or instrumentality thereof.

"Law enforcement officer." Any of the following:

(1) A member of the Pennsylvania State Police.

(2) Any enforcement officer or investigator employed by the Pennsylvania Liquor Control Board.

(3) A parole agent of the Department of Corrections.

(4) A Capitol Police officer.

(5) A Department of Conservation and Natural Resources ranger.

(6) A drug enforcement agent of the Office of Attorney General whose principal duty is the enforcement of the drug laws of this Commonwealth and a special agent of the Office of Attorney General whose principal duty is the enforcement of the criminal laws of this Commonwealth.

(7) Any member of a port authority or other authority police department.

(8) Any police officer of a county, region, city, borough, town or township.

(9) Any sheriff or deputy sheriff.

(10) A member of the Pennsylvania Fish Commission.

(11) A Pennsylvania Wildlife Conservation Officer.

(12) A member of a campus police force with the power to arrest under section 2416 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

As used in this paragraph, the term "campus police" has the meaning given in section 302 of the act of November 29, 2004 (P.L.1383, No.180), known as the Uniform Crime Reporting Act.

(13) A member of the Fort Indiantown Gap Police Force.

(July 9, 2010, P.L.381, No.53, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (d). See section 28 of Act 59 in the appendix to this title for special provisions relating to reference in law.

2010 Amendment. Act 53 added section 5950.

§ 5951. Confidential communications involving public safety responders and corrections officers.

(a) Disclosure.--Except as provided under subsection (c), a critical incident stress management team member who, while in the course of duty, has acquired information from any public safety responder or corrections officer in confidence may not be compelled or allowed without the consent of the public safety responder or corrections officer to disclose that information in a legal proceeding, trial or investigation before any government unit.

(b) Coparticipants.--Except as provided under subsection (c), a coparticipant who is present during the course of a critical incident stress management team intervention may not be compelled or allowed, without the consent of the affected public safety responder or corrections officer, to disclose any communication made during the intervention in a legal proceeding, trial or investigation before a government unit.

(c) Exceptions.--The privilege established under subsections (a) and (b) shall not apply if any of the following apply:

(1) The communication indicates clear and present danger to the public safety responder or corrections officer who received critical incident stress management services or to other individuals.

(2) The public safety responder or corrections officer who received critical incident stress management services gives express consent to the testimony.

(3) The public safety responder or corrections officer who received critical incident stress management services is deceased and the surviving spouse or the executor or administrator of the estate of the deceased public safety responder or corrections officer gives express consent.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Coparticipant." An individual who is participating in a group critical incident stress management team intervention.

"Corrections officer." A corrections officer of the Commonwealth or of a political subdivision.

"Critical incident." A situation responded to by a public safety responder or corrections officer which presents or involves either the death or serious bodily injury of an individual or the imminent potential of such death or serious bodily injury, or any situation faced by a public safety responder or corrections officer in the course of duty which causes or may cause the public safety responder or corrections officer to experience unusually strong negative emotional reactions.

"Critical Incident Stress Management Network." A network that meets the requirements of membership with the Pennsylvania Voluntary Critical Incident Stress Management Network as

administered by the Department of Health and is registered with the International Critical Incident Stress Foundation.

"Critical incident stress management services." Consultation, risk assessment, education, intervention, briefing, defusing, debriefing, onsite services, referral and other crisis intervention services provided by a critical incident stress management team to a public safety responder or corrections officer prior to, during or after a critical incident.

"Critical incident stress management team member." An individual who is specially trained to provide critical incident stress management services as a member of a critical incident stress management team that holds membership in the Commonwealth's critical incident stress management network.

"Firefighter." A member of a municipal or volunteer fire company.

"First responder." An individual who is certified by the Department of Health as a first responder.

"Government unit." The General Assembly and its officers and agencies; the Governor and the departments, boards, commissions, authorities and officers and agencies of the Commonwealth or other instrumentalities thereof; any political subdivision, municipality, school district, local authority and the departments, boards, commissions, authorities and officers and agencies of such political subdivisions or other instrumentalities thereof; and any court or other officer or agency of the unified judicial system or instrumentality thereof.

"Public safety responder." Any firefighter, emergency medical service personnel, ambulance service personnel or emergency telecommunicator, who in a critical incident is responsible for the protection and preservation of life, property, evidence and the environment, including an emergency response provider as defined in section 2 of the Homeland Security Act of 2002 (Public Law 107-296, 116 Stat. 2135), and emergency management and other skilled support personnel who provide immediate support services during prevention, response and recovery operations.

(July 9, 2010, P.L.381, No.53, eff. 60 days)

2010 Amendment. Act 53 added section 5951.

§ 5952. Confidential communications to peer support members.

(a) Disclosure.--Except as provided under subsection (c), a peer support member who, while in the course of duty, has acquired information from a law enforcement officer in confidence may not be compelled or allowed without the consent of the law enforcement officer to disclose that information in any legal proceeding, trial or investigation before any government unit.

(b) Coparticipants.--Except as provided under subsection (c), a coparticipant who is present during the provision of peer support services may not be compelled or allowed, without the consent of the affected law enforcement officer, to disclose any communication made during the provision of peer support services in a legal proceeding, trial or investigation before a government unit.

(c) Exceptions.--The privilege established under subsections (a) and (b) shall not apply if any of the following apply:

(1) The communication indicates clear and present danger to the law enforcement officer who received peer support services or to other individuals.

(2) The law enforcement officer who received peer support services gives express consent to the disclosure.

(3) The law enforcement officer who received peer support services is deceased and the surviving spouse or the executor or administrator of the estate of the deceased law enforcement officer gives express consent.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Coparticipant." An individual who participates in the provision of peer support services.

"Government unit." The General Assembly and its officers and agencies; the Governor and the departments, boards, commissions, authorities and officers and agencies of the Commonwealth or other instrumentalities thereof; any political subdivision, municipality, school district, local authority and the departments, boards, commissions, authorities and officers and agencies of such political subdivisions or other instrumentalities thereof; and any court or other officer or agency of the unified judicial system or instrumentality thereof.

"Law enforcement officer." Any of the following:

(1) A member of the Pennsylvania State Police.

(2) Any enforcement officer or investigator employed by the Pennsylvania Liquor Control Board.

(3) A parole agent of the Department of Corrections.

(4) A Capitol Police officer.

(5) A Department of Conservation and Natural Resources ranger.

(6) A drug enforcement agent of the Office of Attorney General whose principal duty is the enforcement of the drug laws of this Commonwealth and a special agent of the Office of Attorney General whose principal duty is the enforcement of the criminal laws of this Commonwealth.

(7) Any member of a port authority or other authority police department.

(8) Any police officer of a county, region, city, borough, town or township.

(9) Any sheriff or deputy sheriff.

(10) A member of the Pennsylvania Fish and Boat Commission.

(11) A Pennsylvania Wildlife Conservation Officer.

(12) A member of a campus police force with the power to arrest under section 2416 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929. As used in this paragraph, the term "campus police" has the meaning given in section 302 of the act of November 29, 2004 (P.L.1383, No.180), known as the Uniform Crime Reporting Act.

(13) A member of the Fort Indiantown Gap Police Force.

"Peer support member." A law enforcement officer who:

(1) Is assigned by a law enforcement agency.

(2) Receives a minimum of 24 hours of basic training in peer services, including listening, assessment and referral skills and basic critical incident stress management.

(3) Receives eight hours of continuing training each year.

(4) May be supervised by licensed psychologists.

(July 9, 2010, P.L.381, No.53, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (d). See section 28 of Act 59 in the appendix to this title for special provisions relating to reference in law.

2010 Amendment. Act 53 added section 5952.

SUBCHAPTER B
SECURING ATTENDANCE OF WITNESSES IN CRIMINAL PROCEEDINGS

Sec.

5961. Short title of subchapter.
5962. Definitions.
5963. Summoning witness in this Commonwealth to testify in another state.
5964. Witness from another state summoned to testify in this Commonwealth.
5965. Exemption from arrest and service of process.

§ 5961. Short title of subchapter.

This subchapter shall be known and may be cited as the "Uniform Act to Secure the Attendance of Witnesses from Within or Without a State in Criminal Proceedings."

§ 5962. Definitions.

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

"Summons." Includes a subpoena, order or other notice requiring the appearance of a witness.

"Witness." Includes a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding.

§ 5963. Summoning witness in this Commonwealth to testify in another state.

(a) General rule.--If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this Commonwealth certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced, or is about to commence, that a person being within this Commonwealth is a material witness in such prosecution or grand jury investigation and his presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing and shall make an order directing the witness to appear at a time and place certain for the hearing.

(b) Hearing.--If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state and that the laws of the state in which the prosecution is pending or grand jury investigation has commenced or is about to commence and of any other state through which the witness may be required to pass by ordinary course of travel will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons with a copy of the certificate attached directing the witness to attend and testify in the court where the prosecution is pending or where a grand jury investigation has commenced or is about to commence, at a time and place specified in the summons. In any such hearing

the certificate shall be prima facie evidence of all the facts stated therein.

(c) Immediate custody.--If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, such judge may in lieu of notification of the hearing direct that such witness be forthwith brought before him for said hearing, and the judge at the hearing, being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability, may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state. Such judge may admit the witness to bail by bond with sufficient sureties and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond and for his surrender to an officer of the requesting state.

(d) Enforcement.--If the witness who is summoned as provided in this section, after being paid or tendered by some properly authorized person the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution or investigation is pending and $5 for each day that he is required to travel and attend as a witness, or the mileage and witness fees and expenses to which witnesses in the courts of this Commonwealth are then entitled, whichever is greater, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this Commonwealth.

§ 5964. Witness from another state summoned to testify in this Commonwealth.

(a) General rule.--If a person in any state which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions or grand jury investigations commenced or about to commence in this Commonwealth is a material witness in a prosecution pending in a court of record in this Commonwealth or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. Said certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this Commonwealth to assure his attendance in this Commonwealth. This certificate shall be presented to a judge of a court of record in the county or parish in which the witness is found.

(b) Enforcement.--If the witness is summoned to attend and testify in this Commonwealth he shall be tendered the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution or investigation is pending and $5 for each day that he is required to travel and attend as a witness, or the mileage and witness fees and expenses to which witnesses in the courts of this Commonwealth are entitled, whichever is greater. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this Commonwealth a longer period of time than the period mentioned in the certificate unless otherwise ordered by the court. The court may admit the witness to bail by bond with or without surety and in such sum as it deems proper, conditioned for his appearance before it at a time specified in such bond. If such witness after coming into this Commonwealth fails without good cause to attend and testify

as directed in the summons he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this Commonwealth.

§ 5965. Exemption from arrest and service of process.

(a) Incoming witnesses.--If a person comes into this Commonwealth in obedience to a summons directing him to attend and testify in this Commonwealth he shall not while in this Commonwealth pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this Commonwealth under the summons.

(b) Witnesses in transit.--If a person passes through this Commonwealth while going to another state in obedience to a summons to attend and testify in that state, or while returning therefrom, he shall not while so passing through this Commonwealth be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this Commonwealth under the summons.

SUBCHAPTER C
RENDITION OF PRISONERS AS WITNESSES IN CRIMINAL PROCEEDINGS

Sec.

5971. Short title of subchapter.
5972. Definitions.
5973. Scope of subchapter.
5974. Summoning prisoner in this Commonwealth to testify in another state.
5975. Court order.
5976. Terms and conditions.
5977. Prisoner from another state summoned to testify in this Commonwealth.
5978. Compliance.
5979. Exemption from arrest and service of process.

§ 5971. Short title of subchapter.

This subchapter shall be known and may be cited as the "Uniform Rendition of Prisoners as Witnesses in Criminal Proceedings Act."

§ 5972. Definitions.

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

"Penal institution." Includes a jail, prison, penitentiary, house of correction, correctional institution or other place of penal detention.

"Witness." A person who is confined in a penal institution in any state and whose testimony is desired in another state in any criminal proceeding or investigation by a grand jury or in any criminal proceeding before a court.

§ 5973. Scope of subchapter.

This subchapter does not apply to any person in this Commonwealth confined as insane or mentally ill or as a defective delinquent or under sentence of death.

§ 5974. Summoning prisoner in this Commonwealth to testify in another state.

(a) Certification.--A judge of a state court of record in another state, which by its laws has made provision for commanding persons confined in penal institutions within that state to attend and testify in this Commonwealth, may certify:

(1) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court;

(2) that a person who is confined in a penal institution in this Commonwealth may be a material witness in the proceeding, investigation or action; and

(3) that his presence will be required during a specified time.

(b) Hearing.--Upon presentation of the certificate to any court having jurisdiction over the person confined and upon notice to the Bureau of Correction, the court in this Commonwealth shall fix a time and place for a hearing and shall make an order, directed to the person having custody of the prisoner, requiring that the prisoner be produced before it at the hearing.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

References in Text. The Bureau of Correction, referred to in subsec. (b), is now the Department of Corrections.

§ 5975. Court order.

(a) General rule.--If at the hearing the court determines:

(1) that the witness may be material and necessary;

(2) that his attending and testifying are not adverse to the interests of this Commonwealth or to the health or legal rights of the witness;

(3) that the laws of the state in which he is requested to testify will give him protection from arrest and the service of civil and criminal process because of any act committed prior to his arrival in the state under the order; and

(4) that as a practical matter the possibility is negligible that the witness may be subject to arrest or to the service of civil or criminal process in any state through which he will be required to pass;

the court shall issue an order as provided in subsection (b).

(b) Contents of order.--The order issued under subsection (a) shall have a copy of the certificate attached and shall contain language:

(1) directing the witness to attend and testify;

(2) directing the person having custody of the witness to produce him in the court where the criminal action is pending, or where the grand jury investigation is pending, at a time and place specified in the order; and

(3) prescribing such conditions as the court shall determine.

§ 5976. Terms and conditions.

The order to the witness and to the person having custody of the witness shall provide for the return of the witness at the conclusion of his testimony, proper safeguards on his custody, and proper financial reimbursement or prepayment by the requesting jurisdiction for all expenses incurred in the production and return of the witness, and may prescribe such other conditions as the court thinks proper or necessary. The order shall not become effective until the judge of the state requesting the witness enters an order directing compliance with the conditions prescribed.

§ 5977. Prisoner from another state summoned to testify in this Commonwealth.

If a person confined in a penal institution in any other state may be a material witness in a criminal action pending in a court of record or in a grand jury investigation in this Commonwealth, a judge of the court may certify:

(1) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court;

(2) that a person who is confined in a penal institution in the other state may be a material witness in the proceeding, investigation or action; and

(3) that the presence of the person will be required during a specified time.

The certificate shall be presented to a judge of a court of record in the other state having jurisdiction over the prisoner confined and a notice shall be given to the Attorney General of the state in which the prisoner is confined.

Transfer of Functions. The powers and duties of the Attorney General and/or the Department of Justice contained in section 5977 were transferred to the Office of General Counsel by section 502 of the act of October 15, 1980, P.L.950, No.164, known as the Commonwealth Attorneys Act, effective January 20, 1981.

§ 5978. Compliance.

The court in this Commonwealth may enter an order directing compliance with the terms and conditions prescribed by the judge of the state in which the witness is confined.

§ 5979. Exemption from arrest and service of process.

If a witness from another state comes into or passes through this Commonwealth under an order directing him to attend and testify in this or another state, he shall not, while in this Commonwealth pursuant to the order, be subject to arrest or the service of process, civil or criminal, because of any act committed prior to his arrival in this Commonwealth under the order.

SUBCHAPTER D
CHILD VICTIMS AND WITNESSES

Sec.

5981. Declaration of policy.
5982. Definitions.
5983. Rights and services.
5984. Videotaped depositions (Repealed).
5984.1. Recorded testimony.
5985. Testimony by contemporaneous alternative method.
5985.1. Admissibility of certain statements.
5986. Hearsay.
5987. Use of dolls.
5988. Victims of sexual or physical abuse.

Enactment. Subchapter D was added February 21, 1986, P.L.41, No.14, effective in 60 days.

Cross References. Subchapter D is referred to in section 6381 of Title 23 (Domestic Relations).

§ 5981. Declaration of policy.

In order to promote the best interests of the residents of this Commonwealth who are under 18 years of age, especially those who are material witnesses to or victims of crimes, the General Assembly declares its intent, in this subchapter, to provide, where necessity is shown, procedures which will protect them during their involvement with the criminal justice system. The General Assembly urges the news media to use significant restraint and caution in revealing the identity or address of children who are victims of or witnesses to crimes or other

information that would reveal the name or address of the child victim or witness.
(Dec. 18, 1996, P.L.1077, No.161, eff. 60 days; Oct. 17, 2002, P.L.880, No.127, eff. 60 days; July 15, 2004, P.L.736, No.87, eff. imd.; Dec. 18, 2013, P.L.1181, No.109, eff. 60 days)

§ 5982. 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:

"Child" or **"children."** An individual or individuals under 18 years of age.

"Contemporaneous alternative method." Any method of capturing the visual images, oral communications and other information presented during a prosecution or adjudication involving a child victim or a child material witness and transmitting and receiving such images, communications and other information at or about the time of their creation, including, but not limited to, closed-circuit television, streaming image sent via the Internet or an intranet and any other devices or systems used to accomplish such ends.

"Minor." An individual who, at the time of the commission of the offense involving sexual or physical abuse, is under 18 years of age.

"Qualified shorthand reporter." An individual engaged in the active practice of general shorthand reporting who is skilled in the art of verbatim reporting by the use of a written shorthand system, whether manual or machine; or any individual who is an official court or legislative reporter; or any individual who is the holder of a certified shorthand reporter certificate mandated by State or Federal law.
(Dec. 18, 1996, P.L.1077, No.161, eff. 60 days; July 15, 2004, P.L.736, No.87, eff. imd.; Dec. 18, 2013, P.L.1181, No.109, eff. 60 days; Feb. 5, 2020, P.L.1, No.1, eff. 60 days)

§ 5983. Rights and services.

(a) Designation of persons to act on behalf of children.--Courts of common pleas may designate one or more persons as a child advocate to provide the following services on behalf of children who are involved in criminal proceedings as victims or material witnesses:

(1) To explain, in language understood by the child, all legal proceedings in which the child will be involved.

(2) As a friend of the court, to advise the judge, whenever appropriate, of the child's ability to understand and cooperate with any court proceedings.

(3) To assist or secure assistance for the child and the child's family in coping with the emotional impact of the crime and subsequent criminal proceedings in which the child is involved.

(b) Qualifications.--Persons designated under subsection (a) may be attorneys at law or other persons who, by virtue of service as rape crisis or domestic violence counselors or by virtue of membership in a community service organization or of other experience acceptable to the court, possess education, experience or training in child or sexual abuse and a basic understanding of the criminal justice system.

Cross References. Section 5983 is referred to in sections 5984.1, 5985 of this title.

§ 5984. Videotaped depositions (Repealed).

2004 Repeal. Section 5984 was repealed July 15, 2004, P.L.736, No.87, effective immediately.

§ 5984.1. Recorded testimony.

(a) Recording.--Subject to subsection (b), in any prosecution or adjudication involving a child victim or child material witness, the court may order that the child victim's or child material witness's testimony be recorded for presentation in court by any method that accurately captures and preserves the visual images, oral communications and other information presented during such testimony. The testimony shall be taken under oath or affirmation before the court in chambers or in a special facility designed for taking the recorded testimony of children. Only the attorneys for the defendant and for the Commonwealth, persons necessary to operate the equipment, a qualified shorthand reporter and any person whose presence would contribute to the welfare and well-being of the child victim or child material witness, including persons designated under section 5983 (relating to rights and services), may be present in the room with the child during testimony. The court shall permit the defendant to observe and hear the testimony of the child victim or child material witness but shall ensure that the child victim or material witness cannot hear or see the defendant. Examination and cross-examination of the child victim or child material witness shall proceed in the same manner as normally permitted. The court shall make certain that the defendant and defense counsel have adequate opportunity to communicate for the purpose of providing an effective defense.

(b) Determination.--Before the court orders the child victim or the child material witness to testify by recorded testimony, the court must determine, based on evidence presented to it, that testifying either in an open forum in the presence and full view of the finder of fact or in the defendant's presence will result in the child victim or child material witness suffering serious emotional distress that would substantially impair the child victim's or child material witness's ability to reasonably communicate. In making this determination, the court may do any of the following:

(1) Observe and question the child victim or child material witness, either inside or outside the courtroom.

(2) Hear testimony of a parent or custodian or any other person, such as a person who has dealt with the child victim or child material witness in a medical or therapeutic setting.

(c) Counsel and confrontation.--

(1) If the court observes or questions the child victim or child material witness under subsection (b)(1), the attorney for the defendant and the attorney for the Commonwealth have the right to be present, but the court shall not permit the defendant to be present.

(2) If the court hears testimony under subsection (b)(2), the defendant, the attorney for the defendant and the attorney for the Commonwealth have the right to be present.

(d) Effect of order.--(Deleted by amendment).

(Dec. 18, 1996, P.L.1077, No.161, eff. 60 days; July 15, 2004, P.L.736, No.87, eff. imd.)

§ 5985. Testimony by contemporaneous alternative method.

(a) Contemporaneous alternative method.--Subject to subsection (a.1), in any prosecution or adjudication involving a child victim or a child material witness, the court may order that the testimony of the child victim or child material witness be taken under oath or affirmation in a room other than the courtroom and transmitted by a contemporaneous alternative

method. Only the attorneys for the defendant and for the Commonwealth, the court reporter, the judge, persons necessary to operate the equipment and any person whose presence would contribute to the welfare and well-being of the child victim or child material witness, including persons designated under section 5983 (relating to rights and services), may be present in the room with the child during his testimony. The court shall permit the defendant to observe and hear the testimony of the child victim or child material witness but shall ensure that the child cannot hear or see the defendant. The court shall make certain that the defendant and defense counsel have adequate opportunity to communicate for the purposes of providing an effective defense. Examination and cross-examination of the child victim or child material witness shall proceed in the same manner as normally permitted.

(a.1) Determination.--Before the court orders the child victim or the child material witness to testify by a contemporaneous alternative method, the court must determine, based on evidence presented to it, that testifying either in an open forum in the presence and full view of the finder of fact or in the defendant's presence will result in the child victim or child material witness suffering serious emotional distress that would substantially impair the child victim's or child material witness's ability to reasonably communicate. In making this determination, the court may do all of the following:

(1) Observe and question the child victim or child material witness, either inside or outside the courtroom.

(2) Hear testimony of a parent or custodian or any other person, such as a person who has dealt with the child victim or child material witness in a medical or therapeutic setting.

(a.2) Counsel and confrontation.--

(1) If the court observes or questions the child victim or child material witness under subsection (a.1)(1), the attorney for the defendant and the attorney for the Commonwealth have the right to be present, but the court shall not permit the defendant to be present.

(2) If the court hears testimony under subsection (a.1)(2), the defendant, the attorney for the defendant and the attorney for the Commonwealth have the right to be present.

(b) Effect of order.--(Deleted by amendment).

(Dec. 18, 1996, P.L.1077, No.161, eff. 60 days; July 15, 2004, P.L.736, No.87, eff. imd.)

§ 5985.1. Admissibility of certain statements.

(a) General rule.--

(1) An out-of-court statement made by a child victim or witness, who at the time the statement was made was 16 years of age or younger, describing any of the offenses enumerated in paragraph (2), not otherwise admissible by statute or rule of evidence, is admissible in evidence in any criminal or civil proceeding if:

(i) the court finds, in an in camera hearing, that the evidence is relevant and that the time, content and circumstances of the statement provide sufficient indicia of reliability; and

(ii) the child either:

(A) testifies at the proceeding; or

(B) is unavailable as a witness.

(2) The following offenses under 18 Pa.C.S. (relating to crimes and offenses) shall apply to paragraph (1):

Chapter 25 (relating to criminal homicide).
Chapter 27 (relating to assault).
Chapter 29 (relating to kidnapping).
Chapter 30 (relating to human trafficking).
Chapter 31 (relating to sexual offenses).
Chapter 35 (relating to burglary and other criminal intrusion).
Chapter 37 (relating to robbery).
Section 4302 (relating to incest).
Section 4304 (relating to endangering welfare of children), if the offense involved sexual contact with the victim.
Section 6301(a)(1)(ii) (relating to corruption of minors).
Section 6312(b) (relating to sexual abuse of children).
Section 6318 (relating to unlawful contact with minor).
Section 6320 (relating to sexual exploitation of children).

(a.1) Emotional distress.--In order to make a finding under subsection (a)(1)(ii)(B) that the child is unavailable as a witness, the court must determine, based on evidence presented to it, that testimony by the child as a witness will result in the child suffering serious emotional distress that would substantially impair the child's ability to reasonably communicate. In making this determination, the court may do all of the following:

(1) Observe and question the child, either inside or outside the courtroom.

(2) Hear testimony of a parent or custodian or any other person, such as a person who has dealt with the child in a medical or therapeutic setting.

(a.2) Counsel and confrontation.--If the court hears testimony in connection with making a finding under subsection (a)(1)(ii)(B), all of the following apply:

(1) Except as provided in paragraph (2), the defendant, the attorney for the defendant and the attorney for the Commonwealth or, in the case of a civil proceeding, the attorney for the plaintiff has the right to be present.

(2) If the court observes or questions the child, the court shall not permit the defendant to be present.

(b) Notice required.--A statement otherwise admissible under subsection (a) shall not be received into evidence unless the proponent of the statement notifies the adverse party of the proponent's intention to offer the statement and the particulars of the statement sufficiently in advance of the proceeding at which the proponent intends to offer the statement into evidence to provide the adverse party with a fair opportunity to prepare to meet the statement.

(Dec. 22, 1989, P.L.730, No.100, eff. 60 days; Dec. 18, 1996, P.L.1077, No.161, eff. 60 days; Oct. 18, 2000, P.L.615, No.84, eff. imd.; July 15, 2004, P.L.736, No.87, eff. imd.; June 28, 2019, P.L.231, No.31, eff. 60 days; June 30, 2021, P.L.172, No.29, eff. 60 days)

2021 Amendment. Act 29 amended subsec. (a)(1) intro. par.

2019 Amendment. Act 31 amended subsecs. (a), (a.1) and (a.2).

§ 5986. Hearsay.

(a) General rule.--A statement made by a child describing acts and attempted acts of indecent contact, sexual intercourse or deviate sexual intercourse performed with or on the child by another, not otherwise admissible by statute or court ruling,

is admissible in evidence in a dependency proceeding initiated under Chapter 63 (relating to juvenile matters), involving that child or other members of that child's family, if:

(1) the court finds, in an in camera hearing, that the evidence is relevant and that the time, content and circumstances of the statement provide sufficient indicia of reliability; and

(2) the child either:

(i) testifies at the proceeding; or

(ii) is found by the court to be unavailable as a witness.

(b) Emotional distress.--In order to make a finding under subsection (a)(2)(ii) that the child is unavailable as a witness, the court must determine, based on evidence presented to it, that testimony by the child as a witness will result in the child suffering serious emotional distress that would substantially impair the child's ability to reasonably communicate. In making this determination, the court may do all of the following:

(1) Observe and question the child, either inside or outside the courtroom.

(2) Hear testimony of a parent or custodian or any other person, such as a person who has dealt with the child in a medical or therapeutic setting.

(c) Counsel and confrontation.--If the court hears testimony in connection with making a finding under subsection (a)(2)(ii), all of the following apply:

(1) Except as provided in paragraph (2), the defendant, the attorney for the defendant and the attorney for the Commonwealth have the right to be present.

(2) If the court observes or questions the child, the court shall not permit the defendant to be present.

(Dec. 18, 1996, P.L.1077, No.161, eff. 60 days; July 15, 2004, P.L.736, No.87, eff. imd.)

§ 5987. Use of dolls.

In any criminal proceeding charging physical abuse, indecent contact or any of the offenses enumerated in 18 Pa.C.S. Ch. 31 (relating to sexual offenses), the court shall permit the use of anatomically correct dolls or mannequins to assist a child in testifying on direct examination and cross-examination.

(Dec. 18, 1996, P.L.1077, No.161, eff. 60 days; July 15, 2004, P.L.736, No.87, eff. imd.)

§ 5988. Victims of sexual or physical abuse.

(a) Release of name prohibited.--Notwithstanding any other provision of law to the contrary, in a prosecution involving a minor victim of sexual or physical abuse, the name of the minor victim shall not be disclosed by officers or employees of the court to the public, and any records revealing the name of the minor victim shall not be open to public inspection.

(a.1) Application of section.--The provisions of this section shall apply to a prosecution involving a minor victim regardless of the date of the commencement of the prosecution.

(a.2) Waiver.--A minor victim who is 18 years of age or older at the time of the commencement of the prosecution may waive the provisions of this section and allow the court to release the name of the minor victim. The court shall develop procedures to implement the provisions of this subsection.

(b) Penalty.--Any person who violates this section commits a misdemeanor of the third degree.

(July 15, 2004, P.L.736, No.87, eff. imd.; Dec. 18, 2013, P.L.1181, No.109, eff. 60 days)

SUBCHAPTER E
VICTIMS AND WITNESSES WITH INTELLECTUAL DISABILITIES OR AUTISM

Sec.
5991. Declaration of policy.
5992. Definitions.
5993. Admissibility of certain statements.

Enactment. Subchapter E was added June 28, 2019, P.L.228, No.30, effective in 60 days.

§ 5991. Declaration of policy.

In order to promote the best interests of residents of this Commonwealth with intellectual disabilities or autism who are material witnesses or victims of crime, the General Assembly declares its intent, in this subchapter, to provide, where necessity is shown, procedures that will protect material witnesses or victims of crime with intellectual disabilities or autism during their involvement with the criminal justice system.

§ 5992. 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:

"Autism spectrum disorder." Any of the pervasive developmental disorders defined by the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), including autistic disorder, Asperger's disorder and pervasive developmental disorder not otherwise specified.

"Individual with an intellectual disability or autism." As follows:

(1) Regardless of the age of the individual, an individual with significantly subaverage general intellectual functioning that is accompanied by significant limitations in adaptive functioning in at least two of the following skill areas:

(i) Communication.
(ii) Self-care.
(iii) Home living.
(iv) Social and interpersonal.
(v) Use of community resources.
(vi) Self-direction.
(vii) Functional academic.
(viii) Work.
(ix) Health and safety.

(2) The term also includes an individual, regardless of age, who has an autism spectrum disorder.

(Sept. 30, 2021, P.L.400, No.71, eff. 60 days)

2021 Amendment. Act 71 amended the def. of "autism spectrum disorder."

Cross References. Section 5992 is referred to in section 2505 of Title 18 (Crimes and Offenses).

§ 5993. Admissibility of certain statements.

(a) General rule.--An out-of-court statement made by an individual with an intellectual disability or autism who is a victim or witness describing any of the offenses enumerated in subsection (b), not otherwise admissible by statute or rule of evidence, is admissible in evidence in any criminal or civil proceeding if:

(1) the court finds, in an in camera hearing, that the evidence is relevant and that the time, content and circumstances of the statement provide sufficient indicia of reliability; and

(2) the individual either:

(i) testifies at the proceeding; or

(ii) is unavailable as a witness.

(b) Enumerated offenses.--The following offenses under Title 18 (relating to crimes and offenses) shall apply to subsection (a):

Chapter 25 (relating to criminal homicide).

Chapter 27 (relating to assault).

Chapter 29 (relating to kidnapping).

Chapter 30 (relating to human trafficking).

Chapter 31 (relating to sexual offenses).

Chapter 35 (relating to burglary and other criminal intrusion).

Chapter 37 (relating to robbery).

Section 4302 (relating to incest).

Section 4304 (relating to endangering welfare of children) if the offense involved sexual contact with the victim.

Section 6301(a)(1)(ii) (relating to corruption of minors).

Section 6312(b) (relating to sexual abuse of children).

Section 6318 (relating to unlawful contact with minor).

Section 6320 (relating to sexual exploitation of children).

(c) Emotional distress.--In order to make a finding under subsection (a)(2)(ii) that the individual is unavailable as a witness, the court must determine, based on evidence presented to it, that testimony by the individual as a witness will result in the individual suffering serious emotional distress that would substantially impact the individual's ability to reasonably communicate.

(d) Determination by court.--In making a determination under subsection (c), the court may do all of the following:

(1) Observe and question the individual, either inside or outside the courtroom.

(2) Hear testimony of a parent or custodian or any other person, such as a person who has dealt with the individual in a medical or therapeutic setting.

(e) Counsel and confrontation.--If the court hears testimony in connection with making a finding under subsection (c), all of the following apply:

(1) Except as provided in paragraph (2), the defendant, the attorney for the defendant and the attorney for the Commonwealth or, in the case of a civil proceeding, the attorney for the plaintiff, have the right to be present.

(2) If the court observes or questions the individual, the court shall not permit the defendant to be present.

(f) Notice required.--A statement otherwise admissible under subsection (a) shall not be received into evidence unless the proponent of the statement notifies the adverse party of the proponent's intention to offer the statement and the particulars of the statement sufficiently in advance of the proceeding at which the proponent intends to offer the statement into evidence to provide the adverse party with a fair opportunity to prepare to meet the statement.

CHAPTER 61

RULES OF EVIDENCE

Subchapter

A. Documentary Evidence
B. Eminent Domain Matters
C. Blood Tests to Determine Paternity (Repealed)
D. Miscellaneous Provisions
E. Medical Records

Enactment. Chapter 61 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBCHAPTER A
DOCUMENTARY EVIDENCE

Sec.

6101. Scope of subchapter.
6102. Judicial notice of official seals.
6103. Proof of official records.
6104. Effect of official records generally.
6105. Acts of notaries public.
6106. Certified exemplifications of records.
6107. Judicial notice of certain local government ordinances.
6108. Business records.
6109. Photographic copies of business and public records.
6110. Registers kept by religious societies and municipalities.
6111. Handwriting.
6112. Introduction of parol evidence after refusal to produce documents.

§ 6101. Scope of subchapter.

Except as otherwise provided by statute or regulation promulgated pursuant thereto by a government agency, the provisions of this subchapter shall apply to matters heard by judicial tribunals and to all matters heard by government agencies of this Commonwealth.

§ 6102. Judicial notice of official seals.

The seal of every court, magisterial district judge and other government unit, adopted pursuant to law, shall be judicially noticed.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 6103. Proof of official records.

(a) General rule.--An official record kept within this Commonwealth by any court, magisterial district judge or other government unit, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by that officer's deputy, and accompanied by a certificate that the officer has the custody. The certificate may be made by any public officer having a seal of office and having official duties with respect to the government unit in which the record is kept, authenticated by the seal of that office, or if there is no such officer, by:

(1) The Department of State, in the case of any Commonwealth agency.

(2) The clerk of the court of common pleas of the judicial district embracing any county in which the

government unit has jurisdiction, in the case of any government unit other than a Commonwealth agency.

(b) Lack of record.--A written statement that after an examination of the records of the government unit no record or entry of a specified tenor is found to exist in the records designated by the statement, authenticated as provided in subsection (a), is admissible as evidence that the records contain no such records or entry.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Cross References. Section 6103 is referred to in section 6104 of this title; sections 1378, 1380, 1516, 1550, 3753 of Title 75 (Vehicles).

§ 6104. Effect of official records generally.

(a) General rule.--A copy of a record of governmental action or inaction authenticated as provided in section 6103 (relating to proof of official records) shall be admissible as evidence that the governmental action or inaction disclosed therein was in fact taken or omitted.

(b) Existence of facts.--A copy of a record authenticated as provided in section 6103 disclosing the existence or nonexistence of facts which have been recorded pursuant to an official duty or would have been so recorded had the facts existed shall be admissible as evidence of the existence or nonexistence of such facts, unless the sources of information or other circumstances indicate lack of trustworthiness.

§ 6105. Acts of notaries public.

(a) General rule.--The official acts, protests and attestations of all notaries public, certified under their respective hands and seals of office, including the dishonor of all bills and promissory notes, and of notice to the drawers, acceptors or endorsers thereof, may be received and read in evidence, as proof of the facts therein stated. Any litigant may be permitted to contradict by other evidence any such certificate.

(b) Foreign notaries.--The official acts and exemplifications of foreign notaries in accordance with the laws of their respective countries shall be prima facie evidence of the matters therein set forth, if they are authenticated as provided in section 5328 (relating to proof of official records). Any litigant may be permitted to contradict by other evidence any such acts, exemplifications or certificates.

§ 6106. Certified exemplifications of records.

Whenever provision is made by law for recording or filing in a public office any document, the record thereof made, and exemplifications of the document lawfully certified, shall be legal evidence in all matters in which the document would be competent evidence.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

Cross References. Section 6106 is referred to in section 2504 of this title.

§ 6107. Judicial notice of certain local government ordinances.

(a) General rule.--The ordinances of municipal corporations of this Commonwealth shall be judicially noticed.

(b) Manner of proving ordinances.--The tribunal may inform itself of such ordinances in such manner as it may deem proper

and the tribunal may call upon counsel to aid it in obtaining such information.

(c) Construction of ordinances.--The construction of such ordinances shall be made by the court and not by the jury and shall be reviewable.

§ 6108. Business records.

(a) Short title of section.--This section shall be known and may be cited as the "Uniform Business Records as Evidence Act."

(b) General rule.--A record of an act, condition or event shall, insofar as relevant, be competent evidence if the custodian or other qualified witness testifies to its identity and the mode of its preparation, and if it was made in the regular course of business at or near the time of the act, condition or event, and if, in the opinion of the tribunal, the sources of information, method and time of preparation were such as to justify its admission.

(c) Definition.--As used in this section "business" includes every kind of business, profession, occupation, calling, or operation of institutions whether carried on for profit or not.

§ 6109. Photographic copies of business and public records.

(a) Short title of section.--This section shall be known and may be cited as the "Uniform Photographic Copies of Business and Public Records as Evidence Act."

(b) General rule.--If any business institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity, has kept or recorded any memorandum, writing, entry, print, representation, or combination thereof, of any act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed, in the regular course of business, unless its preservation is required by law. Any such reproduction in order to comply with this section must accurately reproduce all lines and markings which appear on the original. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding, whether the original is in existence or not, and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of the tribunal. The introduction of a reproduced record, enlargement or facsimile does not preclude admission of the original.

Cross References. Section 6109 is referred to in sections 1378, 1380, 1516, 1550, 3753 of Title 75 (Vehicles).

§ 6110. Registers kept by religious societies and municipalities.

(a) General rule.--The registry kept by any religious society in their respective meeting book or books of any marriage, birth or burial, within this Commonwealth, shall be held good and authentic, and shall be allowed of upon all occasions whatsoever.

(b) Foreign burials.--The registry of burials of any religious society or corporate town, in places out of the United States, shall be prima facie evidence of the death of any person whose burial is therein registered, and of the time of his interment, if the time be stated in the registry, and extracts

from such registries, certified by the proper officers, in the mode of authentication usual in the place in which they are made and authenticated as provided in section 5328 (relating to proof of official records), shall be received as copies of such registries, and be evidence accordingly.

§ 6111. Handwriting.

(a) Opinion evidence as to handwriting.--Where there is a question as to any writing, the opinions of the following persons shall be deemed to be relevant:

(1) The opinion of any person acquainted with the handwriting of the supposed writer.

(2) The opinion of those who have had special experience with, or who have pursued special studies relating to, documents, handwriting, and alterations thereof, who are called experts in this section.

(b) Comparison of handwriting.--It shall be competent for experts in giving their testimony, under the provisions of this section, to make comparison of documents and comparison of disputed handwriting with any documents or writing admitted to be genuine, or proven to the satisfaction of the judge to be genuine, and the evidence of such experts respecting the same shall be submitted to the jury as evidence of the genuineness or otherwise of the writing in dispute.

(c) Comparison of signatures.--It shall be competent for experts in formulating their opinions to the court and jury to place the genuine and disputed signatures or writing in juxtaposition, and to draw the attention of the jury thereto; and it shall furthermore be competent for counsel to require of an expert a statement of the principles on which he has based his work, the details of his work, and his opinion that the results are important to the point at issue, or the reasoning, analysis and investigation by which he has arrived at his opinion.

(d) Jury question.--The opinions of the witnesses to handwriting being submitted as competent testimony to the jury, the final determination as to whether any particular handwriting is genuine or simulated shall remain, as heretofore, a question for the jury on all the evidence submitted.

§ 6112. Introduction of parol evidence after refusal to produce documents.

In all matters wherein any person is directed by a court to produce any documents and such person refuses to produce such documents, and for such refusal is attached and imprisoned by a court, and subsequently discharged, persisting in such refusal, parol evidence shall be received in relation to the existence and contents of such documents.

SUBCHAPTER B
EMINENT DOMAIN MATTERS

Sec.

6121. Eminent domain matters.

§ 6121. Eminent domain matters.

Eminent domain matters shall be governed by the provisions of 26 Pa.C.S. Ch. 11 (relating to evidence) in addition to the provisions of this chapter.

(May 4, 2006, P.L.112, No.34, eff. 120 days)

2006 Amendment. Section 6(1) of Act 34 provided that Act 34 shall apply to all condemnations effected on or after the effective date of section 6.

SUBCHAPTER C
BLOOD TESTS TO DETERMINE PATERNITY
(Repealed)

1990 Repeal. Subchapter C (§§ 6131 - 6137) was added July 9, 1976 P.L.586, No.142, and repealed December 19, 1990, P.L.1240, No.206, effective in 90 days. The subject matter is now contained in section 5104 of Title 23 (Domestic Relations).

SUBCHAPTER D
MISCELLANEOUS PROVISIONS

Sec.
6141. Effect of certain settlements.
6142. Pleas in vehicle matters.
6143. Registration number as evidence of operation of vehicle.
6144. Dying declarations in case of abortion.

§ 6141. Effect of certain settlements.

(a) Personal injuries.--Settlement with or any payment made to an injured person or to others on behalf of such injured person with the permission of such injured person or to anyone entitled to recover damages on account of injury or death of such person shall not constitute an admission of liability by the person making the payment or on whose behalf the payment was made, unless the parties to such settlement or payment agree to the contrary.

(b) Damages to property.--Settlement with or any payment made to a person or on his behalf to others for damages to or destruction of property shall not constitute an admission of liability by the person making the payment or on whose behalf the payment was made, unless the parties to such settlement or payment agree to the contrary.

(c) Admissibility in evidence.--Except in an action in which final settlement and release has been pleaded as a complete defense, any settlement or payment referred to in subsections (a) and (b) shall not be admissible in evidence on the trial of any matter.

(d) Credits on settlement or judgment.--All settlements and payments by or on behalf of the person making payment under subsections (a) and (b) shall be credited to the person making the same against any final settlement or judgment against such person, except that this section shall not be construed in such a manner as to change, alter or amend the effect of Subchapter B of Chapter 83 (relating to contribution among tort-feasors).

§ 6142. Pleas in vehicle matters.

(a) General rule.--A plea of guilty or nolo contendere, or a payment of the fine and costs prescribed after any such plea, in any summary proceeding made by any person charged with a violation of Title 75 (relating to vehicles) shall not be admissible as evidence in any civil matter arising out of the same violation or under the same facts or circumstances.

(b) Exception.--The provisions of subsection (a) shall not be applicable to administrative or judicial proceedings involving the suspension of a motor vehicle or tractor operating privilege, learner's permit, or right to apply for a motor vehicle or tractor operating privilege, or the suspension of a certificate of appointment as an official inspection station, or the suspension of a motor vehicle, tractor, or trailer registration.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended the section heading and subsec. (a).

§ 6143. Registration number as evidence of operation of vehicle.

(a) General rule.--In any action or proceeding for the recovery of a civil penalty for an infraction of the provisions of any law relating to the ownership or operation of any conveyance by air, land or water or any game or fish law or any local ordinance, rule or regulation relating thereto, the registration number displayed on a conveyance shall sustain an inference that the person to whom the registration number was officially assigned is the owner of the conveyance and was then operating the conveyance.

(b) Inference overcome by testimony of owner.--If at any proceeding under subsection (a) the owner testifies that the owner was not operating the conveyance at the time of the alleged infraction and submits to an examination as to who at the time was operating the conveyance and reveals the name and residence address of the person, if known, then the inference arising from the registration number shall be overcome.

(c) Inference overcome by verified statement of owner.--If the proceeding under subsection (a) is commenced in a county other than that of the residence of the owner and a verified written statement setting forth the facts set forth in subsection (b) is forwarded by the owner to the tribunal, the inference arising from the registration number shall be overcome.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

1982 Amendment. Act 326 amended subsec. (a).

§ 6144. Dying declarations in case of abortion.

(a) General rule.--The ante mortem statements of any woman, who shall die in consequence of any criminal acts producing or intended to produce a miscarriage of such woman, as to the causes of her injuries shall be competent evidence on the trial of any person charged with the commission of such injuries, with like effect and under like limitations as apply to dying declarations in prosecutions for felonious homicide.

(b) Limitation.--Before such statement shall be submitted to the jury as evidence the Commonwealth shall, by competent and satisfactory evidence, prove that such woman was of sound mind at the time such ante mortem statements were made.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (b).

SUBCHAPTER E
MEDICAL RECORDS

Sec.

6151. Use of certified copies.
6152. Subpoena of records.
6152.1. Limit on charges.
6153. Receipts.
6154. Affidavit of none or partial possession.
6155. Rights of patients.
6156. Opening of sealed envelopes.

6157. Retention of records.
6158. Obtaining personal attendance of custodian.
6159. Obtaining production of original record.
6160. Definitions.

Enactment. Subchapter E was added November 28, 1986, P.L.1458, No.145, effective in 60 days.

§ 6151. Use of certified copies.

Medical charts or records of any health care facility licensed under the laws of this Commonwealth that are susceptible to photostatic reproduction may be proved as to foundation, identity and authenticity without any preliminary testimony, by use of legible and durable copies, certified in the manner provided in this subchapter by the employee of the health care facility charged with the responsibility of being custodian of the originals thereof. These copies may be used in any trial, hearing, deposition or other judicial or administrative action or proceeding, whether civil or criminal, in lieu of the original charts or records which, however, the health care facility shall hold available during the pendency of the action or proceeding for inspection and comparison by the court, tribunal or hearing officer and by the parties and their attorneys of record. This subchapter does not apply to an X-ray film or any other portion of a medical record which is not susceptible to photostatic reproduction.

§ 6152. Subpoena of records.

(a) Election.--

(1) When a subpoena duces tecum is served upon any health care provider or an employee of any health care facility licensed under the laws of this Commonwealth, requiring the production of any medical charts or records at any action or proceeding, it shall be deemed a sufficient response to the subpoena if the health care provider or health care facility notifies the attorney for the party causing service of the subpoena, within three days of receipt of the subpoena, of the health care provider's or facility's election to proceed under this subchapter. However, when medical charts or records are requested by a district attorney or by an independent or executive agency of the Commonwealth, notice pursuant to this section shall not be deemed a sufficient response to the subpoena duces tecum.

(2) (i) Except as provided in subparagraph (ii), the health care provider or facility or a designated agent shall be entitled to receive payment of the amounts under this subsection before producing the charts or records pursuant to a subpoena. The payment shall be $20.62 for searching for and retrieving the records, $1.39 per page for the first 20 pages, $1.03 per page for pages 21 through 60 and 34¢ per page for pages 61 and thereafter for paper copies or reproductions on electronic media whether the records are stored on paper or in electronic format; $2.04 per page for copies from microfilm; plus the actual cost of postage, shipping or delivery. No other charges for the retrieval, copying and shipping or delivery of medical records other than those set forth in this paragraph shall be permitted without prior approval of the party requesting the copying of the medical records. The amounts which may be charged shall be adjusted annually beginning on January 1, 2013, by the Secretary of Health of the Commonwealth based on the most recent changes in the consumer price index reported

annually by the Bureau of Labor Statistics of the United States Department of Labor.

(ii) Payment to a health care provider or facility for searching for, retrieving and reproducing medical charts or records requested by a district attorney shall be $20.62, search and retrieval fee, plus the actual cost of postage, shipping or delivery as described in subparagraph (i), as adjusted by the Secretary of Health of the Commonwealth, unless otherwise agreed to by the district attorney.

(3) No independent or executive agency of the Commonwealth shall be required to pay any search or retrieval fee, copying cost or other cost related to medical charts or records under this section unless otherwise required by law, regulation or agreed to by the agency in guidelines, statements of policy or by publication of notice in the Pennsylvania Bulletin.

(b) Notice to other parties.--Upon this notification, the attorney causing the service of the subpoena shall notify all other attorneys of record or other parties, if they are not represented by attorneys, of the health care facility's election.

(c) Delivery of records.--Following this election, the health care provider or facility shall hold the originals available, and, upon payment of its expenses by the party causing service of the subpoena, or by any other party, shall within 30 days deliver, by first class mail, certified mail, return receipt requested, or by personal delivery, legible and durable copies, certified by the health care provider or facility of all medical charts or records specified in the subpoena. However, a district attorney shall not be required to pay for copies of medical charts or records before receipt, and the charts or records shall be delivered on or before the date specified on the subpoena duces tecum.

(d) Certification.--The certification shall be signed before a notary public by the employee of the health care facility charged with the responsibility of being custodian of the records and shall include the full name of the patient, the patient's medical record number, the number of pages in the medical records and a legend substantially to the following effect:

"The copies of records for which this certification is made are true and complete reproductions of the original or microfilmed medical records which are housed in (name of health care facility). The original records were made in the regular course of business at or near the time of the matter recorded. This certification is given pursuant to 42 Pa.C.S. Ch. 61 Subch. E (relating to medical records) by the custodian of the records in lieu of his personal appearance."

Copies shall be separately enclosed and sealed in an inner envelope or wrapper bearing the legend "Copies of Medical Records."

(Feb. 18, 1998, P.L.170, No.26, eff. 60 days; July 5, 2012, P.L.1138, No.139, eff. 60 days)

2012 Amendment. Act 139 amended subsec. (a)(1) and (2).

1998 Amendment. Act 26 amended subsecs. (a) and (c).

Cross References. Section 6152 is referred to in sections 6152.1, 6153, 6155 of this title.

§ 6152.1. Limit on charges.

(a) Charges.--

(1) Notwithstanding the provisions of section 6152(c) (relating to subpoena of records), a health care provider or facility shall not charge more than a flat fee of $19 for the expense of reproducing medical charts or records, plus the actual cost of postage, shipping or delivery, if the charts or records are requested for the purpose of supporting a claim or appeal under any provision of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.) or any Federal or State financial needs-based benefit program. The fee provided for in this subsection shall be adjusted annually by the Secretary of Health of the Commonwealth, as provided for in section 6152(a)(2)(i).

(2) No independent or executive agency of the Commonwealth shall be required to pay any search or retrieval fee, copying cost or other cost related to medical charts or records under this section unless otherwise required by law, regulation or agreed to by the agency in guidelines, statements of policy or by publication of notice in the Pennsylvania Bulletin.

(b) Documentation.--The person making the request shall provide the health care provider or facility with clear and convincing documentation that the purpose of the request is to obtain medical charts or records necessary to support a claim or appeal under any provision of the Social Security Act or any Federal or State financial needs-based benefit program.

(c) Request.--For purposes of this section, a request for medical charts or records shall include, but not be limited to, a subpoena for medical charts or records under section 6152 or a letter from a person's attorney of record for whom an Appointment of Representative form (SSA-1696-U4) has been executed, indicating the need for such charts or records.
(Feb. 18, 1998, P.L.170, No.26, eff. imd.)

1998 Amendment. Act 26 added section 6152.1.

§ 6153. Receipts.

When the copies of records are personally delivered a receipt shall be presented to the person receiving the records for his signature and shall be immediately signed and returned to the person delivering the records. The receipt shall contain the name of the health care facility, the full name of the patient, the date the copies of records were received and the signature of the person receiving the records. When the copies of the records are sent via certified mail, pursuant to section 6152(d) (relating to subpoena of records), the receipt used by the postal authorities shall be sufficient to prove delivery and receipt of the copies of records.

§ 6154. Affidavit of none or partial possession.

If the health care facility has none of the charts or records specified in the subpoena, or only a part thereof, the custodian of the charts or records shall so state in a notarized affidavit and, following notice and payment of expenses, shall hold available the original charts or records which are in the health care facility's custody and specified in the subpoena and shall deliver the certified copies together with the affidavit.

§ 6155. Rights of patients.

(a) Protective order.--Any patient whose medical charts or records are copied and delivered pursuant to this subchapter, any person acting on such patient's behalf and the health care facility having custody of the charts or records shall have standing to apply to the court or other body before which the action or proceeding is pending for a protective order denying,

restricting or otherwise limiting access to and use of the copies or original charts and records.

(b) Rights to records generally.--

(1) A patient or his designee, including his attorney, shall have the right of access to his medical charts and records and to obtain photocopies of the same, without the use of a subpoena duces tecum, for his own use. A health care provider or facility shall not charge a patient or his designee, including his attorney, a fee in excess of the amounts set forth in section 6152(a)(2)(i) (relating to subpoena of records).

(2) Nothing in this subsection shall be construed as requiring an insurer to pay for medical records required to validate medical services for which reimbursement is sought under an insurance contract, except as provided in:

(i) the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, and the regulations promulgated thereunder;

(ii) 75 Pa.C.S. Ch. 17 (relating to financial responsibility) and the regulations promulgated thereunder; or

(iii) a contract between an insurer and any other party.

(Feb. 18, 1998, P.L.170, No.26, eff. 60 days)

1998 Amendment. Act 26 amended subsec. (b).

§ 6156. Opening of sealed envelopes.

The copy of the records shall remain sealed and shall be opened only at the time of trial, deposition or other hearing, upon the direction of the judge, court, officer, attorney, body or tribunal conducting the proceeding, in the presence of all parties who have appeared in person or by counsel at the trial, deposition or hearing. Before directing that the inner envelope or wrapper be opened, the judge, court, officer, attorney, body or tribunal shall first ascertain that either:

(1) the records have been subpoenaed in accordance with this subchapter; or

(2) the patient involved or someone authorized in his behalf to do so for him has consented thereto.

§ 6157. Retention of records.

When the copies of records are delivered to a party or his attorney of record for use in a deposition, they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending, and it shall be the responsibility of the party or attorney to transmit the receipt obtained to the custodian of the original records. When the records are received by the clerk of a court or other body from a health care facility or from a party or his attorney of record, they shall be retained in the clerk's custody at all times except when actually used in the action or proceeding. Upon issuance of a final order terminating a case, the copies of the records will be promptly filed in a manner that protects the confidentiality of the medical information contained in the records by the clerk of the court with all other documents pertaining to the case until such a time as the normal retention period for court records expires. The copies of records shall then be permanently disposed of by the clerk in a manner that protects the confidentiality of the medical information contained in the records. Should the case be appealed, the copies of records shall be forwarded to the appellate court

with other documents pertaining to the case and retained and disposed of in the manner described in this section.

§ 6158. Obtaining personal attendance of custodian.

The personal attendance of the custodian of the original charts or records specified in the subpoena shall only be required if the subpoena duces tecum so specifies for the purpose of obtaining the custodian's testimony on an issue in dispute and upon payment of the actual and reasonable expenses of the custodian's personal attendance. When the personal attendance of the custodian is requested by a district attorney or an independent or executive agency of the Commonwealth, the fee paid to the custodian shall not exceed the ordinary fee paid to witnesses in criminal cases as specified in section 5903 (relating to compensation and expenses of witnesses) and shall be paid after the custodian's appearance.

(Feb. 18, 1998, P.L.170, No.26, eff. 60 days)

§ 6159. Obtaining production of original record.

The production of the original record shall only be required if the subpoena duces tecum so specifies for the purpose of comparing the reproduced record to the original or for the purpose of resolving an issue in dispute and shall be delivered within 30 days of receipt of the request. Except when the original record is requested by a district attorney or an independent or executive agency of the Commonwealth, the records shall be delivered on the date set forth in the subpoena duces tecum.

(Feb. 18, 1998, P.L.170, No.26, eff. 60 days)

§ 6160. Definitions.

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

"Insurer." A foreign or domestic insurance company, association or exchange holding a certificate of authority under the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921; a health maintenance organization holding a certificate of authority under the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act; a hospital plan organization holding a certificate of authority under 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations); a professional health services plan corporation holding a certificate of authority under 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations); a fraternal benefit society holding a certificate of authority under the act of December 14, 1992 (P.L.835, No.134), known as the Fraternal Benefit Societies Code; or a risk-assuming preferred provider organization operating pursuant to section 630 of The Insurance Company Law of 1921.

(Feb. 18, 1998, P.L.170, No.26, eff. imd.)

1998 Amendment. Act 26 added section 6160.

References in Text. The act of December 14, 1992, P.L.835, No.134, known as the Fraternal Benefit Societies Code, referred to in this section, was repealed by the act of July 10, 2002, P.L.749, No.110. The subject matter is now contained in Article XXIV of the act of May 17, 1921, P.L.682, No.284, known as The Insurance Company Law of 1921.

CHAPTER 62
UNIFORM UNSWORN DECLARATIONS ACT

Sec.

6201. Short title of chapter.
6202. Definitions.
6203. Applicability.
6204. Validity of unsworn declaration.
6205. Required medium.
6206. Form of unsworn declaration.
6207. Uniformity of application and construction.
6208. Relation to Electronic Signatures in Global and National Commerce Act.

Enactment. Chapter 62 was added October 9, 2013, P.L.609, No.73, effective in 60 days.

Chapter Heading. The heading of Chapter 62 was amended April 20, 2020, P.L.82, No.15, effective immediately.

§ 6201. Short title of chapter.

This chapter shall be known and may be cited as the Uniform Unsworn Declarations Act.

(Apr. 20, 2020, P.L.82, No.15, eff. imd.)

§ 6202. Definitions.

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

"Boundaries of the United States." (Deleted by amendment).

"Law." Includes a statute, judicial decision or order, rule of court, executive order and administrative rule, regulation or order.

"Record." Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Sign." With present intent to authenticate or adopt a record:

(1) to execute or adopt a tangible symbol; or

(2) to attach to or logically associate with the record an electronic symbol, sound or process.

"State." (Deleted by amendment).

"Sworn declaration." A declaration in a signed record given under oath. The term includes a sworn statement, verification, certificate and affidavit.

"Unsworn declaration." A declaration in a signed record not given under oath but given under penalty of perjury.

(Apr. 20, 2020, P.L.82, No.15, eff. imd.)

§ 6203. Applicability.

This chapter applies to an unsworn declaration by a declarant who at the time of making the declaration is physically located within or outside the boundaries of the United States whether or not the location is subject to the jurisdiction of the United States.

(Apr. 20, 2020, P.L.82, No.15, eff. imd.)

§ 6204. Validity of unsworn declaration.

(a) General rule.--Except as set forth in subsection (b), if a law of this Commonwealth requires or permits use of a sworn declaration, an unsworn declaration meeting the requirements of this chapter has the same effect as a sworn declaration.

(b) Exception.--This chapter does not apply to:

(1) a deposition;

(2) an oath of office;

(3) an oath or affirmation required to be given before a specified official other than a notary public;

(4) a declaration relating to real property required or authorized to be recorded; and

(5) an oath or affirmation required by 20 Pa.C.S. § 3132.1 (relating to self-proved wills).

§ 6205. Required medium.

If a law of this Commonwealth requires that a sworn declaration be presented in a particular medium, an unsworn declaration must be presented in that medium.

§ 6206. Form of unsworn declaration.

An unsworn declaration under this chapter must be in substantially the following form:

I declare under penalty of perjury under the law of the Commonwealth of Pennsylvania that the foregoing is true and correct.

Signed on the.....day of.....,.....,

at.....,

(date).....(month).....(year).....

(county or other location, and state).....

.....

(country).....

(printed name).....

(signature).....

(Apr. 20, 2020, P.L.82, No.15, eff. imd.)

§ 6207. Uniformity of application and construction.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 6208. Relation to Electronic Signatures in Global and National Commerce Act.

To the extent permitted by section 102 of the Electronic Signatures in Global and National Commerce Act (Public Law 106-229, 15 U.S.C. § 7002), this chapter may modify or supersede provisions of that act.

CHAPTER 62A

PROTECTION OF VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION

Sec.

62A01. Scope of chapter.
62A02. Findings and purpose.
62A03. Definitions.
62A04. Responsibilities of law enforcement agencies.
62A05. Commencement of proceedings.
62A06. Hearings.
62A07. Relief.
62A08. (Reserved).
62A09. Emergency relief by minor judiciary.
62A10. Sexual assault counselor.
62A11. Disclosure of addresses.
62A12. Arrest for violation of order.
62A13. Private criminal complaints for violation of order or agreement.
62A14. Contempt for violation of order.
62A15. Civil contempt or modification for violation of order or agreement.
62A16. Confidentiality.
62A17. Procedure and other remedies.
62A18. Applicability.
62A19. Inability to pay.
62A20. Construction.

Enactment. Chapter 62A was added March 21, 2014, P.L.365, No.25, effective July 1, 2015.

Cross References. Chapter 62A is referred to in sections 6302, 67A01 of this title; section 2718 of Title 18 (Crimes and Offenses); sections 8611, 8655 of Title 20 (Decedents, Estates and Fiduciaries).

§ 62A01. Scope of chapter.

This chapter relates to protection of victims of sexual violence or intimidation.

§ 62A02. Findings and purpose.

The General Assembly finds and declares that:

(1) Sexual violence is the most heinous crime against a person other than murder.

(2) Sexual violence and intimidation can inflict humiliation, degradation and terror on the victim.

(3) According to the Department of Justice, someone is sexually assaulted every two minutes in the United States.

(4) Rape is recognized as one of the most underreported crimes, and studies indicate that only one in three rapes is reported to law enforcement.

(5) Victims of sexual violence and intimidation desire safety and protection from future interactions with their offender, regardless of whether they seek criminal prosecution.

(6) This chapter provides the victim with a civil remedy requiring the offender to stay away from the victim, as well as other appropriate relief.

§ 62A03. Definitions.

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

"Adult." An individual who is 18 years of age or older.

"Certified copy." A paper copy of the original order of the issuing court endorsed by the appropriate clerk of that court or an electronic copy of the original order of the issuing court endorsed with a digital signature of the judge or appropriate clerk of that court, regardless of whether or not there is a raised seal on the copy of the order of the issuing court.

"Confidential communications." As defined in section 5945.1 (relating to confidential communications with sexual assault counselors).

"Coparticipant." As defined in section 5945.1 (relating to confidential communications with sexual assault counselors).

"Court." The court or magisterial district judge having jurisdiction over the matter under and exercised as provided in this title or as otherwise provided or prescribed by law.

"Family or household members." Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

"Hearing officer." A magisterial district judge, judge of the Philadelphia Municipal Court, bail commissioner appointed under section 1123 (relating to jurisdiction and venue), master appointed under section 1126 (relating to masters) or master for emergency relief.

"Intimidation." Conduct constituting a crime under either of the following provisions between persons who are not family or household members:

18 Pa.C.S. § 2709(a)(4), (5), (6) or (7) (relating to harassment) where the conduct is committed by a person 18

years of age or older against a person under 18 years of age.

18 Pa.C.S. § 2709.1 (relating to stalking) where the conduct is committed by a person 18 years of age or older against a person under 18 years of age.

"Master for emergency relief." A member of the bar of the Commonwealth appointed under section 62A09(e) (relating to emergency relief by minor judiciary).

"Minor." An individual who is not an adult.

"Plaintiff." An individual who applies for a protection order, either for the benefit of that individual or on behalf of another individual.

"Protection order" or **"order."** An order issued under this chapter designed to protect a victim of sexual violence or intimidation.

"Rape crisis center." As defined in section 5945.1 (relating to confidential communications with sexual assault counselors).

"Sexual assault counselor." As defined in section 5945.1 (relating to confidential communications with sexual assault counselors).

"Sexual violence." Conduct constituting a crime under any of the following provisions between persons who are not family or household members:

18 Pa.C.S. Ch. 31 (relating to sexual offenses), except 18 Pa.C.S. §§ 3129 (relating to sexual intercourse with animal) and 3130 (relating to conduct relating to sex offenders).

18 Pa.C.S. § 4304 (relating to endangering welfare of children) if the offense involved sexual contact with the victim.

18 Pa.C.S. § 6301(a)(1)(ii) (relating to corruption of minors).

18 Pa.C.S. § 6312(b) (relating to sexual abuse of children).

18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

"Sheriff." The sheriff of a county or, in a city of the first class, the chief or head of the police department.

"Victim." A person who is the victim of sexual violence or intimidation.

Cross References. Section 62A03 is referred to in section 2718 of Title 18 (Crimes and Offenses).

§ 62A04. Responsibilities of law enforcement agencies.

(a) General rule.--The police department of each municipal corporation, the Pennsylvania State Police and the sheriff of each county shall ensure that all their officers, deputies and employees are familiar with the provisions of this chapter. Instruction concerning orders shall be made a part of the training curriculum for all trainee officers and deputies. All law enforcement agencies shall adopt a written policy regarding orders issued under this chapter.

(b) Notice of arrest.--The police department of each municipal corporation and the Pennsylvania State Police shall make reasonable efforts to notify any person protected by an order issued under this chapter of the arrest of the defendant for violation of an order as soon as possible. Unless the person cannot be located, notice of the arrest shall be provided not more than 24 hours after preliminary arraignment.

(c) Statewide registry.--

(1) A complete and systematic record and index of all valid temporary and final orders issued under this chapter shall be entered and maintained in the database established and maintained by the Pennsylvania State Police pursuant to 23 Pa.C.S. § 6105(e) (relating to responsibilities of law enforcement agencies).

(2) With respect to orders issued under this chapter, the Statewide registry shall include, but need not be limited to, the following:

(i) The names of the plaintiff and the victim, if the victim is not the same individual as the plaintiff.

(ii) The name of other designated persons protected by the order under section 62A07(b) (relating to relief).

(iii) The name and address of the defendant.

(iv) The date the order was entered.

(v) The date the order expires.

(vi) The relief granted under sections 62A07 and 62A09 (relating to emergency relief by minor judiciary).

(vii) The judicial district in which the order was entered.

(viii) Where furnished, the Social Security number and date of birth of the defendant.

(3) The prothonotary shall send, on a form prescribed by the Pennsylvania State Police, a copy of an order to the Statewide registry so that it is received within 24 hours of the entry of the order. An amendment to or revocation of an order shall be transmitted by the prothonotary within 24 hours of the entry of the order for modification or revocation. The Pennsylvania State Police shall enter orders, amendments and revocations in the Statewide registry within eight hours of receipt. Vacated or expired orders shall be purged from the registry.

(4) The registry of the Pennsylvania State Police shall be available at all times to inform courts, dispatchers and law enforcement officers of any valid order involving any defendant.

(5) Information contained in the Statewide registry relating to orders shall not be subject to access under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Cross References. Section 62A04 is referred to in sections 62A05, 62A14 of this title.

§ 62A05. Commencement of proceedings.

(a) General rule.--An adult or emancipated minor may seek relief under this chapter for that person or any parent, adult household member or guardian ad litem may seek relief under this chapter on behalf of a minor child, or the guardian of the person of an adult who has been declared incapacitated under 20 Pa.C.S. Ch. 55 (relating to incapacitated persons) may seek relief on behalf of an incapacitated adult, by filing a petition with the court alleging the need for protection from the defendant with respect to sexual violence or intimidation.

(a.1) False reports.--A person who knowingly gives false information to a law enforcement officer with intent to implicate another under this chapter commits an offense under 18 Pa.C.S. § 4906 (relating to false reports to law enforcement authorities).

(b) No prepayment of fees.--The petition shall be filed and service shall be made without the prepayment of fees.

(c) Assessment of fees and costs.--

(1) (i) No plaintiff seeking relief under this chapter shall be charged any fees or costs associated with the filing, issuance, registration or service of a petition, motion, complaint, order or any other filing. Prohibited fees or costs shall include, but are not limited to, those associated with modifying, withdrawing, dismissing or certifying copies of a petition, motion, complaint, order or any other filing, as well as any judicial surcharge or computer system fee.

(ii) No plaintiff seeking relief under this chapter shall be charged any fees or costs associated with filing a motion for reconsideration or an appeal from any order or action taken under this chapter.

(2) When an order is granted under this chapter, fees and costs shall be assessed against the defendant. The court shall waive fees and costs upon a showing of good cause or when the court makes a finding that the defendant is not able to pay the fees and costs.

(3) Nothing in this section is intended to expand or diminish the court's authority to enter an order under Pa.R.C.P. No.1023.1 (relating to Scope. Signing of Documents. Representations to the Court. Violation.).

(c.1) Surcharge on order.--When an order is granted under section 62A06 (relating to hearings), a surcharge of $100 shall be assessed against the defendant. All moneys received from surcharges shall be distributed in the following order of priority:

(1) Twenty-five dollars shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 62A04(c) (relating to responsibilities of law enforcement agencies).

(2) Fifty dollars shall be retained by the county and shall be used to carry out the provisions of this chapter as follows:

(i) Twenty-five dollars shall be used by the sheriff.

(ii) Twenty-five dollars shall be used by the court.

(3) Twenty-five dollars shall be forwarded to the Department of Public Welfare for use for victims of sexual assault in accordance with the provisions of section 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(4) The surcharge allocated under paragraphs (1) and (3) shall be used to supplement and not to supplant any other source of funds received for the purpose of carrying out the provisions of this chapter.

(d) Service.--

(1) The court shall adopt a means of prompt and effective service. If the court so orders, the sheriff or another court-designated agency or individual shall serve the petition and protection order. Under no circumstances shall the plaintiff be obligated to serve the petition or protection order.

(2) The petition and order shall be served upon the defendant.

(3) Within two business days, the order shall be served upon the police department, sheriff and district attorney in the jurisdiction where the order was entered.

(4) A certified copy of the order shall be issued to the plaintiff.

(5) In the case of a minor victim of sexual violence, a copy of the petition and order shall be served upon the county agency and the Department of Public Welfare. For purposes of this subparagraph, the term "county agency" shall be as defined in 23 Pa.C.S. § 6303 (relating to definitions).

(6) A copy of the order shall be issued as otherwise ordered by the court or hearing officer.

(7) Failure to serve the police department, sheriff or district attorney's office shall not stay the effect of a valid order.

(e) Assistance and advice to plaintiff.--The courts and hearing officers shall:

(1) Provide simplified forms and clerical assistance in English and Spanish to help with the writing and filing of the petition for an order for an individual not represented by counsel.

(2) Provide the plaintiff with written and oral referrals, in English and Spanish, to local sexual assault services in the case of sexual violence and to the local legal services office and to the county bar association's lawyer referral service in the case of sexual violence or intimidation.

(f) Effect of departure and nonresidence.--The right of the plaintiff to relief under this chapter shall not be affected by the defendant's absence from this Commonwealth or the defendant's nonresidence in this Commonwealth, provided that the court has personal jurisdiction over the defendant in accordance with section 5322 (relating to bases of personal jurisdiction over persons outside this Commonwealth).

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 62A05 is referred to in sections 62A07, 62A09 of this title.

§ 62A06. Hearings.

(a) General rule.--Within ten business days of the filing of a petition under this chapter, a hearing shall be held before the court where the plaintiff must:

(1) assert that the plaintiff or another individual, as appropriate, is a victim of sexual violence or intimidation committed by the defendant; and

(2) prove by preponderance of the evidence that the plaintiff or another individual, as appropriate, is at a continued risk of harm from the defendant.

(a.1) Right to counsel.--The court shall, at the time the defendant is given notice of the hearing, advise the defendant of the right to be represented by counsel. The notice shall be printed and delivered in a manner that easily attracts attention to its contents.

(b) Temporary orders.--If a plaintiff seeks a temporary order for protection from an immediate and present danger, the court shall conduct an ex parte proceeding. The court may enter a temporary order as it deems necessary to protect the plaintiff or another individual, as appropriate, when it finds the plaintiff or another individual is in immediate and present danger from the defendant. The temporary order shall remain in effect until modified or terminated by the court after notice and hearing.

(c) Continued hearings.--If a hearing under subsection (a) is continued and no temporary order is issued, the court may

make ex parte temporary orders under subsection (b), as it deems necessary.

Cross References. Section 62A06 is referred to in sections 62A05, 62A07 of this title.

§ 62A07. Relief.

(a) Order or consent agreement.--The court may issue an order or approve a consent agreement to protect the plaintiff or another individual, as appropriate, from the defendant.

(b) General rule.--An order or a consent agreement may include:

(1) Prohibiting the defendant from having any contact with the victim, including, but not limited to, restraining the defendant from entering the victim's residence, place of employment, business or school. This may include prohibiting indirect contact through third parties and also prohibiting direct or indirect contact with other designated persons.

(2) Granting any other appropriate relief sought by the plaintiff.

(c) Duration and amendment of order or agreement.--A protection order or an approved consent agreement shall be for a fixed period of time not to exceed 36 months. The court may amend its order or agreement at any time upon subsequent petition filed by either party.

(d) Extension of protection orders.--

(1) An extension of an order may be granted:

(i) Where the court, after a duly filed petition, notice to the defendant and a hearing, in accordance with the procedures set forth in sections 62A05 (relating to commencement of proceedings) and 62A06 (relating to hearings), finds that the extension is necessary because the defendant engaged in one or more acts or finds some other circumstances that, in the discretion of the court, demonstrate a continued risk of harm to the victim.

(ii) When a contempt petition or charge has been filed with the court or, in a county of the first class, a hearing officer, but the hearing has not occurred before the expiration of the protection order, the order shall be extended, at a minimum, until the disposition of the contempt petition.

(2) Service of an extended order shall be made in accordance with section 62A05(d).

(3) There shall be no limitation on the number of extensions that may be granted.

(e) Notice.--Notice shall be given to the defendant stating that violations of the order will subject the defendant to arrest under section 62A12 (relating to arrest for violation of order) or contempt of court under section 62A14 (relating to contempt for violation of order).

(f) Incarceration.--When the defendant is or was incarcerated and will be released from custody in the next 90 days or has been released from custody within the past 90 days, a plaintiff does not need to show that the defendant engaged in one or more acts that indicate a continued risk of harm to the victim in order to obtain an extension or a subsequent protection order under this chapter.

(g) Identifying information.--Any order issued under this chapter shall, when furnished by either party, specify the Social Security number and date of birth of the defendant.

Cross References. Section 62A07 is referred to in sections 62A04, 62A09, 62A12, 62A17 of this title.

§ 62A08. (Reserved).

§ 62A09. Emergency relief by minor judiciary.

(a) General rule.--When:

(1) in counties with fewer than four judges, the court is unavailable:

(i) from the close of business at the end of each day to the resumption of business the next morning;

(ii) from the end of the business week to the beginning of the business week; and

(iii) during the business day by reason of duties outside the county, illness or vacation; or

(2) in counties with at least four judges, the court is unavailable:

(i) from the close of business at the end of each day to the resumption of business the next morning; and

(ii) from the end of the business week to the beginning of the business week;

a petition may be filed before a hearing officer who may grant relief in accordance with section 62A07 (relating to relief) if the hearing officer deems it necessary to protect the victim upon good cause shown in an ex parte proceeding. Immediate and present danger posed by the defendant to the victim shall constitute good cause for the purposes of this subsection.

(b) Expiration of order.--An order issued under subsection (a) shall expire at the end of the next business day the court deems itself available. The court shall schedule hearings on orders entered by hearing officers under subsection (a) and shall review and continue in effect orders that are necessary to protect the plaintiff or another individual, as appropriate, until the hearing, at which time the plaintiff may seek a temporary order from the court.

(c) Certification of order to court.--An emergency order issued under this section and any documentation in support thereof shall be immediately certified to the court. The certification to the court shall have the effect of commencing proceedings under section 62A05 (relating to commencement of proceedings) and invoking the other provisions of this chapter. If it is not already alleged in a petition for an emergency order, the plaintiff shall file a verified statement setting forth the reasons for the need for protection at least five days prior to the hearing. Service of the verified statement shall be made subject to section 62A05(d).

(d) Instructions regarding the commencement of proceedings.--Upon issuance of an emergency order, the hearing officer shall provide the plaintiff instructions regarding the commencement of proceedings in the court at the beginning of the next business day and regarding the procedures for initiating a contempt charge should the defendant violate the emergency order. The hearing officer shall also advise the plaintiff of the existence of rape crisis centers in the county or in nearby counties in the case of sexual violence and inform the plaintiff of the availability of legal assistance without cost if the plaintiff is unable to pay for them in the case of sexual violence or intimidation.

(e) Master of emergency relief.--The president judge of a court of common pleas of a judicial district may, with the approval of the Administrative Office of Pennsylvania Courts, provide for the selection and appointment of a master for emergency relief on a full-time or part-time basis. The number of masters for emergency relief shall be fixed by the president

judge with the approval of the Administrative Office of Pennsylvania Courts. The compensation of a master for emergency relief shall be fixed and paid by the county.

Cross References. Section 62A09 is referred to in sections 62A03, 62A04 of this title.

§ 62A10. Sexual assault counselor.

A sexual assault counselor may accompany and provide assistance to a plaintiff in any legal proceeding or hearing under this chapter which relates to sexual violence.

§ 62A11. Disclosure of addresses.

(a) General rule.--During the course of a proceeding under this chapter, the court or hearing officer may consider whether the plaintiff or victim, as appropriate, is endangered by disclosure of the permanent or temporary address of the plaintiff or victim. The court shall consider the wishes of the plaintiff regarding the disclosure of the address. Neither in the pleadings nor during proceedings or hearings under this chapter shall the court or hearing officer require disclosure of the address of a rape crisis center or the plaintiff or victim, as appropriate.

(b) Order.--Where the court concludes that the defendant poses a continued risk of harm to the victim and where the plaintiff requests that the address, telephone number and information about the victim's whereabouts not be disclosed, the court shall enter an order directing that law enforcement agencies, human service agencies and school districts shall not disclose the presence of the victim in the jurisdiction or district or furnish any address, telephone number or any other demographic information about the victim except by further order of the court.

§ 62A12. Arrest for violation of order.

(a) General rule.--An arrest for a violation of an order issued under this chapter may be without warrant upon probable cause, whether or not the violation is committed in the presence of the police officer or sheriff, in circumstances where the defendant has violated a provision of an order consistent with section 62A07 (relating to relief). The police officer or sheriff may verify the existence of an order by telephone, radio or other electronic communication with the appropriate police department, Pennsylvania State Police registry or issuing authority. A police officer or sheriff shall arrest a defendant for violating an order by a court within the judicial district or issued by a court in another judicial district within this Commonwealth.

(b) Procedure following arrest.--

(1) Subsequent to an arrest, the defendant shall be taken by the police officer or sheriff without unnecessary delay before the court in the judicial district where the contempt is alleged to have occurred.

(2) When that court is unavailable, the police officer or sheriff shall convey the defendant to a magisterial district judge designated as appropriate by local rules of court or, in counties of the first class, to the appropriate hearing officer.

(c) Preliminary arraignment.--The defendant shall be afforded a preliminary arraignment without unnecessary delay.

(d) Other emergency powers unaffected.--This section shall not be construed to in any way limit any of the other powers for emergency relief provided under this chapter.

(e) Hearing.--A hearing shall be scheduled within ten business days of the filing of the charge or complaint of

indirect criminal contempt. The hearing and any adjudication shall not preclude a hearing on other criminal charges underlying the contempt, nor shall a hearing or adjudication on other criminal charges preclude a hearing on a charge of indirect criminal contempt.

Cross References. Section 62A12 is referred to in section 62A07 of this title.

§ 62A13. Private criminal complaints for violation of order or agreement.

(a) General rule.--A plaintiff may file a private criminal complaint against a defendant, alleging indirect criminal contempt for a violation of any provision of an order or court-approved consent agreement issued under this chapter, with the court, the office of the district attorney or the magisterial district judge in the jurisdiction or county where the violation occurred, except that in a county of the first class, a complaint may only be filed with the family division of the court of common pleas or the office of district attorney.

(b) Procedure service.--

(1) Procedure for filing and service of a private criminal complaint shall be provided as set forth by local rule.

(2) Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No.1023.1 (relating to Scope. Signing of Documents. Representations to the Court. Violation.).

(c) Fees and costs.--

(1) No fees or costs associated with the prosecution of the private criminal complaint shall be assigned to the plaintiff, including, but not limited to, filing, service, failure to prosecute, withdrawal or dismissal.

(2) (i) After a finding of indirect criminal contempt, fees and costs may be assigned against the defendant.

(ii) The court shall waive fees and costs imposed under this chapter upon a showing of good cause or if the court makes a finding that the defendant is not able to pay the costs associated with the indirect criminal contempt action.

(3) Nothing in this subsection shall be construed to expand or diminish the court's authority to enter an order under Pa.R.C.P. No.1023.1.

§ 62A14. Contempt for violation of order.

(a) General rule.--Where the police department, sheriff or the plaintiff has filed charges of indirect criminal contempt against a defendant for violation of an order or court-approved consent agreement entered into under this chapter, the court may hold the defendant in indirect criminal contempt and punish the defendant in accordance with law.

(b) Jurisdiction.--A court shall have jurisdiction over indirect criminal contempt charges for violation of a protection order in the county where the violation occurred and in the county where the order was granted.

(c) Minor defendant.--Any defendant who is a minor and who is charged with indirect criminal contempt for allegedly violating a protection order related to sexual violence shall be considered to have committed an alleged delinquent act as that term is defined in section 6302 (relating to definitions) and shall be treated as provided in Chapter 63 (relating to juvenile matters).

(d) Trial and punishment.--

(1) Notwithstanding section 4136(a) (relating to rights of persons charged with certain indirect criminal contempts), the defendant shall not have the right to a jury trial on the charge of indirect criminal contempt; however, the defendant shall be entitled to counsel.

(2) A sentence for indirect criminal contempt under this chapter may include:

(i) A fine of not less than $300 nor more than $1,000 and imprisonment for a period not exceeding six months.

(ii) A fine of not less than $300 nor more than $1,000 and supervised probation for a period not exceeding six months.

(iii) An order for any other relief provided for under this chapter.

(3) Upon conviction for indirect criminal contempt and at the request of the plaintiff, the court shall also grant an extension of the protection order for an additional term.

(4) Upon conviction for indirect criminal contempt, the court shall notify the sheriff of the jurisdiction which issued the protection order of the conviction.

(5) All moneys received under this section shall be distributed in the following order of priority:

(i) One hundred dollars shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 62A04(c) (relating to responsibilities of law enforcement agencies).

(ii) One hundred dollars shall be retained by the county and shall be used to carry out the provisions of this chapter as follows:

(A) Fifty dollars shall be used by the sheriff.

(B) Fifty dollars shall be used by the court.

(iii) One hundred dollars shall be forwarded to the Department of Public Welfare for use for victims of sexual assault in accordance with the provisions of section 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(iv) Any additional money shall be distributed in the manner under subparagraph (i).

(e) Notification upon release.--

(1) The appropriate releasing authority or other official as designated by local rule shall use all reasonable means to notify the victim sufficiently in advance of the release of the offender from any incarceration imposed under subsection (d). Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture. Notification shall include the terms and conditions imposed on any temporary release from custody.

(2) The plaintiff must keep the appropriate releasing authority or other official as designated by local rule advised of contact information; failure to do so will constitute waiver of any right to notification under this section.

(f) Multiple remedies.--Disposition of a charge of indirect criminal contempt shall not preclude the prosecution of other criminal charges associated with the incident giving rise to the contempt, nor shall disposition of other criminal charges preclude prosecution of indirect criminal contempt associated with the criminal conduct giving rise to the charges.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 62A14 is referred to in section 62A07 of this title.

§ 62A15. Civil contempt or modification for violation of order or agreement.

(a) General rule.--A plaintiff may file a petition for civil contempt with the issuing court alleging that the defendant has violated any provision of an order or court-ï»¿approved consent agreement entered into under this chapter.

(b) Civil contempt order.--Upon finding of a violation of a protection order or court-approved consent agreement issued under this chapter, the court, either pursuant to petition for civil contempt or on its own accord, may hold the defendant in civil contempt and constrain the defendant in accordance with law.

(c) Sentencing.--A sentence for civil contempt under this chapter may include imprisonment until the defendant complies with provisions of the order or court-approved consent agreement or demonstrates the intent to do so, but in no case shall a term of imprisonment under this section exceed a period of six months.

(d) Jury trial and counsel.--Notwithstanding section 4136(a) (relating to rights of persons charged with certain indirect criminal contempts), the defendant shall not have a right to a jury trial; however, the defendant shall be entitled to counsel.

§ 62A16. Confidentiality.

(a) Nature of privilege.--

(1) Unless a victim of sexual violence who consults a sexual assault counselor for the purpose of securing advice, counseling or assistance waives the privilege in a signed writing prior to testimony or disclosure, a sexual assault counselor or a coparticipant who is present during sexual assault counseling or advocacy shall not be competent nor permitted to testify, release the records of or to otherwise disclose confidential communications made to or by the counselor by or to the victim. The privilege shall terminate upon the death of the victim.

(2) Neither the sexual assault counselor nor the victim shall waive the privilege of confidential communications by reporting facts of physical or sexual violence under 23 Pa.C.S. Ch. 63 (relating to child protective services), a Federal or State mandatory reporting statute or a local mandatory reporting ordinance.

(b) Scope.--The provisions of this section applicable to the victim of sexual violence shall also apply to a person who seeks advice, counseling or assistance from a sexual assault counselor regarding the victim.

§ 62A17. Procedure and other remedies.

(a) General rule.--Unless otherwise indicated under this chapter, a proceeding under this chapter shall be in accordance with applicable general rules and shall be in addition to any other available civil or criminal remedies. The plaintiff and the defendant may seek modification of a protection order issued under section 62A07 (relating to relief) at any time during the pendency of the order. Except as otherwise provided in this chapter, modification may be ordered after the filing of a petition for modification, service of the petition and a hearing on the petition.

(b) Remedies for bad faith.--Notwithstanding any other provision of law, upon finding that an individual commenced a proceeding under this chapter in bad faith, a court shall direct the individual to pay to the defendant actual damages and reasonable attorney fees. Failure to prove an allegation of continued risk of harm by a preponderance of the evidence shall not, by itself, result in a finding of bad faith.

§ 62A18. Applicability.

The provisions of the following acts relating to victims who are protected by an order issued under 23 Pa.C.S. Ch. 61 (relating to protection from abuse) shall apply also to victims who are protected by an order issued under this chapter:

(1) The act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

(2) 23 Pa.C.S. Ch. 67 (relating to domestic and sexual violence victim address confidentiality).

§ 62A19. Inability to pay.

(a) Order for installment payments.--Upon plea and proof that a person is without the financial means to pay a fine, a fee or a cost, a court may order payment of money owed in installments appropriate to the circumstances of the person and shall fix the amounts, times and manner of payment.

(b) Electronic payment.--The treasurer of each county may allow the use of credit cards and bank cards in the payment of money owed under this chapter.

§ 62A20. Construction.

Nothing in this chapter shall be construed to preclude an action for wrongful use of civil process in accordance with Subchapter E of Chapter 83 (relating to wrongful use of civil proceedings) or criminal prosecution for a violation of 18 Pa.C.S. Ch. 49 (relating to falsification and intimidation).

CHAPTER 63
JUVENILE MATTERS

Subchapter

A. General Provisions
B. Jurisdiction and Custody
C. Procedures and Safeguards
D. Disposition of Children Generally
E. Dispositions Affecting Other Jurisdictions
F. Juvenile Court Judges' Commission

Enactment. Chapter 63 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 1915.24, readopted and amended November 8, 1982, provided that Chapter 63 shall not be deemed suspended or affected by Rules 1915.1 through 1915.25 governing actions for custody, partial custody and visitation of minor children.

Cross References. Chapter 63 is referred to in sections 1123, 1515, 4402, 4416, 5986, 62A14, 6403, 6408, 9799.27, 9799.28, 9799.56 of this title; sections 2702, 6305, 9121, 9158.5 of Title 18 (Crimes and Offenses); sections 2740, 5324, 5503, 6114, 6303, 6315, 6341, 6368, 6370, 6373, 6375, 6381 of Title 23 (Domestic Relations); section 5502 of Title 30 (Fish); section 922 of Title 34 (Game); sections 7302, 7502, 7503 of Title 67 (Public Welfare); sections 1532, 3804 of Title 75 (Vehicles).

SUBCHAPTER A
GENERAL PROVISIONS

Sec.
6301. Short title and purposes of chapter.
6302. Definitions.
6303. Scope of chapter.
6304. Powers and duties of probation officers.
6304.1. Summary offenses.
6305. Masters.
6306. Costs and expenses of care of child.
6307. Inspection of court files and records.
6308. Law enforcement records.
6309. Juvenile history record information.
6310. Parental participation.
6311. Guardian ad litem for child in court proceedings.

§ 6301. Short title and purposes of chapter.

(a) Short title.--This chapter shall be known and may be cited as the "Juvenile Act."

(b) Purposes.--This chapter shall be interpreted and construed as to effectuate the following purposes:

(1) To preserve the unity of the family whenever possible or to provide another alternative permanent family when the unity of the family cannot be maintained.

(1.1) To provide for the care, protection, safety and wholesome mental and physical development of children coming within the provisions of this chapter.

(2) Consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community.

(3) To achieve the foregoing purposes in a family environment whenever possible, separating the child from parents only when necessary for his welfare, safety or health or in the interests of public safety, by doing all of the following:

(i) employing evidence-based practices whenever possible and, in the case of a delinquent child, by using the least restrictive intervention that is consistent with the protection of the community, the imposition of accountability for offenses committed and the rehabilitation, supervision and treatment needs of the child; and

(ii) imposing confinement only if necessary and for the minimum amount of time that is consistent with the purposes under paragraphs (1), (1.1) and (2).

(4) To provide means through which the provisions of this chapter are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced.

(Nov. 17, 1995, 1st Sp.Sess., P.L.1127, No.33, eff. 120 days; Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999; Oct. 25, 2012, P.L.1655, No.204, eff. 60 days)

2012 Amendment. Act 204 amended subsec. (b).

Cross References. Section 6301 is referred to in section 6352 of this title.

§ 6302. Definitions.

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

"Age-appropriate or developmentally appropriate." The following:

(1) activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child based on the development of cognitive, emotional, physical and behavioral capacities that are typical for an age or age group; and

(2) in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical and behavioral capacities of the child.

"Aggravated circumstances." Any of the following circumstances:

(1) The child is in the custody of a county agency and either:

(i) the identity or whereabouts of the parents is unknown and cannot be ascertained and the parent does not claim the child within three months of the date the child was taken into custody; or

(ii) the identity or whereabouts of the parents is known and the parents have failed to maintain substantial and continuing contact with the child for a period of six months.

(2) The child or another child of the parent has been the victim of physical abuse resulting in serious bodily injury, sexual violence or aggravated physical neglect by the parent.

(3) The parent of the child has been convicted of any of the following offenses where the victim was a child:

(i) criminal homicide under 18 Pa.C.S. Ch. 25 (relating to criminal homicide);

(ii) a felony under 18 Pa.C.S. § 2702 (relating to aggravated assault), 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) or 3125 (relating to aggravated indecent assault).

(iii) A misdemeanor under 18 Pa.C.S. § 3126 (relating to indecent assault).

(iv) An equivalent crime in another jurisdiction.

(4) The attempt, solicitation or conspiracy to commit any of the offenses set forth in paragraph (3).

(5) The parental rights of the parent have been involuntarily terminated with respect to a child of the parent.

(6) The parent of the child is required to register as a sexual offender under Subchapter H of Chapter 97 (relating to registration of sexual offenders) or to register with a sexual offender registry in another jurisdiction or foreign country.

"Aggravated physical neglect." Any omission in the care of a child which results in a life-threatening condition or seriously impairs the child's functioning.

"Assessment." An individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse or co-occurring mental health and substance abuse disorders and

recommendations for treatment. The term includes, but is not limited to, a drug and alcohol, psychological and psychiatric evaluation, records review, clinical interview and the administration of a formal test and instrument.

"Board." The State Sexual Offenders Assessment Board.

"Caregiver." A person with whom the child is placed in an out-of-home placement, including a resource family or an individual designated by a county agency or private agency. The resource family is the caregiver for any child placed with them.

"Child." An individual who:

(1) is under the age of 18 years;

(2) is under the age of 21 years who committed an act of delinquency before reaching the age of 18 years; or

(3) is under the age of 21 years and was adjudicated dependent before reaching the age of 18 years, who has requested the court to retain jurisdiction and who remains under the jurisdiction of the court as a dependent child because the court has determined that the child is:

(i) completing secondary education or an equivalent credential;

(ii) enrolled in an institution which provides postsecondary or vocational education;

(iii) participating in a program actively designed to promote or remove barriers to employment;

(iv) employed for at least 80 hours per month; or

(v) incapable of doing any of the activities described in subparagraph (i), (ii), (iii) or (iv) due to a medical or behavioral health condition, which is supported by regularly updated information in the permanency plan of the child.

"County agency." The term as defined in 23 Pa.C.S. § 6303 (relating to definitions).

"Court." The court of common pleas.

"Court-appointed special advocate" or **"CASA."** An individual appointed by the court to participate as an advocate for a child who is dependent or alleged to be dependent.

"Custodian." A person other than a parent or legal guardian, who stands in loco parentis to the child, or a person to whom legal custody of the child has been given by order of a court.

"Delinquent act."

(1) The term means an act designated a crime under the law of this Commonwealth, or of another state if the act occurred in that state, or under Federal law, or an act which constitutes indirect criminal contempt under Chapter 62A (relating to protection of victims of sexual violence or intimidation) with respect to sexual violence or 23 Pa.C.S. Ch. 61 (relating to protection from abuse) or the failure of a child to comply with a lawful sentence imposed for a summary offense, in which event notice of the fact shall be certified to the court.

(2) The term shall not include:

(i) The crime of murder.

(ii) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct and a deadly weapon as defined in 18 Pa.C.S. § 2301 (relating to definitions) was used during the commission of the offense which, if committed by an adult, would be classified as:

(A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(C) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault).

(D) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

(E) Robbery of motor vehicle as defined in 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(G) Kidnapping as defined in 18 Pa.C.S. § 2901 (relating to kidnapping).

(H) Voluntary manslaughter.

(I) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§ 901 (relating to criminal attempt), 902 (relating to criminal solicitation) and 903 (relating to criminal conspiracy).

(iii) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct and has been previously adjudicated delinquent of any of the following prohibited conduct which, if committed by an adult, would be classified as:

(A) Rape as defined in 18 Pa.C.S. § 3121.

(B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123.

(C) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii).

(D) Robbery of motor vehicle as defined in 18 Pa.C.S. § 3702.

(E) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125.

(F) Kidnapping as defined in 18 Pa.C.S. § 2901.

(G) Voluntary manslaughter.

(H) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§ 901, 902 and 903.

(iv) Summary offenses.

(v) A crime committed by a child who has been found guilty in a criminal proceeding for other than a summary offense.

"Delinquent child." A child ten years of age or older whom the court has found to have committed a delinquent act and is in need of treatment, supervision or rehabilitation.

"Dependent child." A child who:

(1) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals. A determination that there is a lack of proper parental care or control may be based upon evidence of conduct by the parent, guardian or other custodian that places the health, safety or welfare of the child at risk, including evidence of the parent's, guardian's or other custodian's use of alcohol or a controlled substance that places the health, safety or welfare of the child at risk;

(2) has been placed for care or adoption in violation of law;

(3) has been abandoned by his parents, guardian, or other custodian;

(4) is without a parent, guardian, or legal custodian;

(5) while subject to compulsory school attendance is habitually and without justification truant from school;

(6) has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of his parent, guardian or other custodian and who is ungovernable and found to be in need of care, treatment or supervision;

(7) has committed a delinquent act or crime, other than a summary offense, while under the age of ten years;

(8) has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in paragraph (6);

(9) has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is defined as ungovernable in paragraph (6); or

(10) is born to a parent whose parental rights with regard to another child have been involuntarily terminated under 23 Pa.C.S. § 2511 (relating to grounds for involuntary termination) within three years immediately preceding the date of birth of the child and conduct of the parent poses a risk to the health, safety or welfare of the child.

"Facility designed or operated for the benefit of delinquent children." A facility that either identifies itself by charter, articles of incorporation or program description as solely for delinquent children.

"Out-of-home placement." A setting that provides 24-hour substitute care for a child away from the child's parents or guardians and for whom the county agency has placement care and responsibility. The term includes resource family homes and supervised settings in which a child is living and, for a child who has attained 18 years of age, a supervised setting in which the individual is living independently. The term does not include secure facilities, facilities operated primarily for the detention of children who have been adjudicated delinquent, accredited psychiatric residential treatment facilities or hospitals.

"Potential kinship care resource." An individual who meets the requirements to be an emergency caregiver and has expressed a willingness to be a kinship caregiver for a dependent child.

"Private agency." An entity that provides out-of-home placement services to children under a contract with a county agency.

"Protective supervision." Supervision ordered by the court of children found to be dependent.

"Reasonable and prudent parent standard." The standard, characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child while encouraging the emotional and developmental growth of the child, that a caregiver must use when determining whether to allow a child in an out-of-home placement under the responsibility of the county agency to participate in extracurricular, enrichment, cultural and social activities.

"Resource family." As defined under section 3 of the act of November 22, 2005 (P.L.404, No.73), known as the Resource Family Care Act.

"Screening." A process, regardless of whether it includes the administration of a formal instrument, that is designed to identify a child who is at increased risk of having mental health, substance abuse or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention or more comprehensive assessment.

"Serious bodily injury." Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

"Sexual violence." Rape, indecent contact as defined in 18 Pa.C.S. § 3101 (relating to definitions), incest or using, causing, permitting, persuading or coercing the child to engage in a prohibited sexual act as defined in 18 Pa.C.S. § 6312(a) (relating to sexual abuse of children) or a simulation of a prohibited sexual act for the purpose of photographing, videotaping, depicting on computer or filming involving the child.

"Shelter care." Temporary care of a child in physically unrestricted facilities. A facility approved by the Department of Public Welfare to provide shelter care may be located in the same building as a facility approved to provide secure detention services provided that children receiving shelter care services are segregated from the children receiving secure detention services as required by the department.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Mar. 15, 1995, 1st Sp.Sess., P.L.972, No.6, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess., P.L.1127, No.33, eff. 120 days; June 18, 1998, P.L.640, No.84, eff. 60 days; Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999; Dec. 15, 1998, P.L.978, No.128, eff. 60 days; Dec. 20, 2000, P.L.946, No.129, eff. 60 days; Aug. 14, 2003, P.L.97, No.21, eff. 180 days; Oct. 9, 2008, P.L.1396, No.109, eff. 60 days; July 5, 2012, P.L.880, No.91, eff. imd.; Oct. 25, 2012, P.L.1655, No.204, eff. imd.; March 21, 2014, P.L.365, No.25, eff. July 1, 2015; Dec. 28, 2015, P.L.559, No.94, eff. Jan. 1, 2016; Oct. 28, 2016, P.L.966, No.115, eff. imd.; June 28, 2018, P.L.361, No.49, eff. 60 days; Dec. 14, 2023, P.L.412, No.48, eff. 60 days)

2023 Amendment. Act 48 added the def. of "potential kinship care resource."

2018 Amendment. Act 49 amended the def. of "delinquent act."

2016 Amendment. Act 115 added par. (6) of the def. of "aggravated circumstances."

2015 Amendment. Act 94 added the defs. of "age-appropriate or developmentally appropriate," "caregiver," "out-of-home placement," "private agency," "reasonable and prudent parent standard" and "resource family."

2012 Amendments. Act 91 amended par. (3) of the def. of "child" and Act 204 amended par. (7) of the def. of "dependent child."

2012 Correction. Incorrect language was added to the def. of "aggravated circumstances" in 2012. The correct version of the def. appears in this title.

2008 Amendment. Act 109 added the defs. of "assessment" and "screening."

2003 Amendment. Act 21 added the def. of "board."

2000 Amendment. Act 129 amended the def. of "shelter care" and added the def. of "facility designed or operated for the benefit of delinquent children."

1998 Amendments. Act 126 amended the def. of "dependent child" and added the defs. of "aggravated circumstances," "aggravated physical neglect," "county agency," "serious bodily injury" and "sexual violence" and Act 128 added the def. of "court-appointed special advocate" or "CASA."

1995 Amendment. Section 8 of Act 33, 1st Sp.Sess., provided that Act 33 shall apply to all delinquent acts committed on or after the effective date of Act 33.

Care of Dependent Children. Section 31 of Act 53 of 1978 limits the liability of counties for costs of operating new shelter care programs for dependent children classified under paragraph (6) of the definition of "dependent child."

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 6302 is referred to in sections 62A14, 6303, 6311, 6322, 6323, 6327, 6351, 6355, 6402 of this title; sections 6114, 6315 of Title 23 (Domestic Relations).

§ 6303. Scope of chapter.

(a) General rule.--This chapter shall apply exclusively to the following:

(1) Proceedings in which a child is alleged to be delinquent or dependent.

(2) Transfers under section 6322 (relating to transfer from criminal proceedings).

(3) Proceedings arising under Subchapter E (relating to dispositions affecting other jurisdictions).

(4) Proceedings under the Interstate Compact on Juveniles, as set forth in section 731 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

(5) Proceedings in which a child is charged with a summary offense arising out of the same episode or transaction involving a delinquent act for which a petition alleging delinquency is filed under this chapter. The summary offense shall be included in any petition regarding the accompanying delinquent act. Upon finding a child to have committed a summary offense, the court may utilize any disposition available to the minor judiciary where a child is found to have committed a summary offense, including a finding of guilt on the summary offense.

(b) Minor judiciary.--No child shall be detained, committed or sentenced to imprisonment by a magisterial district judge or a judge of the minor judiciary unless the child is charged with an act set forth in paragraph (2)(i), (ii), (iii) or (v) of the definition of "delinquent act" in section 6302 (relating to definitions).

(c) Summary offenses generally.--In addition to the provisions of subsection (a)(5) and notwithstanding the exclusion of summary offenses generally from the definition of "delinquent act" under section 6302, the provisions of sections 6307 (relating to inspection of court files and records) and 6336(d) (relating to conduct of hearings), insofar as section 6336(d) relates to the exclusion of the general public from the proceedings, shall apply to proceedings involving a child charged with a summary offense when the proceedings are before a judge of the minor judiciary, the Philadelphia Municipal Court or a court of common pleas.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.983, No.9, eff. 60 days; Mar. 29, 1996, P.L.51, No.17, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Oct. 25, 2012, P.L.1655, No.204, eff. 90 days; Sept. 27, 2014, P.L.2482, No.138, eff. 60 days)

2014 Amendment. Act 138 amended subsec. (c).

2004 Amendment. Act 207 amended subsec. (b). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Suspension by Court Rule. Subsection (b) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(8), amended December 30, 2005, insofar as it is inconsistent with Rule 210 relating to arrest warrants.

References in Text. Section 731 of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsec. (a), was repealed by the act of July 2, 2004, P.L.468, No.54. The subject matter is now contained the Interstate Compact for Juveniles Act.

The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (a), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Cross References. Section 6303 is referred to in section 6336 of this title.

§ 6304. Powers and duties of probation officers.

(a) General rule.--For the purpose of carrying out the objectives and purposes of this chapter, and subject to the limitations of this chapter or imposed by the court, a probation officer shall:

(1) Make investigations, reports, and recommendations to the court.

(2) Receive and examine complaints and charges of delinquency or dependency of a child for the purpose of considering the commencement of proceedings under this chapter.

(3) Supervise and assist a child placed on probation or in his protective supervision or care by order of the court or other authority of law.

(4) Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.

(5) Take into custody and detain a child who is under his supervision or care as a delinquent or dependent child if the probation officer has reasonable cause to believe that the health or safety of the child is in imminent danger, or that he may abscond or be removed from the jurisdiction of the court, or when ordered by the court pursuant to this chapter or that he violated the conditions of his probation.

(6) Perform all other functions designated by this chapter or by order of the court pursuant thereto.

(a.1) Authority to search.--

(1) Probation officers may search the person and property of children:

(i) under their supervision as delinquent children or pursuant to a consent decree in accordance with this section;

(ii) taken into custody pursuant to subsection (a) and section 6324 (relating to taking into custody); and

(iii) detained pursuant to subsection (a) and section 6325 (relating to detention of child) or during the intake process pursuant to subsection (a) and section 6331 (relating to release from detention or commencement of proceedings) and in accordance with this section.

(2) Nothing in this section shall be construed to permit searches or seizures in violation of the Constitution of the United States or section 8 of Article I of the Constitution of Pennsylvania.

(3) No violation of this section shall constitute an independent ground for suppression of evidence in any proceeding.

(4) (i) A personal search of a child may be conducted by any probation officer:

(A) If there is a reasonable suspicion to believe that the child possesses contraband or other evidence of violations of the conditions of supervision.

(B) When a child is transported or taken into custody.

(C) When a child enters or leaves a detention center, institution or other facility for alleged or adjudicated delinquent children.

(ii) A property search may be conducted by any probation officer if there is reasonable suspicion to believe that the real or other property in the possession of or under the control of the child contains contraband or other evidence of violations of the conditions of supervision.

(iii) Prior approval of a supervisor shall be obtained for a property search absent exigent circumstances or unless the search is being conducted by a supervisor. No prior approval shall be required for a personal search.

(iv) A written report of every property search conducted without prior approval shall be prepared by the probation officer who conducted the search and filed in the child's case record. The exigent circumstances shall be stated in the report.

(v) The child may be detained if he is present during a property search. If the child is not present during a property search, the probation officer in charge of the search shall make a reasonable effort to provide the child with notice of the search, including a list of the items seized, after the search is completed.

(vi) The existence of reasonable suspicion to search shall be determined in accordance with constitutional search and seizure provisions as applied by judicial decision. In accordance with that case law, the following factors, where applicable, may be taken into account:

(A) The observations of officers.

(B) Information provided by others.

(C) The activities of the child.

(D) Information provided by the child.

(E) The experience of the probation officer with the child.

(F) The experience of probation officers in similar circumstances.

(G) The prior delinquent and supervisory history of the offender.

(H) The need to verify compliance with the conditions of supervision.

(b) Foreign jurisdictions.--Any of the functions specified in subsection (a) may be performed in another jurisdiction if authorized by the court of this Commonwealth and permitted by the laws of the other jurisdiction.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Conditions of supervision." A term or condition of a child's supervision, whether imposed by the court or a probation officer, including compliance with all requirements of Federal, State and local law.

"Contraband." An item that a child is not permitted to possess under the conditions of supervision, including an item whose possession is forbidden by any Federal, State or local law.

"Court." The court of common pleas or a judge thereof.

"Exigent circumstances." The term includes, but is not limited to, reasonable suspicion that contraband or other evidence of violations of the conditions of supervision might be destroyed or suspicion that a weapon might be used.

"Personal search." A warrantless search of a child's person, including, but not limited to, the child's clothing and any personal property which is in the possession, within the reach or under the control of the child.

"Probation officer." A probation officer appointed or employed by a court or by a county probation department.

"Property search." A warrantless search of real property, vehicle or personal property which is in the possession or under the control of a child.

"Supervisor." An individual acting in a supervisory or administrative capacity.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 9, 2002, P.L.1705, No.215, eff. 60 days)

2002 Amendment. Section 8 of Act 215 provided that the Juvenile Court Judges' Commission shall develop best practice standards regarding searches of the person and property of children in order to implement the addition of subsec. (a.1).

Suspension by Court Rule. Subsection (a)(2) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(10), amended July 18, 2012, insofar as it is inconsistent with Rules 231 and 330 relating to written allegation and petition: filing, contents, function.

Cross References. Section 6304 is referred to in sections 6304.1, 9911 of this title; section 6375 of Title 23 (Domestic Relations).

§ 6304.1. Summary offenses.

(a) Review.--

(1) Upon notice being certified to the court that a child has failed to comply with a lawful sentence imposed for a summary offense, a probation officer shall review the complaints and charges of delinquency pursuant to section 6304 (relating to powers and duties of probation officers) for the purpose of considering the commencement of proceedings under this chapter.

(2) A proceeding commenced under the review in this subsection is a separate action from the underlying summary conviction. For the purposes of proceedings commenced under this section, failure to comply with a lawful sentence imposed for a summary offense is an alleged delinquent act.

(3) Any reference to the underlying summary conviction is solely for the purpose of the certification from the magisterial district judge to the court of common pleas that the juvenile was convicted of the summary offense and failed to comply under section 4132(2) (relating to attachment and summary punishment for contempts).

(b) Administration of money.--Any money subsequently paid by the child pursuant to the disposition of the charges shall be administered and disbursed in accordance with written guidelines adopted by the president judge of the court of common pleas. The court may direct that any portion of the money received from the child shall be deposited into a restitution fund established by the president judge of the court of common

pleas pursuant to section 6352(a)(5) (relating to disposition of delinquent child).
(Nov. 30, 2004, P.L.1703, No.217, eff. imd.; June 28, 2018, P.L.361, No.49, eff. 60 days)

2018 Amendment. Act 49 amended subsec. (a).
2004 Amendment. Act 217 added section 6304.1.

§ 6305. Masters.

(a) General rule.--The governing authority may promulgate rules for the selection and appointment of masters on a full-time or part-time basis. A master shall be a member of the bar of this Commonwealth. The number and compensation of masters shall be fixed by the governing authority, and their compensation shall be paid by the county.

(b) Hearings before masters.--The court of common pleas may direct that hearings in any case or class of cases be conducted in the first instance by the master in the manner provided in this chapter. Before commencing the hearing the master shall inform the parties who have appeared that they are entitled to have the matter heard by a judge. If a party objects, the hearing shall be conducted by a judge.

(c) Recommendations of masters.--Upon the conclusion of a hearing before a master, he shall transmit written findings and recommendations for disposition to the judge. Prompt written notice and copies of the findings and recommendations shall be given to the parties to the proceeding.

(d) Rehearing before judge.--A rehearing before the judge may be ordered by the judge at any time upon cause shown. Unless a rehearing is ordered, the findings and recommendations become the findings and order of the court when confirmed in writing by the judge.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (a).
Suspension by Court Rule. Subsection (b) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(6), amended December 30, 2005, insofar as it is inconsistent with Rule 187 relating to authority of master.
Subsection (b) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(5), adopted August 21, 2006, insofar as it is inconsistent with Rule 1187 relating to authority of master.

§ 6306. Costs and expenses of care of child.

The costs and expenses of the care of the child shall be paid as provided by sections 704.1 and 704.2 of the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code."
(Apr. 28, 1978, P.L.202, No.53)

1978 Amendment. Act 53 added present section 6306 and repealed former section 6306 relating to the same subject matter and provided that the amendment was effective January 1, 1978.
References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

§ 6307. Inspection of court files and records.

(a) General rule.--All files and records of the court in a proceeding under this chapter are open to inspection only by:

(1) The judges, officers and professional staff of the court.

(2) The parties to the proceeding and their counsel and representatives, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court.

(3) A public or private agency or institution providing supervision or having custody of the child under order of the court.

(4) A court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to a proceeding under this chapter.

(4.1) A court in determining custody, as provided in 23 Pa.C.S. §§ 5328 (relating to factors to consider when awarding custody) and 5329.1 (relating to consideration of child abuse and involvement with protective services).

(5) A judge or issuing authority for use in determining bail, provided that such inspection is limited to orders of delinquency adjudications and dispositions and petitions relating thereto, orders resulting from disposition review hearings and histories of bench warrants and escapes.

(6) The Administrative Office of Pennsylvania Courts.

(6.1) The judges, officers and professional staff of courts of other jurisdictions when necessary for the discharge of their official duties.

(6.2) Officials of the Department of Corrections or a State Correctional Institution or other penal institution to which an individual who was previously adjudicated delinquent in a proceeding under this chapter has been committed, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court.

(6.3) A parole board, court or county probation official in considering an individual's parole or in exercising supervision over any individual who was previously adjudicated delinquent in a proceeding under this chapter, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court.

(6.4) The board for use in completing assessments.

(6.5) The Department of Human Services for use in determining whether an individual named as the perpetrator of an indicated report of child abuse should be expunged from the Statewide database.

(7) With leave of court, any other person or agency or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

(b) Public availability.--

(1) (Deleted by amendment).

(1.1) The contents of court records and files concerning a child shall not be disclosed to the public unless any of the following apply:

(i) The child has been adjudicated delinquent by a court as a result of an act or acts committed when the child was 14 years of age or older and the conduct would have constituted one or more of the following offenses if committed by an adult:

(A) Murder.

(B) Voluntary manslaughter.

(C) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault).

(D) Sexual Assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(E) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(F) Arson as defined in 18 Pa.C.S. § 3301(a)(1) (relating to arson and related offenses).

(G) Burglary as a felony in the first degree as defined in 18 Pa.C.S. § 3502(c)(1) (relating to burglary).

(H) Involuntary deviate sexual intercourse.

(I) Kidnapping.

(J) Rape.

(K) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

(L) Robbery of motor vehicle.

(M) Violation of 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles).

(N) Attempt or conspiracy to commit any of the offenses in this subparagraph.

(ii) A petition alleging delinquency has been filed alleging that the child has committed an act or acts subject to a hearing pursuant to section 6336(e) (relating to conduct of hearings) and the child previously has been adjudicated delinquent by a court as a result of an act or acts committed when the child was 14 years of age or older and the conduct would have constituted one or more of the following offenses if committed by an adult:

(A) Murder.

(B) Voluntary manslaughter.

(C) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2).

(D) Sexual Assault as defined in 18 Pa.C.S. § 3124.1.

(E) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125.

(F) Arson as defined in 18 Pa.C.S. § 3301(a)(1).

(G) Burglary as a felony in the first degree as defined in 18 Pa.C.S. § 3502(c)(1).

(H) Involuntary deviate sexual intercourse.

(I) Kidnapping.

(J) Rape.

(K) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii).

(L) Robbery of motor vehicle.

(M) Violation of 18 Pa.C.S. Ch. 61.

(N) Attempt or conspiracy to commit any of the offenses in this subparagraph.

(2) If the conduct of the child meets the requirements for disclosure as set forth in paragraph (1.1), then the court shall disclose the name, age and address of the child, the offenses charged and the disposition of the case. The judge who adjudicates a child delinquent shall specify the particular offenses and counts thereof which the child is found to have committed, and such information shall be inserted on any court or law enforcement records or files disclosed to the public as provided for in this section or in section 6308(b)(2) (relating to law enforcement records).

(c) Summary offenses.--The provisions of this section shall apply to proceedings involving a child charged with a summary offense when the proceedings are before a judge of the minor judiciary, the Philadelphia Municipal Court or a court of common pleas.

(Feb. 22, 1995, 1st Sp.Sess., P.L.959, No.1, eff. imd.; Dec. 20, 2000, P.L.946, No.129, eff. 60 days; Dec. 9, 2002, P.L.1705, No.215, eff. 60 days; Aug. 14, 2003, P.L.97, No.21, eff. 180 days; July 7, 2006, P.L.378, No.81, eff. 7 days; Oct. 25, 2012, P.L.1655, No.204, eff. 90 days; Dec. 18, 2013, P.L.1167, No.107, eff. Jan. 1, 2014; Sept. 27, 2014, P.L.2482, No.138, eff. 60 days; June 28, 2018, P.L.402, No.56, eff. 365 days; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (a)(6.5).

2018 Amendment. Act 56 amended subsec. (b). See the Preamble to Act 56 in the appendix to this title for special provisions relating to findings and declarations.

2014 Amendment. Act 138 amended subsec. (c).

2013 Amendment . Act 107 added subsec. (a)(4.1) and (6.5). See section 6 of Act 107 in the appendix to this title for special provisions relating to applicability.

2006 Amendment. Section 5 of Act 81 provided that Act 81 shall apply to all actions instituted on or after the effective date of Act 81.

Cross References. Section 6307 is referred to in sections 6303, 6336.1 of this title.

§ 6308. Law enforcement records.

(a) General rule.--Law enforcement records and files concerning a child shall be kept separate from the records and files of arrests of adults. Unless a charge of delinquency is transferred for criminal prosecution under section 6355 (relating to transfer to criminal proceedings), the interest of national security requires, or the court otherwise orders in the interest of the child, the records and files shall not be open to public inspection or their contents disclosed to the public except as provided in subsection (b); but inspection of the records and files is permitted by:

(1) The court having the child before it in any proceeding.

(2) Counsel for a party to the proceeding.

(3) The officers of institutions or agencies to whom the child is committed.

(4) Law enforcement officers of other jurisdictions when necessary for the discharge of their official duties.

(5) A court in which the child is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him.

(6) The Department of Public Welfare for use in determining whether an individual named as the perpetrator of an indicated report of child abuse should be expunged from the Statewide database.

(b) Public availability.--

(1) (Deleted by amendment).

(1.1) The contents of law enforcement records and files concerning a child shall not be disclosed to the public unless any of the following apply:

(i) The child has been adjudicated delinquent by a court as a result of an act or acts committed when the

child was 14 years of age or older and the conduct would have constituted one or more of the following offenses if committed by an adult:

(A) Murder.

(B) Voluntary manslaughter.

(C) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault).

(D) Sexual Assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(E) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(F) Arson as defined in 18 Pa.C.S. § 3301(a)(1) (relating to arson and related offenses).

(G) Burglary as a felony in the first degree as defined in 18 Pa.C.S. § 3502(c)(1) (relating to burglary).

(H) Involuntary deviate sexual intercourse.

(I) Kidnapping.

(J) Rape.

(K) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

(L) Robbery of motor vehicle.

(M) Violation of 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles).

(N) Attempt or conspiracy to commit any of the offenses in this subparagraph.

(ii) A petition alleging delinquency has been filed alleging that the child has committed an act or acts subject to a hearing pursuant to section 6336(e) (relating to conduct of hearings) and the child previously has been adjudicated delinquent by a court as a result of an act or acts committed when the child was 14 years of age or older and the conduct would have constituted one or more of the following offenses if committed by an adult:

(A) Murder.

(B) Voluntary manslaughter.

(C) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2).

(D) Sexual Assault as defined in 18 Pa.C.S. § 3124.1.

(E) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125.

(F) Arson as defined in 18 Pa.C.S. § 3301(a)(1).

(G) Burglary as a felony in the first degree as defined in 18 Pa.C.S. § 3502(c)(1).

(H) Involuntary deviate sexual intercourse.

(I) Kidnapping.

(J) Rape.

(K) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii).

(L) Robbery of motor vehicle.

(M) Violation of 18 Pa.C.S. Ch. 61.

(N) Attempt or conspiracy to commit any of the offenses in this subparagraph.

(2) If the conduct of the child meets the requirements for disclosure as set forth in paragraph (1.1), then the law enforcement agency shall disclose the name, age and address of the child, the offenses charged and the disposition of the case.

(c) Fingerprints and photographs.--

(1) Law enforcement officers shall have the authority to take or cause to be taken the fingerprints or photographs, or both, of any child who is alleged to have committed an act designated as a misdemeanor or felony under the laws of this Commonwealth or of another state if the act occurred in that state or under Federal law. If a child is found to be a delinquent child pursuant to section 6341 (relating to adjudication) on the basis of an act designated as a misdemeanor or felony or the child's case is transferred for criminal prosecution pursuant to section 6355, the law enforcement agency that alleged the child to be a delinquent child shall take or cause to be taken the fingerprints and photographs of the child, if not previously taken pursuant to this case, and ensure that these records are forwarded to the central repository pursuant to section 6309(c) (relating to juvenile history record information). If a child was alleged to be delinquent by other than a law enforcement agency, the court shall direct the juvenile probation department to ensure that the delinquent child's fingerprints and photographs are taken by a law enforcement agency.

(2) Fingerprint and photographic records may be disseminated to law enforcement officers of other jurisdictions, the Pennsylvania State Police and the Federal Bureau of Investigation and may be used for investigative purposes.

(3) Fingerprints and photographic records of children shall be kept separately from adults and shall be immediately destroyed upon notice of the court as provided under section 6341(a) (relating to adjudication) by all persons and agencies having these records if the child is not adjudicated delinquent or not found guilty in a criminal proceeding for reason of the alleged acts.

(d) Pennsylvania State Police registry.--

(1) The contents of law enforcement records and files concerning a child shall not be disclosed to the public except if the child is 14 years of age or older at the time of the alleged conduct and if any of the following apply:

(i) The child has been adjudicated delinquent by a court as a result of any offense enumerated in 18 Pa.C.S. § 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms).

(ii) A petition alleging delinquency has been filed by a law enforcement agency alleging that the child has committed any offense enumerated in 18 Pa.C.S. § 6105 and the child previously has been adjudicated delinquent by a court as a result of an act or acts which included the elements of one of such crimes.

(iii) (Deleted by amendment).

(2) (Repealed).

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Feb. 29, 1980, P.L.36, No.12, eff. 60 days; June 26, 1981, P.L.123, No.41, eff. 60 days; Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Dec. 22, 1989, P.L.727, No.99, eff. imd.; Mar. 15, 1995, 1st Sp.Sess., P.L.972, No.6, eff. 60 days; June 13, 1995, 1st Sp.Sess., P.L.1024, No.17, eff. 120 days; Nov. 22, 1995, P.L.621, No.66, eff. imd.; May 22, 1996, P.L.300, No.46, eff. imd.; Jan. 27, 1998, P.L.20, No.3, eff. 60 days; Nov. 29, 2004, P.L.1364, No.176, eff. imd.; July 7, 2006, P.L.378, No.81, eff. 7 days; Dec. 18, 2013, P.L.1167, No.107, eff. Jan. 1, 2014; June 28, 2018, P.L.402, No.56, eff. 365 days)

2018 Amendment. Act 56 amended subsec. (b). See the Preamble to Act 56 in the appendix to this title for special provisions relating to findings and declarations.

2013 Amendment . Act 107 added subsec. (a)(6). See section 6 of Act 107 in the appendix to this title for special provisions relating to applicability.

2006 Amendment. Section 5 of Act 81 provided that Act 81 shall apply to all actions instituted on or after the effective date of Act 81.

1998 Amendment. Act 3 amended subsec. (c)(1).

1996 Amendment. Act 46 deleted subsec. (d)(1)(iii).

1995 Repeal. Act 66 repealed subsec. (d)(1)(i) and (ii) in part and repealed subsec. (d)(2). The repealed provisions have been deleted from the text.

1995 Amendments. Act 6, 1st Sp.Sess., amended the entire section and Act 17, 1st Sp.Sess., added subsec. (d). See the preamble to Act 17 in the appendix to this title for special provisions relating to legislative purpose.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 6308 is referred to in sections 6307, 6309 of this title; section 6111.1 of Title 18 (Crimes and Offenses).

§ 6309. Juvenile history record information.

(a) Applicability of Criminal History Record Information Act.--Except for 18 Pa.C.S. §§ 9105 (relating to other criminal justice information), 9112(a) and (b) (relating to mandatory fingerprinting), 9113 (relating to disposition reporting by criminal justice agencies) and 9121(b) (relating to general regulations), the remaining provisions of 18 Pa.C.S. Ch. 91 (relating to criminal history record information) shall apply to all alleged delinquents and adjudicated delinquents whose fingerprints and photographs are taken pursuant to section 6308(c) (relating to law enforcement records) and to any juvenile justice agency which collects, maintains, disseminates or receives juvenile history record information. The disclosure to the public of the contents of law enforcement records and files concerning a child shall be governed by section 6308(b).

(b) Central repository.--The Pennsylvania State Police shall establish a Statewide central repository of fingerprints, photographs and juvenile history record information of alleged delinquents and adjudicated delinquents whose fingerprints and photographs are taken pursuant to section 6308(c).

(c) Fingerprints and photographs.--The arresting authority shall ensure that the fingerprints and photographs of alleged and adjudicated delinquents whose fingerprints and photographs have been taken by the arresting authority pursuant to section 6308(c) are forwarded to the central repository as required by the Pennsylvania State Police.

(d) Disposition reporting.--The division or judge of the court assigned to conduct juvenile hearings shall, within seven days after disposition of a case where the child has been alleged to be delinquent, notify the arresting authority of the disposition of the case. The disposition of cases where a child has been alleged to be delinquent, including the disposition of cases resulting in an adjudication of delinquency, shall be provided to the Pennsylvania State Police for inclusion in the central repository as determined by the Administrative Office of Pennsylvania Courts in consultation with the Juvenile Court Judges' Commission. In addition, the Juvenile Court Judges' Commission shall be provided with information pertaining to the

cases of children who have been alleged to be delinquent as the commission determines necessary to fulfill its responsibilities under section 6373 (relating to powers and duties).

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Criminal history record information." In addition to the meaning in 18 Pa.C.S. § 9102 (relating to definitions), the term includes the meaning of juvenile history record information as defined in this subsection.

"Juvenile history record information." Information collected pursuant to this section concerning alleged delinquents and adjudicated delinquents whose fingerprints and photographs are taken pursuant to section 6308(c) and arising from an allegation of delinquency, consisting of identifiable descriptions, dates and notations of arrests or other delinquency charges and any adjudication of delinquency or preadjudication disposition other than dismissal arising therefrom. This information shall also include the last known location and the juvenile court jurisdiction status of each adjudicated delinquent. Juvenile history record information shall not include intelligence information, investigative information, treatment information, including medical and psychiatric information, caution indicator information, modus operandi information, wanted persons information, stolen property information, missing persons information, employment history information, personal history information or presentence investigation information.

(Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Mar. 15, 1995, 1st Sp.Sess., P.L.972, No.6, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess., P.L.1115, No.30, eff. 60 days; May 22, 1996, P.L.300, No.46, eff. imd.; Dec. 20, 2000, P.L.946, No.129, eff. 60 days; Sept. 27, 2014, P.L.2482, No.138, eff. 60 days)

2014 Amendment. Act 138 amended subsecs. (d) and (e).

Cross References. Section 6309 is referred to in section 6308 of this title.

§ 6310. Parental participation.

(a) General rule.--In any proceeding under this chapter, a court may order a parent, guardian or custodian to participate in the treatment, supervision or rehabilitation of a child, including, but not limited to, community service, restitution, counseling, treatment and education programs.

(b) Presence at proceedings.--The court may, when the court determines that it is in the best interests of the child, order a parent, guardian or custodian of a child to be present at and to bring the child to any proceeding under this chapter.

(c) Contempt.--A person who, without good cause, fails to comply with an order issued under this section may be found in contempt of court. The court may issue a bench warrant for any parent, guardian or custodian who, without good cause, fails to appear at any proceeding.

(d) Intent.--The General Assembly hereby declares that every parent, guardian or custodian of a child who is the subject of a proceeding under this chapter and a court-ordered program under this chapter should attend the proceeding and participate fully in the program.

(e) Limitation.--Nothing in this section shall be construed to create a right of a child to have his parent, guardian or custodian present at a proceeding under this chapter or participate in a court-ordered program.

(Nov. 17, 1995, 1st Sp.Sess., P.L.1109, No.28, eff. 60 days)

1995 Amendment. Act 28, 1st Sp.Sess., added section 6310.

§ 6311. Guardian ad litem for child in court proceedings.

(a) Appointment.--When a proceeding, including a master's hearing, has been initiated alleging that the child is a dependent child under paragraph (1), (2), (3), (4) or (10) of the definition of "dependent child" in section 6302 (relating to definitions), the court shall appoint a guardian ad litem to represent the legal interests and the best interests of the child. The guardian ad litem must be an attorney at law.

(b) Powers and duties.--The guardian ad litem shall be charged with representation of the legal interests and the best interests of the child at every stage of the proceedings and shall do all of the following:

(1) Meet with the child as soon as possible following appointment pursuant to section 6337 (relating to right to counsel) and on a regular basis thereafter in a manner appropriate to the child's age and maturity.

(2) On a timely basis, be given access to relevant court and county agency records, reports of examination of the parents or other custodian of the child pursuant to this chapter and medical, psychological and school records.

(3) Participate in all proceedings, including hearings before masters, and administrative hearings and reviews to the degree necessary to adequately represent the child.

(4) Conduct such further investigation necessary to ascertain the facts.

(5) Interview potential witnesses, including the child's parents, caretakers and foster parents, examine and cross-examine witnesses and present witnesses and evidence necessary to protect the best interests of the child.

(6) At the earliest possible date, be advised by the county agency having legal custody of the child of:

(i) any plan to relocate the child or modify custody or visitation arrangements, including the reasons therefor, prior to the relocation or change in custody or visitation; and

(ii) any proceeding, investigation or hearing under 23 Pa.C.S. Ch. 63 (relating to child protective services) or this chapter directly affecting the child.

(7) Make specific recommendations to the court relating to the appropriateness and safety of the child's placement and services necessary to address the child's needs and safety.

(8) Explain the proceedings to the child to the extent appropriate given the child's age, mental condition and emotional condition.

(9) Advise the court of the child's wishes to the extent that they can be ascertained and present to the court whatever evidence exists to support the child's wishes. When appropriate because of the age or mental and emotional condition of the child, determine to the fullest extent possible the wishes of the child and communicate this information to the court. A difference between the child's wishes under this paragraph and the recommendations under paragraph (7) shall not be considered a conflict of interest for the guardian ad litem.

(May 10, 2000, P.L.74, No.18, eff. 60 days)

2000 Amendment. Act 18 added section 6311. Section 5(1) of Act 18 provided that Act 18 shall apply to proceedings initiated on or after the effective date of Act 18.

Suspension by Court Rule. Subsection (b)(9) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(3), amended April 29, 2011, insofar as it is inconsistent with Rules 1151 and 1154 relating to assignment of guardian ad litem and counsel and duties of guardian ad litem.

Cross References. Section 6311 is referred to in sections 6337, 6351 of this title.

SUBCHAPTER B
JURISDICTION AND CUSTODY

Sec.

6321. Commencement of proceedings.
6322. Transfer from criminal proceedings.
6323. Informal adjustment.
6324. Taking into custody.
6325. Detention of child.
6326. Release or delivery to court.
6327. Place of detention.
6328. Dependency in lieu of delinquency.

§ 6321. Commencement of proceedings.

(a) General rule.--A proceeding under this chapter may be commenced:

(1) By transfer of a case as provided in section 6322 (relating to transfer from criminal proceedings).

(2) By the court accepting jurisdiction as provided in section 6362 (relating to disposition of resident child received from another state) or accepting supervision of a child as provided in section 6364 (relating to supervision under foreign order).

(2.1) By taking a child into custody in accordance with the provisions of section 6324 (relating to taking into custody).

(3) In other cases by the filing of a petition as provided in this chapter. The petition and all other documents in the proceeding shall be entitled "In the interest of....., a minor," and shall be captioned and docketed as provided by general rule.

(b) Venue.--A proceeding under this chapter may be commenced:

(1) In the county in which the child resides.

(2) If delinquency is alleged, in the county in which the acts constituting the alleged delinquency occurred.

(3) If dependency is alleged, in the county in which the child is present when it is commenced.

(c) Transfer to another court within this Commonwealth.--

(1) If the child resides in a county of this Commonwealth and the proceeding is commenced in a court of another county, the court, on motion of a party or on its own motion made after the adjudicatory hearing or at any time prior to final disposition, may transfer the proceeding to the county of the residence of the child for further action. Like transfers may be made if the residence of the child changes during the proceeding. The proceeding may be transferred if the child has been adjudicated delinquent and other proceedings involving the child are pending in the court of the county of his residence.

(2) Certified copies of all legal and social documents and records pertaining to the case on file with the court shall accompany the transfer.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Feb. 29, 1980, P.L.36, No.12, eff. 60 days)

1980 Amendment. Act 12 amended subsec. (a).

1978 Amendment. Act 53 amended subsec. (b).

Suspension by Court Rule. Section 6321 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(7), amended December 30, 2005, insofar as it is inconsistent with Rule 200 relating to commencing proceedings.

Cross References. Section 6321 is referred to in section 9799.19 of this title.

§ 6322. Transfer from criminal proceedings.

(a) General rule.--Except as provided in 75 Pa.C.S. § 6303 (relating to rights and liabilities of minors) or in the event the child is charged with murder or any of the offenses excluded by paragraph (2)(ii) or (iii) of the definition of "delinquent act" in section 6302 (relating to definitions) or has been found guilty in a criminal proceeding, if it appears to the court in a criminal proceeding that the defendant is a child, this chapter shall immediately become applicable, and the court shall forthwith halt further criminal proceedings, and, where appropriate, transfer the case to the division or a judge of the court assigned to conduct juvenile hearings, together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. If it appears to the court in a criminal proceeding charging murder or any of the offenses excluded by paragraph (2)(ii) or (iii) of the definition of "delinquent act" in section 6302, that the defendant is a child, the case may similarly be transferred and the provisions of this chapter applied. In determining whether to transfer a case charging murder or any of the offenses excluded from the definition of "delinquent act" in section 6302, the child shall be required to establish by a preponderance of the evidence that the transfer will serve the public interest. In determining whether the child has so established that the transfer will serve the public interest, the court shall consider the factors contained in section 6355(a)(4)(iii) (relating to transfer to criminal proceedings).

(b) Order.--If the court finds that the child has met the burden under subsection (a), the court shall make findings of fact, including specific references to the evidence, and conclusions of law in support of the transfer order. If the court does not make its finding within 20 days of the hearing on the petition to transfer the case, the defendant's petition to transfer the case shall be denied by operation of law.

(c) Expedited review of transfer orders.--The transfer order shall be subject to the same expedited review applicable to orders granting or denying release or modifying the conditions of release prior to sentence, as provided in Rule 1762 of the Pennsylvania Rules of Appellate Procedure.

(d) Effect of transfer order.--Where review of the transfer order is not sought or where the transfer order is upheld the defendant shall be taken forthwith to the probation officer or to a place of detention designated by the court or released to the custody of his parent, guardian, custodian, or other person legally responsible for him, to be brought before the court at a time to be designated. The accusatory pleading may serve in lieu of a petition otherwise required by this chapter, unless the court directs the filing of a petition.

(e) Transfer of convicted criminal cases.--If in a criminal proceeding, the child is found guilty of a crime classified as a misdemeanor, and the child and the attorney for the

Commonwealth agree to the transfer, the case may be transferred for disposition to the division or a judge of the court assigned to conduct juvenile hearings.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess., P.L.1127, No.33, eff. 120 days)

1995 Amendment. Section 8 of Act 33, 1st Sp.Sess., provided that Act 33 shall apply to all delinquent acts committed on or after the effective date of Act 33.

Cross References. Section 6322 is referred to in sections 6303, 6321, 6327, 6355 of this title.

§ 6323. Informal adjustment.

(a) General rule.--

(1) Before a petition is filed, the probation officer or other officer of the court designated by it, subject to its direction, shall, in the case of a dependent child where the jurisdiction of the court is premised upon the provisions of paragraph (1), (2), (3), (4), (5) or (7) of the definition of "dependent child" in section 6302 (relating to definitions) and if otherwise appropriate, refer the child and his parents to any public or private social agency available for assisting in the matter. Upon referral, the agency shall indicate its willingness to accept the child and shall report back to the referring officer within three months concerning the status of the referral.

(2) Similarly, the probation officer may in the case of a delinquent child, or a dependent child where the jurisdiction of the court is permitted under paragraph (6) of the definition of "dependent child" in section 6302, refer the child and his parents to an agency for assisting in the matter.

(3) The agency may return the referral to the probation officer or other officer for further informal adjustment if it is in the best interests of the child.

(b) Counsel and advice.--Such social agencies and the probation officer or other officer of the court may give counsel and advice to the parties with a view to an informal adjustment if it appears:

(1) counsel and advice without an adjudication would be in the best interest of the public and the child;

(2) the child and his parents, guardian, or other custodian consent thereto with knowledge that consent is not obligatory; and

(3) in the case of the probation officer or other officer of the court, the admitted facts bring the case within the jurisdiction of the court.

(c) Limitation on duration of counsel and advice.--The giving of counsel and advice by the probation or other officer of the court shall not extend beyond six months from the day commenced unless extended by an order of court for an additional period not to exceed three months.

(d) No detention authorized.--Nothing contained in this section shall authorize the detention of the child.

(e) Privileged statements.--An incriminating statement made by a participant to the person giving counsel or advice and in the discussions or conferences incident thereto shall not be used against the declarant over objection in any criminal proceeding or hearing under this chapter.

(f) Terms and conditions.--The terms and conditions of an informal adjustment may include payment by the child of reasonable amounts of money as costs, fees or restitution,

including a supervision fee and contribution to a restitution fund established by the president judge of the court of common pleas pursuant to section 6352(a)(5) (relating to disposition of delinquent child).
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Nov. 30, 2004, P.L.1703, No.217, eff. imd.)

2004 Amendment. Act 217 added subsec. (f).
1978 Amendment. Act 53 amended subsec. (a).
Care of Dependent Children. Section 31 of Act 53 of 1978 limits the liability of counties for costs of operating new shelter care programs for dependent children classified under paragraph (6) of the definition of "dependent child" in section 6322.
Suspension by Court Rule. Section 6323(a)(2) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(13), amended July 18, 2012, insofar as it is inconsistent with Rule 312 relating to informal adjustment.
Cross References. Section 6323 is referred to in section 6302 of this title.

§ 6324. Taking into custody.

A child may be taken into custody:

(1) Pursuant to an order of the court under this chapter. Prior to entering a protective custody order removing a child from the home of the parent, guardian or custodian, the court must determine that to allow the child to remain in the home is contrary to the welfare of the child.

(2) Pursuant to the laws of arrest.

(3) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child is suffering from illness or injury or is in imminent danger from his surroundings, and that his removal is necessary.

(4) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child has run away from his parents, guardian, or other custodian.

(5) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child has violated conditions of his probation.

(Dec. 9, 2002, P.L.1705, No.215, eff. 60 days)

Suspension by Court Rule. Section 6324 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(6), adopted August 21, 2006, insofar as it is inconsistent with Rule 1202 relating to procedures for protective custody by police and county agency.
Cross References. Section 6324 is referred to in sections 6304, 6321, 6327, 6351, 6351.1 of this title; section 6315 of Title 23 (Domestic Relations).

§ 6325. Detention of child.

A child taken into custody shall not be detained or placed in shelter care prior to the hearing on the petition unless his detention or care is required to protect the person or property of others or of the child or because the child may abscond or be removed from the jurisdiction of the court or because he has no parent, guardian, or custodian or other person able to provide supervision and care for him and return him to the court when required, or an order for his detention or shelter care has been made by the court pursuant to this chapter.

Cross References. Section 6325 is referred to in sections 6304, 6326, 6331, 6332 of this title.

§ 6326. Release or delivery to court.

(a) General rule.--A person taking a child into custody, with all reasonable speed and without first taking the child elsewhere, shall:

(1) notify the parent, guardian or other custodian of the apprehension of the child and his whereabouts;

(2) release the child to his parents, guardian, or other custodian upon their promise to bring the child before the court when requested by the court, unless his detention or shelter care is warranted or required under section 6325 (relating to detention of child); or

(3) bring the child before the court or deliver him to a detention or shelter care facility designated by the court or to a medical facility if the child is believed to suffer from a serious physical condition or illness which requires prompt treatment. He shall promptly give written notice, together with a statement of the reason for taking the child into custody, to a parent, guardian, or other custodian and to the court.

Any temporary detention or questioning of the child necessary to comply with this subsection shall conform to the procedures and conditions prescribed by this chapter and other provisions of law.

(b) Detention in police lockup generally prohibited.--Unless a child taken into custody is alleged to have committed a crime or summary offense or to be in violation of conditions of probation or other supervision following an adjudication of delinquency, the child may not be detained in a municipal police lockup or cell or otherwise held securely within a law enforcement facility or structure which houses an adult lockup. A child shall be deemed to be held securely only when physically detained or confined in a locked room or cell or when secured to a cuffing rail or other stationary object within the facility.

(c) Detention in police lockup under certain circumstances.--A child alleged to have committed a crime or summary offense or to be in violation of conditions of probation or other supervision following an adjudication of delinquency may be held securely in a municipal police lockup or other facility which houses an adult lockup only under the following conditions:

(1) the secure holding shall only be for the purpose of identification, investigation, processing, releasing or transferring the child to a parent, guardian, other custodian, or juvenile court or county children and youth official, or to a shelter care or juvenile detention center;

(2) the secure holding shall be limited to the minimum time necessary to complete the procedures listed in paragraph (1), but in no case may such holding exceed six hours; and

(3) if so held, a child must be separated by sight and sound from incarcerated adult offenders and must be under the continuous visual supervision of law enforcement officials or facility staff.

(d) Conditions of detention.--Notwithstanding other provisions of law, a child held in nonsecure custody in a building or facility which houses an adult lockup may be so held only under the following conditions:

(1) the area where the child is held is an unlocked multipurpose area which is not designated or used as a secure

detention area or is not part of a secure detention area; or, if the area is a secure booking or similar area, it is used only for processing purposes;

(2) the child is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility;

(3) the area is limited to providing nonsecure custody only long enough for the purposes of identification, investigation, processing or release to parents or for arranging transfer to another agency or appropriate facility; and

(4) the child must be under continuous visual supervision by a law enforcement officer or other facility staff during the period of nonsecure custody.

(e) Reports regarding children held in custody.--Law enforcement agencies shall provide information and reports regarding children held in secure and nonsecure custody under subsections (c) and (d) as requested by the Pennsylvania Commission on Crime and Delinquency.

(f) Enforcement of undertaking to produce child.--If a parent, guardian, or other custodian, when requested, fails to bring the child before the court as provided in subsection (a), the court may issue its warrant directing that the child be taken into custody and brought before the court.

(June 14, 1991, P.L.68, No.9, eff. 60 days; Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999)

1998 Amendment. Act 126 amended subsec. (c)(1).

§ 6327. Place of detention.

(a) General rule.--A child alleged to be delinquent may be detained only in:

(1) A licensed foster home or a home approved by the court.

(2) A facility operated by a licensed child welfare agency or one approved by the court.

(3) A detention home, camp, center or other facility for delinquent children which is under the direction or supervision of the court or other public authority or private agency, and is approved by the Department of Public Welfare.

(4) Any other suitable place or facility, designated or operated by the court and approved by the Department of Public Welfare.

Under no circumstances shall a child be detained in any facility with adults, or where the child is apt to be abused by other children.

(b) Report by correctional officer of receipt of child.--The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under the age of 18 years is received at the facility and shall bring him before the court upon request or deliver him to a detention or shelter care facility designated by the court.

(c) Detention in jail prohibited.--It is unlawful for any person in charge of or employed by a jail knowingly to receive for detention or to detain in the jail any person whom he has or should have reason to believe is a child unless, in a criminal proceeding, the child has been charged with or has been found guilty of an act set forth in paragraph (2)(i), (ii), (iii) or (v) of the definition of "delinquent act" in section 6302 (relating to definitions).

(c.1) Detention of child.--

(1) A child who is subject to criminal proceedings having been charged with an act set forth under paragraph (2)(i), (ii) or (iii) of the definition of "delinquent act" in section 6302, who has not been released on bail and who may seek or is seeking transfer to juvenile proceedings under section 6322 (relating to transfer from criminal proceedings) may be detained in a secure detention facility approved by the Department of Public Welfare for the detention of alleged and adjudicated delinquent children if the attorney for the Commonwealth has consented to and the court has ordered the detention.

(2) Secure detention ordered under this subsection shall not affect a child's eligibility for or ability to post bail.

(3) For a child held in secure detention under this subsection, the court shall order the immediate transfer of the child to the county jail if any of the following apply:

(i) The court determines that the child is no longer seeking transfer under section 6322.

(ii) The court denies the motion filed under section 6322.

(iii) The child attains 18 years of age. This subparagraph does not apply if:

(A) the court has granted the motion filed under section 6322; or

(B) the child is otherwise under order of commitment to the secure detention facility pursuant to the jurisdiction of the court in a delinquency matter.

(d) Transfer of child subject to criminal proceedings.--If a case is transferred for criminal prosecution the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime. The court in making the transfer may order continued detention as a juvenile pending trial if the child is unable to provide bail.

(e) Detention of dependent child.--A child alleged to be dependent may be detained or placed only in a Department of Public Welfare approved shelter care facility as stated in subsection (a)(1), (2) and (4), and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses, but may be detained in the same shelter care facilities with alleged or adjudicated delinquent children.

(f) Development of approved shelter care programs.--The Department of Public Welfare shall develop or assist in the development in each county of this Commonwealth approved programs for the provision of shelter care for children needing these services who have been taken into custody under section 6324 (relating to taking into custody) and for children referred to or under the jurisdiction of the court.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; June 14, 1991, P.L.68, No.9, eff. 60 days; Mar. 29, 1996, P.L.51, No.17, eff. imd.; Dec. 20, 2000, P.L.946, No.129, eff. 60 days; Oct. 27, 2010, P.L.949, No.96, eff. imd.)

2010 Amendment. Act 96 added subsec. (c.1). Section 4(2) of Act 96 provided that subsec. (c.1) shall apply to a criminal proceeding commenced on or after the effective date of section 4(2).

2000 Amendment. Act 129 amended subsec. (e).

1996 Amendment. Act 17 amended subsec. (c).

1991 Amendment. Act 9 amended subsec. (f).

1978 Amendment. Act 53 amended subsec. (a), relettered subsec. (c) to (d), amended and relettered subsec. (d) to (e) and added subsecs. (c) and (f). See sections 23, 25, 27 and 28 of Act 53 of 1978 in the appendix to this title for special provisions relating to confinement of children with adults, confinement of children in jails, required county detention services and regional detention facilities.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 6328. Dependency in lieu of delinquency.

(a) Referral to county agency.--The offenses provided under subsection (b) shall be referred to a county agency under 23 Pa.C.S. §§ 6362 (relating to responsibilities of county agency for child protective services) and 6375 (relating to county agency requirements for general protective services) if the offense:

(1) Is committed by a child as a direct result of being a sexually exploited child as defined in 18 Pa.C.S. § 3001 (relating to definitions).

(2) Is directly related to having been subject to human trafficking as defined in 18 Pa.C.S. § 3001.

(b) Eligible offenses.--Eligible offenses for referral to a county agency include the following:

(1) 18 Pa.C.S. § 3503 (relating to criminal trespass).

(2) 18 Pa.C.S. § 4914 (relating to false identification to law enforcement authorities).

(3) 18 Pa.C.S. § 5503 (relating to disorderly conduct).

(4) 18 Pa.C.S. § 5506 (relating to loitering and prowling at night time).

(5) An offense for simple possession of a controlled substance under section 13(a)(16) and (31) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(c) Delinquency proceedings.--

(1) If an offense listed in subsection (b) is referred to a county agency, delinquency proceedings under this chapter may not be commenced immediately.

(2) If treatment and social services are unsuccessful while the dependency petition is pending, as evidenced by the child's behavior, and the county agency believes that juvenile justice services are necessary and warranted, the county agency shall refer the child's case to the juvenile probation department or district attorney's office for the commencement of delinquency proceedings.

(d) Record expungement.--Upon the final discharge of supervision, juvenile court records relating to an offense listed in subsection (b) shall be expunged by the court under 18 Pa.C.S. § 9123 (relating to juvenile records).

(Oct. 24, 2018, P.L.797, No.130, eff. 60 days)

2018 Amendment. Act 130 added section 6328.

Cross References. Section 6328 is referred to in section 3065 of Title 18 (Crimes and Offenses).

SUBCHAPTER C
PROCEDURES AND SAFEGUARDS

Sec.

6331. Release from detention or commencement of proceedings.
6332. Informal hearing.

6333. Subpoena.
6334. Petition.
6335. Release or holding of hearing.
6336. Conduct of hearings.
6336.1. Notice and hearing.
6336.2. Use of restraints on children during court proceedings.
6337. Right to counsel.
6337.1. Right to counsel for children in dependency and delinquency proceedings.
6338. Other basic rights.
6339. Investigation and report.
6340. Consent decree.
6341. Adjudication.
6342. Court-appointed special advocates.

§ 6331. Release from detention or commencement of proceedings.

If a child is brought before the court or delivered to a detention or shelter care facility designated by the court, the intake or other authorized officer of the court shall immediately make an investigation and release the child unless it appears that his detention or shelter care is warranted or required under section 6325 (relating to detention of child). The release of the child shall not prevent the subsequent filing of a petition as provided in this chapter. If he is not so released, a petition shall be promptly made and presented to the court within 24 hours or the next court business day of the admission of the child to detention or shelter care.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

Suspension by Court Rule. Section 6331 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(11), amended December 30, 2005, insofar as it is inconsistent with Rule 242 relating to detention hearing.

Section 6331 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(7), adopted August 21, 2006, insofar as it is inconsistent with Rules 1242 and 1330(A) relating to general conduct of shelter care hearing and petition: filing, contents, function, aggravated circumstances.

Cross References. Section 6331 is referred to in section 6304 of this title.

§ 6332. Informal hearing.

(a) General rule.--An informal hearing shall be held promptly by the court or master and not later than 72 hours after the child is placed in detention or shelter care to determine whether his detention or shelter care is required under section 6325 (relating to detention of child), whether to allow the child to remain in the home would be contrary to the welfare of the child and, if the child is alleged to be delinquent, whether probable cause exists that the child has committed a delinquent act. Reasonable notice thereof, either oral or written, stating the time, place, and purpose of the hearing shall be given to the child and if they can be found, to his parents, guardian, or other custodian. Prior to the commencement of the hearing the court or master shall inform the parties of their right to counsel and to appointed counsel if they are needy persons, and of the right of the child to remain silent with respect to any allegations of delinquency. If the child is alleged to be a dependent child, the court or master shall also determine whether reasonable efforts were made to prevent such placement or, in the case of an emergency placement where services were not offered and could not have prevented the necessity of placement, whether this level of effort was reasonable due to the emergency nature of the

situation, safety considerations and circumstances of the family.

(b) Rehearing.--If the child is not so released and a parent, guardian or other custodian has not been notified of the hearing, did not appear or waive appearance at the hearing, and files his affidavit showing these facts, the court or master shall rehear the matter without unnecessary delay and order release of the child, unless it appears from the hearing that his detention or shelter care is required under section 6325. (Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 15, 1986, P.L.1598, No.177, eff. 60 days; Dec. 9, 2002, P.L.1705, No.215, eff. 60 days)

Cross References. Section 6332 is referred to in sections 6337.1, 6351 of this title; section 6315 of Title 23 (Domestic Relations).

§ 6333. Subpoena.

(a) General rule.--Upon application of a child, parent, guardian, custodian, probation officer, district attorney, or other party to the proceedings, the court, master, or the clerk of the court shall issue, or the court or master may on its own motion issue, subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing under this chapter.

(b) Copy to parents, guardians and custodians.--

(1) A copy of the subpoena requiring attendance and testimony of a witness who is under 18 years of age shall be issued to the parent, guardian or other custodian of the witness in addition to the issuance of the subpoena for the witness.

(2) The court may waive issuance of the copy under paragraph (1) for cause shown in a specific case.

(Oct. 9, 2008, P.L.1352, No.98, eff. 60 days)

§ 6334. Petition.

(a) Contents of petition.--A petition, which shall be verified and may be on information and belief, may be brought by any person including a law enforcement officer. It shall set forth plainly:

(1) The facts which bring the child within the jurisdiction of the court and this chapter, with a statement that it is in the best interest of the child and the public that the proceeding be brought and, if delinquency is alleged, that the child is in need of treatment, supervision or rehabilitation.

(2) The name, age, and residence address, if any, of the child on whose behalf the petition is brought.

(3) The names and residence addresses, if known to the petitioner, of the parents, guardian, or custodian of the child and of the spouse, if any, of the child. If none of his parents, guardian, or custodian resides or can be found within this Commonwealth, or if their respective places of residence address are unknown, the name of any known adult relative residing within the county, or if there be none, the known adult relative residing nearest to the location of the court.

(4) If the child is in custody and, if so, the place of his detention and the time he was taken into custody.

(b) Aggravated circumstances.--

(1) An allegation that aggravated circumstances exist may be brought:

(i) in a petition for dependency with regard to a child who is alleged to be a dependent child; or

(ii) in a petition for a permanency hearing with regard to a child who has been determined to be a dependent child.

(2) The existence of aggravated circumstances may be alleged by the county agency or the child's attorney. If the county agency reasonably believes that aggravated circumstances exist, it shall file the appropriate petition as soon as possible but no later than 21 days from the determination by the county agency that aggravated circumstances exist.

(3) A petition for dependency or a permanency hearing that alleges aggravated circumstances shall include a statement of the facts the county agency or the child's attorney intends to prove to support the allegation. A criminal conviction shall not be required to allege the existence of aggravated physical neglect or physical abuse resulting in serious bodily injury or sexual violence committed by the parent.

(Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999)

Suspension by Court Rule. Section 6334 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(9), amended December 30, 2005, insofar as it is inconsistent with Rules 231, 233 and 330 relating to written allegation, approval of private written allegations and petition: filing, contents, function.

Section 6334 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(8), adopted August 21, 2006, insofar as it is inconsistent with Rules 1320, 1321 and 1330 relating to application to file a private petition, hearing on application for private petition and petition: filing, contents, function, aggravated circumstances.

Cross References. Section 6334 is referred to in section 6351 of this title.

§ 6335. Release or holding of hearing.

(a) General rule.--After the petition has been filed alleging the child to be dependent or delinquent, the court shall fix a time for hearing thereon, which, if the child is in detention or shelter care shall not be later than ten days after the filing of the petition. Except as provided in subsection (f), if the hearing is not held within such time, the child shall be immediately released from detention or shelter care. A child may be detained or kept in shelter care for an additional single period not to exceed ten days where:

(1) the court determines at a hearing that:

(i) evidence material to the case is unavailable;

(ii) due diligence to obtain such evidence has been exercised; and

(iii) there are reasonable grounds to believe that such evidence will be available at a later date; and

(2) the court finds by clear and convincing evidence that:

(i) the life of the child would be in danger;

(ii) the community would be exposed to a specific danger; or

(iii) the child will abscond or be removed from the jurisdiction of the court.

The court shall direct the issuance of a summons to the parents, guardian, or other custodian, a guardian ad litem, and any other persons as appear to the court to be proper or necessary parties to the proceeding, requiring them to appear before the court at the time fixed to answer the allegations of the petition.

The summons shall also be directed to the child if he is 14 or more years of age or is alleged to be a delinquent. A copy of the petition shall accompany the summons.

(b) Personal appearance.--The court may endorse upon the summons an order:

(1) Directing the parents, guardian, or other custodian of the child to appear personally at the hearing.

(2) Directing the person having the physical custody or control of the child to bring the child to the hearing.

(c) Warrant of arrest.--If it appears from affidavit filed or from sworn testimony before the court that the conduct, condition, or surroundings of the child are endangering his health or welfare or those of others, or that he may abscond or be removed from the jurisdiction of the court or will not be brought before the court notwithstanding the service of the summons, the court may issue a warrant of arrest.

(d) Form.--A summons and warrant of arrest shall be in such form and shall be served as prescribed by general rules.

(e) Waiver of service.--A party, other than the child, may waive service of summons by written stipulation or by voluntary appearance at the hearing. If the child is present at the hearing, his counsel, with the consent of the parent, guardian, or other custodian, or guardian ad litem, may waive service of summons in his behalf.

(f) Limitations on release.--The child shall not be released from detention or shelter care under authority of subsection (a) if the failure to hold a hearing within ten days after the filing of the petition is the result of delay caused by the child. Delay caused by the child shall include, but not be limited to:

(1) Delay caused by the unavailability of the child or his attorney.

(2) Delay caused by any continuance granted at the request of the child or his attorney.

(3) Delay caused by the unavailability of a witness resulting from conduct by or on behalf of the child.

At the conclusion of any court proceeding in which the scheduled hearing is not held, the court shall state on the record whether the failure to hold the hearing resulted from delay caused by the child. Where the court determines that failure to hold a hearing is the result of delay caused by the child, the child may continue to be held in detention or shelter care. However, the additional period of detention shall not exceed ten days, provided that such detention may be continued by the court for successive ten-day intervals.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Oct. 11, 1995, 1st Sp.Sess., P.L.1058, No.21, eff. 60 days; Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999)

1998 Amendment. Act 126 amended subsec. (a).

1995 Amendment. Act 21, 1st Sp.Sess., amended subsec. (f).

1978 Amendment. Act 53 amended the heading and subsec. (a).

Suspension by Court Rule. Section 6335 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(16), amended July 18, 2012, insofar as it is inconsistent with Rule 391 relating to time restrictions for detention for juveniles scheduled for transfer hearing.

Subsection (c) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(2), amended March 19, 2009, insofar as it is inconsistent with Rules 124, 140 and 364 relating to summons and notice.

Subsection (c) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(1), amended March 19, 2009, insofar as it is inconsistent with Rules 1124, 1140 and 1364 relating to summons and notice.

Section 6335 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(10), adopted August 11, 2006, insofar as it is inconsistent with Rule 1360 relating to adjudicatory summons.

Cross References. Section 6335 is referred to in section 6368 of Title 23 (Domestic Relations).

§ 6336. Conduct of hearings.

(a) General rule.--Hearings under this chapter shall be conducted by the court without a jury, in an informal but orderly manner, and separate from other proceedings not included in section 6303 (relating to scope of chapter).

(b) Functions of district attorney.--The district attorney, upon request of the court, shall present the evidence in support of the petition and otherwise conduct the proceedings on behalf of the Commonwealth.

(c) Record.--If requested by the party or ordered by the court the proceedings shall be recorded by appropriate means. If not so recorded, full minutes of the proceedings shall be kept by the court.

(d) Proceeding in camera.--Except in hearings to declare a person in contempt of court and in hearings as specified in subsection (e), the general public shall be excluded from hearings under this chapter. Only the parties, their counsel, witnesses, the victim and counsel for the victim, other persons accompanying a party or a victim for his or her assistance, and any other person as the court finds have a proper interest in the proceeding or in the work of the court shall be admitted by the court. The court may temporarily exclude the child from the hearing except while allegations of his delinquency are being heard.

(e) Open proceedings.--The general public shall not be excluded from any hearings under this chapter:

(1) Pursuant to a petition alleging delinquency where the child was 14 years of age or older at the time of the alleged conduct and the alleged conduct would be considered a felony if committed by an adult.

(2) Pursuant to a petition alleging delinquency where the child was 12 years of age or older at the time of the alleged conduct and where the alleged conduct would have constituted one or more of the following offenses if committed by an adult:

(i) Murder.

(ii) Voluntary manslaughter.

(iii) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault).

(iv) Arson as defined in 18 Pa.C.S. § 3301(a)(1) (relating to arson and related offenses).

(v) Involuntary deviate sexual intercourse.

(vi) Kidnapping.

(vii) Rape.

(viii) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

(ix) Robbery of motor vehicle.

(x) Attempt or conspiracy to commit any of the offenses in this paragraph.

Notwithstanding anything in this subsection, the proceedings shall be closed upon and to the extent of any agreement between the child and the attorney for the Commonwealth.

(f) Discretion of court.--The court at any disposition proceeding under subsection (e) shall have discretion to maintain the confidentiality of mental health, medical or juvenile institutional documents or juvenile probation reports.

(g) Summary offenses.--The provisions of subsection (d), insofar as subsection (d) relates to the exclusion of the general public from the proceedings, shall apply to proceedings involving a child charged with a summary offense when the proceedings are before a judge of the minor judiciary, the Philadelphia Municipal Court or a court of common pleas.

(h) Adjudication alternative.--The magisterial district judge may refer a child charged with a summary offense to an adjudication alternative program under section 1520 (relating to adjudication alternative program) and the Pennsylvania Rules of Criminal Procedure.

(Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Apr. 6, 1995, 1st Sp.Sess., P.L.997, No.11, eff. 60 days; Oct. 25, 2012, P.L.1655, No.204, eff. 90 days; Sept. 27, 2014, P.L.2482, No.138, eff. 60 days)

2014 Amendment. Act 138 amended subsec. (g).

2012 Amendment . Act 204 added subsecs. (g) and (h).

Suspension by Court Rule. Subsection (c) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(3), amended December 30, 2005, insofar as it is inconsistent with Rule 127(A) relating to recording and transcribing juvenile court proceedings.

Subsection (c) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(2), adopted August 21, 2006, insofar as it is inconsistent with Rules 1127(A) and 1242(B)(2) relating to recording and transcribing juvenile court proceedings and general conduct of shelter care hearing.

Subsection (b) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(12), amended July 18, 2012, insofar as it is inconsistent with Rules 242(B)(1)(b), 406(A)(2)(b) and 512(A), relating to detention hearing, adjudicatory hearing and dispositional hearing.

Cross References. Section 6336 is referred to in sections 6303, 6307, 6308 of this title.

§ 6336.1. Notice and hearing.

(a) General rule.--The court shall direct the county agency or juvenile probation department to provide the child's foster parent, preadoptive parent, relative providing care for the child or a potential kinship care resource under 67 Pa.C.S. § 7507(c) (relating to Kinship Care Program) with timely notice of the hearing. The court shall provide the child's foster parent, preadoptive parent or relative providing care for the child the right to be heard at any hearing under this chapter. The court shall provide a potential kinship care resource with the right to be heard during a scheduled hearing or at a separate dispositional hearing, but only as to the individual's qualifications to provide kinship care. Once a potential kinship care resource has had an opportunity to address the court, the court shall render a decision as to whether the potential kinship care resource may receive notice or participate in future hearings under this chapter. Unless a foster parent, preadoptive parent, relative providing care or a kinship care resource for a child has been awarded legal custody pursuant to section 6357 (relating to rights and duties of legal custodian), nothing in this section shall give the foster parent, preadoptive parent, relative providing care or a

potential kinship care resource for the child legal standing in the matter being heard by the court.

(b) Permanency hearings.--

(1) Prior to a permanency hearing under section 6351(e) (relating to disposition of dependent child), a child's foster parent or parents, preadoptive parent or relative providing care for the child may submit to the court a report in regard to the child's adjustment, progress and condition.

(2) The county agency shall notify the foster parent or parents, preadoptive parent or relative providing care for the child of the right to submit a report under this subsection to the court on a form under paragraph (3). The county agency shall provide the foster parent or parents, preadoptive parent or relative providing care for the child with information identifying the name of the judge or officer of the court, along with mailing address, to whom the report is to be submitted.

(3) The Department of Public Welfare shall develop a form for use by a foster parent or parents, preadoptive parent or relative providing care for the child, including, but not limited to, the following information:

(i) Date of completion.

(ii) Name and address of child.

(iii) Name and address of foster parent or parents, preadoptive parent or relative providing care for the child. The information under this subparagraph shall be considered confidential except at the discretion of the court.

(iv) Name of primary caseworker and agency.

(v) Description of child's adjustment in the home.

(vi) Description of child's interaction with foster parent or parents, preadoptive parent or relative providing care and with family members of individuals referred to in this subparagraph.

(vii) Description of child's interaction with others.

(viii) Evaluation of child's respect for property.

(ix) Description of physical and emotional condition of child.

(x) Description of child's interaction with the primary caseworker.

(xi) Description of caseworker's interaction with the child and foster parent or parents, preadoptive parent or relative providing care for the child and with family members of individuals referred to in this paragraph.

(xii) Description of educational status, grades, attendance and behavior of child in school or child's experience in a child day-care setting or early childhood development program.

(xiii) Description of child's experience involving visitation with birth parents, specifying if visitation is supervised or unsupervised and any significant events which occurred.

(xiv) Opinion on overall adjustment, progress and condition of the child.

(xv) Other concerns, comments or recommendations.

(4) The report shall be reviewed by the court and is subject to review by other persons and agencies under sections 6307 (relating to inspection of court files and records) and 6342(d)(1) (relating to court-appointed special advocates).

(5) A county agency or a private agency as defined under 23 Pa.C.S. § 6303 (relating to definitions) shall not take any retaliatory action against a foster parent, preadoptive parent or relative for any information, comments or concerns provided in good faith in a report under this subsection. This paragraph shall not be construed to prevent any agency from taking any action if the report contains information that the foster parent, preadoptive parent or relative has engaged in any conduct that is contrary to any regulation or law or is not in the child's best interest.

(Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999; Dec. 9, 2002, P.L.1705, No.215, eff. 60 days; Dec. 18, 2007, P.L.484, No.76, eff. Jan. 1, 2008; Oct. 9, 2008, P.L.1396, No.109, eff. 60 days; Dec. 14, 2023, P.L.412, No.48, eff. 60 days)

2023 Amendment. Act 48 amended subsec. (a).

Suspension by Court Rule. Section 6336.1(b)(2) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(11), amended September 16, 2009, insofar as it is inconsistent with Rule 1604 relating to submission of reports.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 6336.2. Use of restraints on children during court proceedings.

(a) Use of restraints.--Except as provided for in subsection (b), restraints such as handcuffs, chains, shackles, irons or straitjackets shall be removed prior to the commencement of a court proceeding.

(b) Exception.--Restraints may be used during a court proceeding if the court determines on the record, after providing the child with an opportunity to be heard, that they are necessary:

(1) to prevent physical harm to the child or another person;

(2) to prevent disruptive courtroom behavior, evidenced by a history of behavior that created potentially harmful situations or presented substantial risk of physical harm; or

(3) to prevent the child, evidenced by an escape history or other relevant factors, from fleeing the courtroom.

(May 29, 2012, P.L.570, No.56, eff. 60 days)

2012 Amendment. Act 56 added section 6336.2.

§ 6337. Right to counsel.

Except as provided under this section and in section 6311 (relating to guardian ad litem for child in court proceedings), a party is entitled to representation by legal counsel at all stages of any proceedings under this chapter and if he is without financial resources or otherwise unable to employ counsel, to have the court provide counsel for him. If a party other than a child appears at a hearing without counsel the court shall ascertain whether he knows of his right thereto and to be provided with counsel by the court if applicable. The court may continue the proceeding to enable a party to obtain counsel. Except as provided under section 6337.1 (relating to right to counsel for children in dependency and delinquency proceedings), counsel must be provided for a child. If the interests of two or more parties may conflict, separate counsel shall be provided for each of them.

(May 10, 2000, P.L.74, No.18, eff. 60 days; Apr. 9, 2012, P.L.223, No.23, eff. 60 days)

Suspension by Court Rule. Section 6337 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(5), amended December 30, 2005, insofar as it is inconsistent with Rule 152 relating to waiver of counsel.

Section 6337 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(4), adopted August 21, 2006, insofar as it is inconsistent with Rule 1152 relating to waiver of counsel.

Cross References. Section 6337 is referred to in section 6311 of this title; sections 6315, 6368 of Title 23 (Domestic Relations).

§ 6337.1. Right to counsel for children in dependency and delinquency proceedings.

(a) Children in dependency proceedings.--Legal counsel shall be provided for a child who is alleged or has been found to be a dependent child in accordance with the Pennsylvania Rules of Juvenile Court Procedure.

(b) Children in delinquency proceedings.--

(1) In delinquency cases, all children shall be presumed indigent. If a child appears at any hearing without counsel, the court shall appoint counsel for the child prior to the commencement of the hearing. The presumption that a child is indigent may be rebutted if the court ascertains that the child has the financial resources to retain counsel of his choice at his own expense. The court may not consider the financial resources of the child's parent, guardian or custodian when ascertaining whether the child has the financial resources to retain counsel of his choice at his own expense.

(2) Although a child alleged to be delinquent may appear with counsel at the intake conference conducted by a juvenile probation officer following the submission of a written allegation, counsel shall not be mandatory at the proceeding.

(3) Notwithstanding paragraph (1), a child who is 14 years of age or older may waive the right to counsel if the court has determined that the waiver is knowingly, intelligently and voluntarily made after having conducted a colloquy with the child on the record, in accordance with the Pennsylvania Rules of Juvenile Court Procedure, and the hearing for which waiver is sought is not one of the following:

(i) An informal detention or shelter hearing under section 6332 (relating to informal hearing).

(ii) A hearing to consider transfer to criminal proceedings under section 6355 (relating to transfer to criminal proceedings).

(iii) A hearing to consider evidence on the petition or accept an admission to an alleged delinquent act under section 6341 (relating to adjudication).

(iv) A hearing to consider evidence as to whether the child is in need of treatment, supervision or rehabilitation under section 6341.

(v) A disposition hearing under section 6341 or 6352 (relating to disposition of delinquent child).

(vi) A hearing to modify or revoke probation or other disposition entered under section 6352.

(4) The court may assign stand-by counsel if the child waives counsel at any hearing.

(5) If a child waives counsel for any hearing, the waiver shall only apply to that hearing and the child may

revoke the waiver of counsel at any time. At any subsequent hearing, the child shall be informed of the right to counsel.
(Apr. 9, 2012, P.L.223, No.23, eff. 60 days)

2012 Amendment. Act 23 added section 6337.1.

Cross References. Section 6337.1 is referred to in section 6337 of this title.

§ 6338. Other basic rights.

(a) General rule.--A party is entitled to the opportunity to introduce evidence and otherwise be heard in his own behalf and to cross-examine witnesses.

(b) Self-incrimination.--A child charged with a delinquent act need not be a witness against or otherwise incriminate himself. An extrajudicial statement, if obtained in the course of violation of this chapter or which could be constitutionally inadmissible in a criminal proceeding, shall not be used against him. Evidence illegally seized or obtained shall not be received over objection to establish the allegations made against him. A confession validly made by a child out of court at a time when the child is under 18 years of age shall be insufficient to support an adjudication of delinquency unless it is corroborated by other evidence.

(c) Statements and information obtained during screening or assessment.--

(1) No statements, admissions or confessions made by or incriminating information obtained from a child in the course of a screening or assessment that is undertaken in conjunction with any proceedings under this chapter, including, but not limited to, that which is court ordered, shall be admitted into evidence against the child on the issue of whether the child committed a delinquent act under this chapter or on the issue of guilt in any criminal proceeding.

(2) The provisions of paragraph (1) are in addition to and do not override any existing statutory and constitutional prohibition on the admission into evidence in delinquency and criminal proceedings of information obtained during screening, assessment or treatment.

(Oct. 9, 2008, P.L.1396, No.109, eff. 60 days)

2008 Amendment. Act 109 added subsec. (c).

Cross References. Section 6338 is referred to in sections 6315, 6368 of Title 23 (Domestic Relations).

§ 6339. Investigation and report.

(a) General rule.--If the allegations of a petition are admitted by a party or notice of hearing under section 6355 (relating to transfer to criminal proceedings) has been given, the court, prior to the hearing on need for treatment or disposition, may direct that a social study and report in writing to the court be made by an officer of the court or other person designated by the court, concerning the child, his family, his environment, and other matters relevant to disposition of the case. If the allegations of the petition are not admitted and notice of a hearing under section 6355 has not been given, the court shall not direct the making of the study and report until after the court has held a hearing on the petition upon notice of hearing given pursuant to this chapter and the court has found that the child committed a delinquent act or is a dependent child.

(b) Physical and mental examinations and treatment.--During the pendency of any proceeding the court may order the child to be examined at a suitable place by a physician or

psychologist and may also order medical or surgical treatment of a child who is suffering from a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, even if the parent, guardian, or other custodian has not been given notice of a hearing, is not available, or without good cause informs the court of his refusal to consent to the treatment.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (a).

Suspension by Court Rule. Section 6339 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(9), adopted August 21, 2006, insofar as it is inconsistent with Rule 1340(B)(1)(e) relating to discovery and inspection.

§ 6340. Consent decree.

(a) General rule.--At any time after the filing of a petition and before the entry of an adjudication order, the court may, on motion of the district attorney or of counsel for the child, suspend the proceedings, and continue the child under supervision in his own home, under terms and conditions negotiated with the probation services and agreed to by all parties affected. The order of the court continuing the child under supervision shall be known as a consent decree.

(b) Objection.--Where the child or the district attorney objects to a consent decree, the court shall proceed to findings, adjudication and disposition.

(c) Duration of decree.--A consent decree shall remain in force for six months unless the child is discharged sooner by probation services with the approval of the court. Upon application of the probation services or other agency supervising the child, made before expiration of the six-month period, a consent decree may be extended by the court for an additional six months.

(c.1) Terms and conditions.--Consistent with the protection of the public interest, the terms and conditions of a consent decree may include payment by the child of reasonable amounts of money as costs, fees or restitution, including a supervision fee and contribution to a restitution fund established by the president judge of the court of common pleas pursuant to section 6352(a)(5) (relating to disposition of delinquent child), and shall, as appropriate to the circumstances of each case, include provisions which provide balanced attention to the protection of the community, accountability for offenses committed and the development of competencies to enable the child to become a responsible and productive member of the community.

(d) Reinstatement of petition.--If prior to discharge by the probation services or expiration of the consent decree, a new petition is filed against the child, or the child otherwise fails to fulfill express terms and conditions of the decree, the petition under which the child was continued under supervision may, in the discretion of the district attorney following consultation with the probation services, be reinstated and the child held accountable as if the consent decree had never been entered.

(e) Effect of decree.--A child who is discharged by the probation services, or who completes a period of supervision without reinstatement of the original petition, shall not again be proceeded against in any court for the same offense alleged in the petition or an offense based upon the same conduct.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess.,

P.L.1127, No.33, eff. 120 days; Nov. 30, 2004, P.L.1703, No.217, eff. imd.)

2004 Amendment. Act 217 amended subsec. (c.1).
1986 Amendment. Act 165 amended subsec. (b).
1978 Amendment. Act 53 amended subsec. (c).
Suspension by Court Rule. Subsection (c) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(15), amended July 18, 2012, insofar as it is inconsistent with the requirement of Rule 373 relating to conditions of consent decree.

§ 6341. Adjudication.

(a) General rule.--After hearing the evidence on the petition the court shall make and file its findings as to whether the child is a dependent child. If the petition alleges that the child is delinquent, within seven days of hearing the evidence on the petition, the court shall make and file its findings whether the acts ascribed to the child were committed by him. This time limitation may only be extended pursuant to the agreement of the child and the attorney for the Commonwealth. The court's failure to comply with the time limitations stated in this section shall not be grounds for discharging the child or dismissing the proceeding. If the court finds that the child is not a dependent child or that the allegations of delinquency have not been established it shall dismiss the petition and order the child discharged from any detention or other restriction theretofore ordered in the proceeding. For cases involving allegations of delinquency where fingerprints or photographs or both have been taken by a law enforcement agency and where it is determined that acts ascribed to the child were not committed by him, the court shall direct that those records be immediately destroyed by law enforcement agencies.

(b) Finding of delinquency.--If the court finds on proof beyond a reasonable doubt that the child committed the acts by reason of which he is alleged to be delinquent it shall enter such finding on the record and shall specify the particular offenses, including the grading and counts thereof which the child is found to have committed. The court shall then proceed immediately or at a postponed hearing, which shall occur not later than 20 days after such finding if the child is in detention or not more than 60 days after such finding if the child is not in detention, to hear evidence as to whether the child is in need of treatment, supervision or rehabilitation, as established by a preponderance of the evidence, and to make and file its findings thereon. This time limitation may only be extended pursuant to the agreement of the child and the attorney for the Commonwealth. The court's failure to comply with the time limitations stated in this section shall not be grounds for discharging the child or dismissing the proceeding. In the absence of evidence to the contrary, evidence of the commission of acts which constitute a felony shall be sufficient to sustain a finding that the child is in need of treatment, supervision or rehabilitation. If the court finds that the child is not in need of treatment, supervision or rehabilitation it shall dismiss the proceeding and discharge the child from any detention or other restriction theretofore ordered.

(b.1) School notification.--

(1) Upon finding a child to be a delinquent child, the court shall, through the juvenile probation department, provide the following information to the building principal

or his or her designee of any public, private or parochial school in which the child is enrolled:

(i) Name and address of the child.

(ii) The delinquent act or acts which the child was found to have committed.

(iii) A brief description of the delinquent act or acts.

(iv) The disposition of the case.

(2) If the child is adjudicated delinquent for an act or acts which if committed by an adult would be classified as a felony, the court, through the juvenile probation department, shall additionally provide to the building principal or his or her designee relevant information contained in the juvenile probation or treatment reports pertaining to the adjudication, prior delinquent history and the supervision plan of the delinquent child.

(3) Notwithstanding any provision set forth herein, the court or juvenile probation department shall have the authority to share any additional information regarding the delinquent child under its jurisdiction with the building principal or his or her designee as deemed necessary to protect public safety or to enable appropriate treatment, supervision or rehabilitation of the delinquent child.

(4) Information provided under this subsection is for the limited purposes of protecting school personnel and students from danger from the delinquent child and of arranging appropriate counseling and education for the delinquent child. The building principal or his or her designee shall inform the child's teacher of all information received under this subsection. Information obtained under this subsection may not be used for admissions or disciplinary decisions concerning the delinquent child unless the act or acts surrounding the adjudication took place on or within 1,500 feet of the school property.

(5) Any information provided to and maintained by the building principal or his or her designee under this subsection shall be transferred to the building principal or his or her designee of any public, private or parochial school to which the child transfers enrollment.

(6) Any information provided to the building principal or his or her designee under this subsection shall be maintained separately from the child's official school record. Such information shall be secured and disseminated by the building principal or his or her designee only as appropriate in paragraphs (4) and (5).

(b.2) Evidence on the finding of delinquency.--

(1) No statements, admissions or confessions made by or incriminating information obtained from a child in the course of a screening or assessment that is undertaken in conjunction with any proceedings under this chapter, including, but not limited to, that which is court ordered, shall be admitted into evidence against the child on the issue of whether the child committed a delinquent act under this chapter or on the issue of guilt in any criminal proceeding.

(2) The provisions of paragraph (1) are in addition to and do not override any existing statutory and constitutional prohibition on the admission into evidence in delinquency and criminal proceedings of information obtained during screening, assessment or treatment.

(c) Finding of dependency.--If the court finds from clear and convincing evidence that the child is dependent, the court

shall proceed immediately or at a postponed hearing, which shall occur not later than 20 days after adjudication if the child has been removed from his home, to make a proper disposition of the case.

(c.1) Aggravated circumstances.--If the county agency or the child's attorney alleges the existence of aggravated circumstances and the court determines that the child is dependent, the court shall also determine if aggravated circumstances exist. If the court finds from clear and convincing evidence that aggravated circumstances exist, the court shall determine whether or not reasonable efforts to prevent or eliminate the need for removing the child from the home or to preserve and reunify the family shall be made or continue to be made and schedule a hearing as required in section 6351(e)(3) (relating to disposition of dependent child).

(d) Evidence on issue of disposition.--

(1) (i) In disposition hearings under subsections (b) and (c) all evidence helpful in determining the questions presented, including oral and written reports, may be received by the court and relied upon to the extent of its probative value even though not otherwise competent in the hearing on the petition.

(ii) Subparagraph (i) includes any screening and assessment examinations ordered by the court to aid in disposition, even though no statements or admissions made during the course thereof may be admitted into evidence against the child on the issue of whether the child committed a delinquent act.

(2) The parties or their counsel shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making the reports. Sources of information given in confidence need not be disclosed.

(e) Continued hearings.--On its motion or that of a party the court may continue the hearings under this section for a reasonable period, within the time limitations imposed by this section, to receive reports and other evidence bearing on the disposition or the need for treatment, supervision or rehabilitation. In this event the court shall make an appropriate order for detention of the child or his release from detention subject to supervision of the court during the period of the continuance. In scheduling investigations and hearings the court shall give priority to proceedings in which a child is in detention or has otherwise been removed from his home before an order of disposition has been made.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Mar. 15, 1995, 1st Sp.Sess., P.L.972, No.6, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess., P.L.1115, No.30, eff. 60 days; Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999; May 10, 2000, P.L.74, No.18, eff. 60 days; Dec. 9, 2002, P.L.1705, No.215, eff. 60 days; Oct. 9, 2008, P.L.1396, No.109, eff. 60 days; June 28, 2018, P.L.361, No.49, eff. 60 days)

2018 Amendment. Act 49 amended subsec. (b).

2008 Amendment. Act 109 amended subsec. (d) and added subsec. (b.2).

2000 Amendment. Act 18 amended subsecs. (a), (b) and (e). Section 5(1) of Act 18 provided that Act 18 shall apply to proceedings initiated on or after the effective date of Act 18.

1998 Amendment. Act 126 added subsec. (c.1).

1995 Amendments. Act 6, 1st Sp.Sess., amended subsec. (a) and Act 30, 1st Sp.Sess., added subsec. (b.1).

1978 Amendment. Act 53 amended subsecs. (a), (b) and (c).

Cross References. Section 6341 is referred to in sections 6308, 6337.1, 9799.19, 9799.23 of this title; section 6105 of Title 18 (Crimes and Offenses); sections 2512, 6303 of Title 23 (Domestic Relations).

§ 6342. Court-appointed special advocates.

(a) General rule.--The court may appoint or discharge a CASA at any time during a proceeding or investigation regarding dependency under this chapter.

(b) Immunity.--A court-appointed special advocate shall be immune from civil liability for actions taken in good faith to carry out the duties of the CASA under this chapter except for gross negligence, intentional misconduct or reckless, willful or wanton misconduct.

(c) Qualifications.--Prior to appointment, a CASA shall:

(1) Be 21 years of age or older.

(2) Successfully pass screening requirements, including criminal history and child abuse background checks.

(3) Successfully complete the training requirements established under subsection (f) and by the court of common pleas of the county where the CASA will serve.

(d) Powers and duties.--Following appointment by the court, the CASA shall:

(1) have full access to and review all records, including records under 23 Pa.C.S. Ch. 63 (relating to child protective services) relating to the child and other information, unless otherwise restricted by the court;

(2) interview the child and other appropriate persons as necessary to develop its recommendations;

(3) receive reasonable prior notice of all hearings, staff meetings, investigations or other proceedings relating to the child;

(4) receive reasonable prior notice of the movement of the child from one placement to another placement, the return of a child to the home, the removal of a child from the home or any action that materially affects the treatment of the child;

(5) submit written reports to the court to assist the court in determining the disposition best suited to the health, safety and welfare of the child; and

(6) submit copies of all written reports and recommendations to all parties and any attorney of a party.

(e) Confidentiality.--All records and information received under this section shall be confidential and only used by the CASA in the performance of his duties.

(f) Standards.--The Juvenile Court Judges' Commission established under the act of December 21, 1959 (P.L.1962, No.717), entitled "An act providing for the creation and operation of the Juvenile Court Judges' Commission in the Department of Justice; prescribing its powers and duties; and making an appropriation," shall develop standards governing the qualifications and training of court-appointed special advocates.

(Dec. 15, 1998, P.L.978, No.128, eff. 60 days)

1998 Amendment. Act 128 added section 6342.

Cross References. Section 6342 is referred to in section 6336.1 of this title; section 6365 of Title 23 (Domestic Relations).

SUBCHAPTER D

DISPOSITION OF CHILDREN GENERALLY

Sec.

6351. Disposition of dependent child.
6351.1. Authority of court upon petition to remove child from foster parent.
6352. Disposition of delinquent child.
6352.1. Treatment records.
6352.2. Interagency information sharing.
6353. Limitation on and change in place of commitment.
6354. Effect of adjudication.
6355. Transfer to criminal proceedings.
6356. Disposition of mentally ill or mentally retarded child.
6357. Rights and duties of legal custodian.
6358. Assessment of delinquent children by the State Sexual Offenders Assessment Board.

§ 6351. Disposition of dependent child.

(a) General rule.--If the child is found to be a dependent child the court may make any of the following orders of disposition best suited to the safety, protection and physical, mental, and moral welfare of the child:

(1) Permit the child to remain with his parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child.

(2) Subject to conditions and limitations as the court prescribes transfer temporary legal custody to any of the following:

(i) Any individual resident within or without this Commonwealth, including any relative, who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child.

(ii) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child.

(iii) A public agency authorized by law to receive and provide care for the child.

(2.1) Subject to conditions and limitations as the court prescribes, transfer permanent legal custody to an individual resident in or outside this Commonwealth, including any relative, who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child. A court order under this paragraph may set forth the temporary visitation rights of the parents. The court shall refer issues related to support and continuing visitation by the parent to the section of the court of common pleas that regularly determines support and visitation.

(3) Without making any of the foregoing orders transfer custody of the child to the juvenile court of another state if authorized by and in accordance with section 6363 (relating to ordering foreign supervision).

(b) Required preplacement findings.--Prior to entering any order of disposition under subsection (a) that would remove a dependent child from his home, the court shall enter findings on the record or in the order of court as follows:

(1) that continuation of the child in his home would be contrary to the welfare, safety or health of the child; and

(2) whether reasonable efforts were made prior to the placement of the child to prevent or eliminate the need for

removal of the child from his home, if the child has remained in his home pending such disposition; or

(3) if preventive services were not offered due to the necessity for an emergency placement, whether such lack of services was reasonable under the circumstances; or

(4) if the court has previously determined pursuant to section 6332 (relating to informal hearing) that reasonable efforts were not made to prevent the initial removal of the child from his home, whether reasonable efforts are under way to make it possible for the child to return home; and

(5) if the child has a sibling who is subject to removal from his home, whether reasonable efforts were made prior to the placement of the child to place the siblings together or whether such joint placement is contrary to the safety or well-being of the child or sibling.

The court shall not enter findings under paragraph (2), (3) or (4) if the court previously determined that aggravated circumstances exist and no new or additional reasonable efforts to prevent or eliminate the need for removing the child from the home or to preserve and reunify the family are required.

(b.1) Visitation for child and sibling.--If a sibling of a child has been removed from his home and is in a different placement setting than the child, the court shall enter an order that ensures visitation between the child and the child's sibling no less than twice a month, unless a finding is made that visitation is contrary to the safety or well-being of the child or sibling.

(c) Limitation on confinement.--Unless a child found to be dependent is found also to be delinquent he shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children.

(d) County programs.--Every county of this Commonwealth shall develop programs for children under paragraph (5) or (6) of the definition of "dependent child" in section 6302 (relating to definitions).

(e) Permanency hearings.--

(1) The court shall conduct a permanency hearing for the purpose of determining or reviewing the permanency plan of the child, the date by which the goal of permanency for the child might be achieved and whether placement continues to be best suited to the safety, protection and physical, mental and moral welfare of the child. In any permanency hearing held with respect to the child, the court shall consult with the child regarding the child's permanency plan, including the child's desired permanency goal, in a manner appropriate to the child's age and maturity. If the court does not consult personally with the child, the court shall ensure that the views of the child regarding the permanency plan have been ascertained to the fullest extent possible and communicated to the court by the guardian ad litem under section 6311 (relating to guardian ad litem for child in court proceedings) or, as appropriate to the circumstances of the case by the child's counsel, the court-appointed special advocate or other person as designated by the court.

(2) If the county agency or the child's attorney alleges the existence of aggravated circumstances and the court determines that the child has been adjudicated dependent, the court shall then determine if aggravated circumstances exist. If the court finds from clear and convincing evidence that aggravated circumstances exist, the court shall determine whether or not reasonable efforts to prevent or eliminate the need for removing the child from the child's

parent, guardian or custodian or to preserve and reunify the family shall be made or continue to be made and schedule a hearing as provided in paragraph (3).

(3) The court shall conduct permanency hearings as follows:

(i) Within six months of:

(A) the date of the child's removal from the child's parent, guardian or custodian for placement under section 6324 (relating to taking into custody) or 6332 or pursuant to a transfer of temporary legal custody or other disposition under subsection (a)(2), whichever is the earliest; or

(B) each previous permanency hearing until the child is returned to the child's parent, guardian or custodian or removed from the jurisdiction of the court.

(ii) Within 30 days of:

(A) an adjudication of dependency at which the court determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's parent, guardian or custodian or to preserve and reunify the family need not be made or continue to be made;

(B) a permanency hearing at which the court determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's parent, guardian or custodian or to preserve and reunify the family need not be made or continue to be made and the permanency plan for the child is incomplete or inconsistent with the court's determination;

(C) an allegation that aggravated circumstances exist regarding a child who has been adjudicated dependent, filed under section 6334(b) (relating to petition); or

(D) a petition alleging that the hearing is necessary to protect the safety or physical, mental or moral welfare of a dependent child.

(iii) If the court resumes jurisdiction of the child pursuant to subsection (j), permanency hearings shall be scheduled in accordance with applicable law until court jurisdiction is terminated, but no later than when the child attains 21 years of age.

(f) Matters to be determined at permanency hearing.--At each permanency hearing, a court shall determine all of the following:

(1) The continuing necessity for and appropriateness of the placement.

(2) The appropriateness, feasibility and extent of compliance with the permanency plan developed for the child.

(3) The extent of progress made toward alleviating the circumstances which necessitated the original placement.

(4) The appropriateness and feasibility of the current placement goal for the child.

(5) The likely date by which the placement goal for the child might be achieved.

(5.1) Whether reasonable efforts were made to finalize the permanency plan in effect.

(6) Whether the child is safe.

(7) If the child has been placed outside the Commonwealth, whether the placement continues to be best

suited to the safety, protection and physical, mental and moral welfare of the child.

(8) The services needed to assist a child who is 14 years of age or older to make the transition to successful adulthood and whether the services are being provided as required under 67 Pa.C.S. § 7505 (relating to transition plan and services).

(8.1) Whether the child continues to meet the definition of "child" and has requested that the court continue jurisdiction pursuant to section 6302 if the child is between 18 and 21 years of age.

(8.2) If the child is 18 years of age or older, whether a suitable transition plan has been presented in accordance with section 475 of the Social Security Act (49 Stat. 620, 42 U.S.C. § 675(5)(H)) and 67 Pa.C.S. § 7505.

(9) If the child has been in placement for at least 15 of the last 22 months or the court has determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's parent, guardian or custodian or to preserve and reunify the family need not be made or continue to be made, whether the county agency has filed or sought to join a petition to terminate parental rights and to identify, recruit, process and approve a qualified family to adopt the child unless:

(i) the child is being cared for by a relative best suited to the physical, mental and moral welfare of the child;

(ii) the county agency has documented a compelling reason for determining that filing a petition to terminate parental rights would not serve the needs and welfare of the child; or

(iii) the child's family has not been provided with necessary services to achieve the safe return to the child's parent, guardian or custodian within the time frames set forth in the permanency plan.

(10) If a sibling of a child has been removed from his home and is in a different placement setting than the child, whether reasonable efforts have been made to place the child and the sibling of the child together or whether such joint placement is contrary to the safety or well-being of the child or sibling.

(11) If the child has a sibling, whether visitation of the child with that sibling is occurring no less than twice a month, unless a finding is made that visitation is contrary to the safety or well-being of the child or sibling.

(12) If the child has been placed with a caregiver, whether the child is being provided with regular, ongoing opportunities to participate in age-appropriate or developmentally appropriate activities. In order to make the determination under this paragraph, the county agency shall document the steps it has taken to ensure that:

(i) the caregiver is following the reasonable and prudent parent standard; and

(ii) the child has regular, ongoing opportunities to engage in age-appropriate or developmentally appropriate activities. The county agency shall consult with the child regarding opportunities to engage in such activities.

For children placed in foster care on or before November 19, 1997, the county agency shall file or join a petition for termination of parental rights under this subsection in

accordance with section 103(c)(2) of the Adoption and Safe Families Act of 1997 (Public Law 105-89, 111 Stat. 2119).

(f.1) Additional determination.--Based upon the determinations made under subsection (f) and all relevant evidence presented at the hearing, the court shall determine one of the following:

(1) If and when the child will be returned to the child's parent, guardian or custodian in cases where the return of the child is best suited to the safety, protection and physical, mental and moral welfare of the child.

(2) If and when the child will be placed for adoption, and the county agency will file for termination of parental rights in cases where return to the child's parent, guardian or custodian is not best suited to the safety, protection and physical, mental and moral welfare of the child.

(3) If and when the child will be placed with a legal custodian in cases where the return to the child's parent, guardian or custodian or being placed for adoption is not best suited to the safety, protection and physical, mental and moral welfare of the child.

(4) If and when the child will be placed with a fit and willing relative in cases where return to the child's parent, guardian or custodian, being placed for adoption or being placed with a legal custodian is not best suited to the safety, protection and physical, mental and moral welfare of the child.

(5) If and when the child will be placed in another planned permanent living arrangement which is approved by the court, the following shall apply:

(i) The child must be 18 years of age or older.

(ii) The county agency shall identify at least two significant connections with supportive adults willing to be involved in the child's life as the child transitions to adulthood, or document that efforts have been made to identify supportive adults.

(iii) The county agency shall document:

(A) A compelling reason that it would not be best suited to the safety, protection and physical, mental and moral welfare of the child to be returned to the child's parent, guardian or custodian, to be placed for adoption, to be placed with a legal custodian or to be placed with a fit and willing relative.

(B) Its intensive, ongoing and, as of the date of the hearing, unsuccessful efforts to return the child to the child's parent, guardian or custodian or to be placed for adoption, to be placed with a legal custodian or to be placed with a fit and willing relative.

(C) Its efforts to utilize search technology to find biological family members for the child.

(iv) The court shall:

(A) Ask the child about the desired permanency goal for the child.

(B) Make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child.

(C) Provide compelling reasons why it continues not to be in the best interests of the child to return to the child's parent, guardian or custodian, be placed for adoption, be placed with a legal

custodian or be placed with a fit and willing relative.

(D) Make findings that the significant connections are identified in the permanency plan or that efforts have been made to identify at least two connections with supportive adults, if no one is currently identified.

(E) Identify the specific planned permanent living arrangement that the court is approving.

(f.2) Evidence.--Evidence of conduct by the parent that places the health, safety or welfare of the child at risk, including evidence of the use of alcohol or a controlled substance that places the health, safety or welfare of the child at risk, shall be presented to the court by the county agency or any other party at any disposition or permanency hearing whether or not the conduct was the basis for the determination of dependency.

(g) Court order.--On the basis of the determination made under subsection (f.1), the court shall order the continuation, modification or termination of placement or other disposition which is best suited to the safety, protection and physical, mental and moral welfare of the child.

(h) Certain hearings discretionary.--(Deleted by amendment).

(i) Assignment to orphans' court.--A judge who adjudicated the child dependent or who has conducted permanency hearings or other dependency proceedings involving the child may be assigned to the orphans' court division for the purpose of hearing proceedings relating to any of the following:

(1) Involuntary termination of parental rights of a parent of the dependent child under 23 Pa.C.S. Ch. 25 Subch. B (relating to involuntary termination).

(2) A petition to adopt the dependent child.

(j) Resumption of jurisdiction.--At any time prior to a child reaching 21 years of age, a child may request the court to resume dependency jurisdiction if:

(1) the child continues to meet the definition of "child" pursuant to section 6302; and

(2) dependency jurisdiction was terminated:

(i) within 90 days prior to the child's 18th birthday; or

(ii) on or after the child's 18th birthday, but before the child turns 21 years of age.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 15, 1986, P.L.1598, No.177, eff. 60 days; July 11, 1996, P.L.607, No.104, eff. 60 days; Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999; Dec. 9, 2002, P.L.1705, No.215, eff. 60 days; Dec. 18, 2007, P.L.484, No.76, eff. Jan. 1, 2008; Nov. 23, 2010, P.L.1140, No.115, eff. 60 days; July 5, 2012, P.L.880, No.91, eff. imd.; Dec. 28, 2015, P.L.559, No.94, eff. Jan. 1, 2016; Nov. 3, 2022, P.L.1765, No.118, eff. 60 days)

2022 Amendment. Act 118 amended subsecs. (f)(8) and (8.2) and (f.1)(5)(i), (ii) and (iv).

2015 Amendment. Act 94 amended subsecs. (e)(1), (f)(8) and (f.1)(5) and added par. (f)(12). See section 30 of Act 94 of 2015 in the appendix to this title for special provisions relating to duties of Department of Human Services.

2012 Amendment . Act 91 added subsecs. (e)(3)(iii), (f)(8.1) and (8.2) and (j).

2010 Amendment. Act 115 amended subsec. (b) and added subsecs. (b.1) and (f)(10) and (11).

Care of Dependent Children. Section 31 of Act 53 of 1978 limits the liability of counties for costs of operating new shelter care programs for dependent children classified under paragraph (6) of the definition of "dependent child" in 42 Pa.C.S. § 6302.

Suspension by Court Rule. Section 6351(e)(3)(i)(B) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(12), amended September 16, 2009, insofar as it is inconsistent with Rule 1607 relating to regular scheduling of permanency hearings.

Cross References. Section 6351 is referred to in sections 6336.1, 6341, 6351.1, 6352, 6352.1, 6357 of this title; section 5324 of Title 23 (Domestic Relations); sections 7502, 7504, 7505 of Title 67 (Public Welfare).

§ 6351.1. Authority of court upon petition to remove child from foster parent.

(a) Order required.--Notwithstanding sections 6324 (relating to taking into custody) and 6351(a) (relating to disposition of dependent child), if a county agency petitions the court for removal of a child because the foster parent has been convicted of an offense set forth in 23 Pa.C.S. § 6344(c) (relating to employees having contact with children; adoptive and foster parents), the court shall immediately enter an order removing the child from the foster parent.

(b) Limitation on placement.--If a court enters an order under subsection (a), the following apply:

(1) Except as set forth in paragraph (2), the court may, under section 6351(a), enter an order of disposition best suited to the child's safety; protection; and physical, mental and moral welfare.

(2) Notwithstanding section 6351(a), if the court finds that the foster parent has been convicted of an offense set forth in 23 Pa.C.S. § 6344(c), the court has no authority to place or return the child to the foster parent who was named in the petition filed by the county agency under subsection (a).

(Oct. 31, 2003, P.L.200, No.31, eff. 60 days; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014)

2014 Amendment. Act 153 amended subsec. (a).

2003 Amendment. Act 31 added section 6351.1. Section 3 of Act 31 provided that section 6351.1 shall apply to petitions filed on or after the effective date of section 3.

§ 6352. Disposition of delinquent child.

(a) General rule.--If the child is found to be a delinquent child the court may make any of the following orders of disposition determined to be consistent with the protection of the public interest and best suited to the child's treatment, supervision, rehabilitation and welfare, which disposition shall, as appropriate to the individual circumstances of the child's case, provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable the child to become a responsible and productive member of the community:

(1) Any order authorized by section 6351 (relating to disposition of dependent child).

(2) Placing the child on probation under supervision of the probation officer of the court or the court of another state as provided in section 6363 (relating to ordering foreign supervision), under conditions and limitations the court prescribes.

(3) Committing the child to an institution, youth development center, camp, or other facility for delinquent children operated under the direction or supervision of the court or other public authority and approved by the Department of Public Welfare.

(4) If the child is 12 years of age or older, committing the child to an institution operated by the Department of Public Welfare.

(5) Ordering payment by the child of reasonable amounts of money as fines, costs, fees or restitution as deemed appropriate as part of the plan of rehabilitation considering the nature of the acts committed and the earning capacity of the child, including a contribution to a restitution fund. The president judge of the court of common pleas shall establish a restitution fund for the deposit of all contributions to the restitution fund which are received or collected. The president judge of the court of common pleas shall promulgate written guidelines for the administration of the fund. Disbursements from the fund shall be made, subject to the written guidelines and the limitations of this chapter, at the discretion of the president judge and used to reimburse crime victims for financial losses resulting from delinquent acts. For an order made under this subsection, the court shall retain jurisdiction until there has been full compliance with the order or until the delinquent child attains 21 years of age. Any restitution order which remains unpaid at the time the child attains 21 years of age shall continue to be collectible under section 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties).

(6) An order of the terms of probation may include an appropriate fine considering the nature of the act committed or restitution not in excess of actual damages caused by the child which shall be paid from the earnings of the child received through participation in a constructive program of service or education acceptable to the victim and the court whereby, during the course of such service, the child shall be paid not less than the minimum wage of this Commonwealth. In ordering such service, the court shall take into consideration the age, physical and mental capacity of the child and the service shall be designed to impress upon the child a sense of responsibility for the injuries caused to the person or property of another. The order of the court shall be limited in duration consistent with the limitations in section 6353 (relating to limitation on and change in place of commitment) and in the act of May 13, 1915 (P.L.286, No.177), known as the Child Labor Law. The court order shall specify the nature of the work, the number of hours to be spent performing the assigned tasks, and shall further specify that as part of a plan of treatment and rehabilitation that up to 75% of the earnings of the child be used for restitution in order to provide positive reinforcement for the work performed.

In selecting from the alternatives set forth in this section, the court shall follow the general principle that the disposition imposed should provide the means through which the provisions of this chapter are executed and enforced consistent with section 6301(b) (relating to purposes) and when confinement is necessary, the court shall impose the minimum amount of confinement that is consistent with the protection of the public and the rehabilitation needs of the child.

(b) Limitation on place of commitment.--A child shall not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of adults convicted of a crime.

(c) Required statement of reasons.--Prior to entering an order of disposition under subsection (a), the court shall state its disposition and the reasons for its disposition on the record in open court, together with the goals, terms and conditions of that disposition. If the child is to be committed to out-of-home placement, the court shall also state the name of the specific facility or type of facility to which the child will be committed and its findings and conclusions of law that formed the basis of its decision consistent with subsection (a) and section 6301, including the reasons why commitment to that facility or type of facility was determined to be the least restrictive placement that is consistent with the protection of the public and best suited to the child's treatment, supervision, rehabilitation and welfare.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; May 12, 1995, 1st Sp.Sess., P.L.1006, No.13, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess., P.L.1127, No.33, eff. 120 days; Nov. 30, 2004, P.L.1703, No.217, eff. imd.; Apr. 3, 2012, P.L.222, No.22, eff. imd.)

2012 Amendment. Act 22 added subsec. (c).

2004 Amendment. Act 217 amended subsec. (a)(5).

1995 Amendments. Act 13, 1st Sp.Sess, amended subsec. (a)(5) and Act 33, 1st Sp.Sess., amended subsec. (a). Section 8 of Act 33, 1st Sp.Sess., provided that Act 33 shall apply to all delinquent acts committed on or after the effective date of Act 33.

References in Text. The act of May 13, 1915, P.L.286, No.177, known as the Child Labor Law, referred to in subsec. (a)(6), was repealed by the act of October 24, 2012, P.L.1209, No.151.

The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 6352 is referred to in sections 6304.1, 6323, 6337.1, 6340, 6352.1, 6358, 6403, 9728, 9799.12, 9799.15, 9799.16, 9799.17, 9799.19, 9799.23, 9799.24, 9799.31, 9799.34, 9799.58 of this title.

§ 6352.1. Treatment records.

Notwithstanding any other provision of law, drug and alcohol treatment records or related information regarding a child who is alleged or who has been found to be dependent or delinquent, or the child's parent, shall be released to the county agency, court or juvenile probation officer upon the consent of the child or the child's parent or upon an order of the court. The disclosure of drug and alcohol treatment records under this section shall be obtained or ordered in a manner that is consistent with the procedures, limitations and criteria set forth in regulations adopted by the Department of Health and Human Services relating to the confidentiality of drug and alcohol treatment records. The county agency, court or juvenile probation officer shall only use the records to carry out the purposes of this chapter and shall not release the records to any other person. The court may order the participation of the county agency or juvenile probation officer in the development of a treatment plan for the child as necessary to protect the health, safety or welfare of the child, to include discussions with the individual, facility or program providing treatment

and the child or the child's parent in furtherance of a disposition under section 6351 (relating to disposition of dependent child) or 6352 (relating to disposition of delinquent child).
(Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999)

1998 Amendment. Act 126 added section 6352.1.

§ 6352.2. Interagency information sharing.

(a) Scope.--This section shall apply to court-approved interagency information-sharing agreements entered into in accordance with this section. Nothing in this section shall preclude the sharing of information not otherwise prohibited by law.

(b) General rule.--The contents of county agency, juvenile probation department, drug and alcohol, mental health and education records regarding a child who is the subject of an open child protective services or general protective services investigation, who is alleged to be dependent, who has been accepted for service by a county agency, who has been placed under supervision under an informal adjustment or consent decree, who has been found to have committed a delinquent act or who has been found to be dependent or delinquent shall be provided, upon request, to the county agency, court or juvenile probation department, under and except as prohibited by the following:

(1) This chapter.

(2) Section 5944 (relating to confidential communications to psychiatrists or licensed psychologists).

(3) The act of February 13, 1970 (P.L.19, No.10), entitled "An act enabling certain minors to consent to medical, dental and health services, declaring consent unnecessary under certain circumstances."

(4) The act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act.

(5) The act of November 29, 1990 (P.L.585, No.148), known as the Confidentiality of HIV-Related Information Act.

(6) Federal law, including the Family Educational Rights and Privacy Act of 1974 (Public Law 90-247, 20 U.S.C. § 1232g), the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936) and the procedures, limitations and criteria set forth in regulations adopted by the Department of Health and Human Services relating to the confidentiality of drug and alcohol treatment records.

(c) Sharing of information.--

(1) The county agency, court or juvenile probation department shall, in accordance with the procedures established under this section, use the information contained in the records in furtherance of a disposition under this chapter of the child who is the subject of the records. Unless otherwise prohibited by this chapter or by the statutes or regulations listed under subsection (b)(2), (3), (4), (5) and (6), the information contained in the records may, notwithstanding any other provision of law, be shared among authorized representatives of the county agency, court and juvenile probation department in furtherance of a disposition under this chapter of the child, or, if no child-specific or other confidential information is disclosed, in furtherance of efforts to identify and provide services to children who are determined to be at risk of child abuse, parental neglect or initial or additional delinquent behavior.

(2) Unless otherwise prohibited under this chapter or by the statutes or regulations listed under subsection (b)(2), (3), (4), (5) and (6) or any other provision of law, the information under paragraph (1) may also be shared with other agencies or entities if there is a specific need to do so. The information shall be shared for the limited purposes set forth under this section under an interagency information-sharing agreement developed under subsection (d) or upon order of court or the written consent of the parent or guardian of the child who is the subject of the records or any person, including the child, otherwise having the authority to consent to the sharing of the information.

(d) Interagency information-sharing agreements.--

(1) Subject to approval of the court and the requirements of this chapter and the statutes and regulations listed under subsection (b)(2), (3), (4), (5) and (6), an interagency information-sharing agreement may be developed in each county among the county agency, juvenile probation department, local law enforcement agencies, mental health agencies, drug and alcohol agencies, local school districts and other agencies and entities as deemed appropriate, to enhance the coordination of case management services to and the supervision of children who have been accepted for service by a county agency, who are being supervised under an informal adjustment or a consent decree, who have been found to have committed a delinquent act or who have been found to be dependent or delinquent, to enhance the coordination of efforts to identify children who may be at risk of child abuse, parental neglect or initial or additional delinquent behavior and to provide services to these children and their families. Any agreement under this subsection shall be signed by the chief executive officers of the entities referred to in this section as well as the public defender's office and guardian ad litem in each county and shall be submitted to the court for approval. In counties that do not have agencies with primary responsibility for representing delinquent or dependent children, the court shall designate attorneys at law with experience in representing those children to satisfy the requirements of this paragraph.

(2) All interagency information-sharing agreements shall, at a minimum, do all of the following:

(i) Provide that information will be shared under this chapter and the statutes or regulations listed under subsection (b)(2), (3), (4), (5) and (6) to enhance the coordination of case management services to and the supervision of children who have been found to be dependent or delinquent, who are being supervised under an informal adjustment or a consent decree, who have been found to have committed a delinquent act or who have been accepted for service by a county agency, and to enhance the coordination of efforts to identify children who may be at risk of child abuse, parental neglect or initial or additional delinquent behavior and to provide services to these children and their families.

(ii) Whenever possible, the preferred method for obtaining authorization to share confidential information shall be upon the written, informed consent of the person authorized under applicable law to consent to the release of information after that person has been provided a full understanding of the circumstances under which and with whom the information will be shared.

(iii) Set forth the specific activities in which the signatories and the signatories' representatives will engage, either collectively or individually, in furtherance of the purposes of the agreement.

(iv) Prohibit the release of information shared under this agreement with other parties, except as otherwise required or permitted by statute.

(July 8, 2016, P.L.494, No.78, eff. 60 days)

2016 Amendment. Act 78 added section 6352.2.

§ 6353. Limitation on and change in place of commitment.

(a) General rule.--No child shall initially be committed to an institution for a period longer than four years or a period longer than he could have been sentenced by the court if he had been convicted of the same offense as an adult, whichever is less. The initial commitment may be extended for a similar period of time, or modified, if the court finds after hearing that the extension or modification will effectuate the original purpose for which the order was entered. The child shall have notice of the extension or modification hearing and shall be given an opportunity to be heard. The committing court shall review each commitment every six months and shall hold a disposition review hearing at least every nine months.

(b) Transfer to other institution.--After placement of the child, and if his progress with the institution warrants it, the institution may seek to transfer the child to a less secure facility, including a group home or foster boarding home. The institution shall give the committing court written notice of all requests for transfer and shall give the attorney for the Commonwealth written notice of a request for transfer from a secure facility to another facility. If the court, or in the case of a request to transfer from a secure facility, the attorney for the Commonwealth, does not object to the request for transfer within ten days after the receipt of such notice, the transfer may be effectuated. If the court, or in the case of a request to transfer from a secure facility, the attorney for the Commonwealth, objects to the transfer, the court shall hold a hearing within 20 days after objecting to the transfer for the purpose of reviewing the commitment order. The institution shall be notified of the scheduled hearing, at which hearing evidence may be presented by any interested party on the issue of the propriety of the transfer. If the institution seeks to transfer to a more secure facility the child shall have a full hearing before the committing court. At the hearing, the court may reaffirm or modify its commitment order.

(c) Notice of available facilities and services.--Immediately after the Commonwealth adopts its budget, the Department of Public Welfare shall notify the courts and the General Assembly, for each Department of Public Welfare region, of the available:

(1) Secure beds for the serious juvenile offenders.

(2) General residential beds for the adjudicated delinquent child.

(3) The community-based programs for the adjudicated delinquent child.

If the population at a particular institution or program exceeds 110% of capacity, the department shall notify the courts and the General Assembly that intake to that institution or program is temporarily closed and shall make available equivalent services to children in equivalent facilities.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Feb. 29, 1980, P.L.36, No.12, eff. 60 days; Dec. 11, 1986, P.L.1521, No.165, eff. 60 days)

1986 Amendment. Act 165 amended subsec. (a).

1980 Amendment. Act 12 amended subsec. (b).

Suspension by Court Rule. Subsection (a) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(18), amended July 18, 2012, insofar as it is inconsistent with the requirement of Rule 610 relating to dispositional and commitment review.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 6353 is referred to in sections 6352, 6358, 9728 of this title.

§ 6354. Effect of adjudication.

(a) General rule.--An order of disposition or other adjudication in a proceeding under this chapter is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment.

(b) Effect in subsequent judicial matters.--The disposition of a child under this chapter may only be used against him:

(1) in dispositional proceedings after conviction for the purposes of a presentence investigation and report if the child was adjudicated delinquent;

(2) in a subsequent juvenile hearing, whether before or after reaching majority;

(3) if relevant, where he has put his reputation or character in issue in a civil matter; or

(4) in a criminal proceeding, if the child was adjudicated delinquent for an offense, the evidence of which would be admissible if committed by an adult.

(May 12, 1995, 1st Sp.Sess., P.L.1006, No.13, eff. 60 days)

§ 6355. Transfer to criminal proceedings.

(a) General rule.--After a petition has been filed alleging delinquency based on conduct which is designated a crime or public offense under the laws, including local ordinances, of this Commonwealth, the court before hearing the petition on its merits may rule that this chapter is not applicable and that the offense should be prosecuted, and transfer the offense, where appropriate, to the division or a judge of the court assigned to conduct criminal proceedings, for prosecution of the offense if all of the following exist:

(1) The child was 14 or more years of age at the time of the alleged conduct.

(2) A hearing on whether the transfer should be made is held in conformity with this chapter.

(3) Notice in writing of the time, place, and purpose of the hearing is given to the child and his parents, guardian, or other custodian at least three days before the hearing.

(4) The court finds:

(i) that there is a prima facie case that the child committed the delinquent act alleged;

(ii) that the delinquent act would be considered a felony if committed by an adult;

(iii) that there are reasonable grounds to believe that the public interest is served by the transfer of the case for criminal prosecution. In determining whether

the public interest can be served, the court shall consider the following factors:

(A) the impact of the offense on the victim or victims;

(B) the impact of the offense on the community;

(C) the threat to the safety of the public or any individual posed by the child;

(D) the nature and circumstances of the offense allegedly committed by the child;

(E) the degree of the child's culpability;

(F) the adequacy and duration of dispositional alternatives available under this chapter and in the adult criminal justice system; and

(G) whether the child is amenable to treatment, supervision or rehabilitation as a juvenile by considering the following factors:

(I) age;

(II) mental capacity;

(III) maturity;

(IV) the degree of criminal sophistication exhibited by the child;

(V) previous records, if any;

(VI) the nature and extent of any prior delinquent history, including the success or failure of any previous attempts by the juvenile court to rehabilitate the child;

(VII) whether the child can be rehabilitated prior to the expiration of the juvenile court jurisdiction;

(VIII) probation or institutional reports, if any;

(IX) any other relevant factors; and

(iv) that there are reasonable grounds to believe that the child is not committable to an institution for the mentally retarded or mentally ill.

(b) Chapter inapplicable following transfer.--The transfer terminates the applicability of this chapter over the child with respect to the delinquent acts alleged in the petition.

(c) Transfer at request of child.--The child may request that the case be transferred for prosecution in which event the court may order this chapter not applicable.

(d) Effect of transfer from criminal proceedings.--No hearing shall be conducted where this chapter becomes applicable because of a previous determination by the court in a criminal proceeding.

(e) Murder and other excluded acts.--Where the petition alleges conduct which if proven would constitute murder, or any of the offenses excluded by paragraph (2)(ii) or (iii) of the definition of "delinquent act" in section 6302 (relating to definitions), the court shall require the offense to be prosecuted under the criminal law and procedures, except where the case has been transferred pursuant to section 6322 (relating to transfer from criminal proceedings) from the division or a judge of the court assigned to conduct criminal proceedings.

(f) Transfer action interlocutory.--The decision of the court to transfer or not to transfer the case shall be interlocutory.

(g) Burden of proof.--The burden of establishing by a preponderance of evidence that the public interest is served by the transfer of the case to criminal court and that a child is not amenable to treatment, supervision or rehabilitation as

a juvenile shall rest with the Commonwealth unless the following apply:

(1) (i) a deadly weapon as defined in 18 Pa.C.S. § 2301 (relating to definitions) was used and the child was 14 years of age at the time of the offense; or

(ii) the child was 15 years of age or older at the time of the offense and was previously adjudicated delinquent of a crime that would be considered a felony if committed by an adult; and

(2) there is a prima facie case that the child committed a delinquent act which, if committed by an adult, would be classified as rape, involuntary deviate sexual intercourse, aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault), robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery), robbery of motor vehicle, aggravated indecent assault, kidnapping, voluntary manslaughter, an attempt, conspiracy or solicitation to commit any of these crimes or an attempt to commit murder as specified in paragraph (2)(ii) of the definition of "delinquent act" in section 6302.

If either of the preceding criteria are met, the burden of establishing by a preponderance of the evidence that retaining the case under this chapter serves the public interest and that the child is amenable to treatment, supervision or rehabilitation as a juvenile shall rest with the child.

(Apr. 28, 1978, P.L.202, No.53, eff 60 days; Feb. 29, 1980, P.L.36, No.12, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess., P.L.1127, No.33, eff. 120 days)

1995 Amendment. Act 33, 1st Sp.Sess., amended subsecs. (a)(4) and (e) and added subsec. (g). Section 8 of Act 33, 1st Sp.Sess., provided that Act 33 shall apply to all delinquent acts committed on or after the effective date of Act 33.

1980 Amendment. Act 12 amended subsec. (a).

Suspension by Court Rule. Subsection (g) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(17), amended July 18, 2012, insofar as it is inconsistent with Rule 394, relating to transfer hearing.

Cross References. Section 6355 is referred to in sections 6308, 6322, 6337.1, 6339 of this title.

§ 6356. Disposition of mentally ill or mentally retarded child.

If, at a dispositional hearing of a child found to be a delinquent or at any hearing, the evidence indicates that the child may be subject to commitment or detention under the provisions of the act of October 20, 1966 (3rd Sp.Sess., P.L.96, No.6), known as the "Mental Health and Mental Retardation Act of 1966," or the act of July 9, 1976 (P.L.817, No.143), known as the "Mental Health Procedures Act," the court shall proceed under the provisions of the appropriate statute.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

§ 6357. Rights and duties of legal custodian.

A custodian to whom legal custody has been given by the court under this chapter has the right to the physical custody of the child, the right to determine the nature of the care and treatment of the child, including ordinary medical care and the right and duty to provide for the care, protection, training, and education, and the physical, mental, and moral welfare of the child. An award of legal custody shall be subject to the conditions and limitations of the order and to the remaining rights and duties of the parents or guardian of the child as determined by the court. The court may award legal custody under this section on a temporary basis to an individual or agency

under section 6351(a)(2) (relating to disposition of dependent child) or permanent basis to an individual under section 6351(a)(2.1).
(Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999)

Cross References. Section 6357 is referred to in section 6336.1 of this title.

§ 6358. Assessment of delinquent children by the State Sexual Offenders Assessment Board.

(a) General rule.--A child who has been found to be delinquent for an act of sexual violence which if committed by an adult would be a violation of 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault), 3126 (relating to indecent assault) or 4302 (relating to incest) who is committed to an institution or other facility pursuant to section 6352 (relating to disposition of delinquent child) and who remains in any such institution or facility as a result of that adjudication of delinquency upon attaining 20 years of age shall be subject to an assessment by the board.

(b) Duty of probation officer.--Ninety days prior to the 20th birthday of the child, the probation officer shall have the duty to notify the board of the status of the delinquent child and the institution or other facility where the child is presently committed. The probation officer shall assist the board in obtaining access to the child and any information required by the board to perform the assessment, including, but not limited to, the child's official court record and complete juvenile probation file.

(b.1) Notification to board.--The probation officer shall, within five days of the effective date of this subsection, notify the board of any child whose age precludes compliance with subsection (b) provided the child has not yet attained 21 years of age.

(c) Assessment.--The board shall conduct an assessment, which shall include the board's determination of whether or not the child is in need of commitment for involuntary treatment due to a mental abnormality as defined in section 6402 (relating to definitions) or a personality disorder, either of which results in serious difficulty in controlling sexually violent behavior. Upon the completion of the assessment pursuant to this section, the board shall provide the assessment to the court. In no case shall the board file the assessment later than 90 days after the child's 20th birthday unless notification of the board was delayed under subsection (b.1), in which case the assessment shall be filed no later than 180 days after the child's 20th birthday.

(d) Duty of court.--The court shall provide a copy of the assessment by the board to the probation officer, the district attorney, county solicitor or designee and the child's attorney.

(e) Dispositional review hearing.--Where the board has concluded that the child is in need of involuntary treatment pursuant to the provisions of Chapter 64 (relating to court-ordered involuntary treatment of certain sexually violent persons), the court shall conduct a hearing at which the county solicitor or a designee, the probation officer and the child's attorney are present. The court shall consider the assessment, treatment information and any other relevant information regarding the delinquent child at the dispositional review hearing pursuant to section 6353 (relating to limitation on and change in place of commitment), which shall be held no later

than 180 days before the 21st birthday of the child. Where the submission of the report was delayed pursuant to subsection (c), the dispositional review hearing shall be held no later than 90 days before the 21st birthday of the child.

(f) Subsequent proceeding.--If, at the conclusion of the dispositional review hearing required in subsection (e), the court finds there is a prima facie case that the child is in need of involuntary treatment under the provisions of Chapter 64, the court shall direct that the county solicitor or a designee file a petition to initiate proceedings under the provisions of that chapter.

(Aug. 14, 2003, P.L.97, No.21, eff. 180 days; Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012)

2012 Amendment . Act 91 amended subsec. (a).

2011 Amendment. Act 111 amended subsecs. (a) and (b).

2003 Amendment. Act 21 added section 6358.

Cross References. Section 6358 is referred to in sections 6403, 9799.24, 9799.58 of this title.

SUBCHAPTER E
DISPOSITIONS AFFECTING OTHER JURISDICTIONS

Sec.

6361. Disposition of nonresident child.
6362. Disposition of resident child received from another state.
6363. Ordering foreign supervision.
6364. Supervision under foreign order.
6365. Powers of foreign probation officers.

Cross References. Subchapter E is referred to in section 6303 of this title.

§ 6361. Disposition of nonresident child.

(a) General rule.--If the court finds that a child who has been adjudged to have committed a delinquent act or to be dependent is or is about to become a resident of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar law which includes provisions corresponding to this section and section 6362 (relating to disposition of resident child received from another state), the court may defer hearing on need of treatment and disposition and request by any appropriate means the appropriate court of the county or parish of the residence or prospective residence of the child to accept jurisdiction of the child.

(b) Change of residence under court order.--If the child becomes a resident of another state while on probation or under protective supervision under order of a court of this Commonwealth, the court may request the court of the state in which the child has become a resident to accept jurisdiction of the child and to continue his probation or protective supervision.

(c) Procedure for transfer.--Upon receipt and filing of an acceptance the court of this Commonwealth shall transfer custody of the child to the accepting court and cause him to be delivered to the person designated by that court to receive his custody. It also shall provide the accepting court with certified copies of the order adjudging the child to be a delinquent, or dependent child, of the order of transfer, and if the child is on probation or under protective supervision

under order of the court, of the order of disposition. It also shall provide the accepting court with a statement of the facts found by the court of this Commonwealth and any recommendations and other information or documents it considers of assistance to that court in making a disposition of the case or in supervising the child on probation or otherwise.

(d) Effect of transfer to accepting court.--Upon compliance with subsection (c) the jurisdiction of the court of this Commonwealth over the child is terminated.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsecs. (a) and (c).

Cross References. Section 6361 is referred to in section 6362 of this title.

§ 6362. Disposition of resident child received from another state.

(a) General rule.--If a juvenile court of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar law which includes provisions corresponding to section 6361 (relating to disposition of nonresident child) and this section, requests a court of this Commonwealth to accept jurisdiction of a child found by the requesting court to have committed a delinquent act or to be an unruly or dependent child, and the court of this Commonwealth finds, after investigation that the child is, or is about to become, a resident of a county for which the court is established, the court shall promptly and not later than 14 days after receiving the request issue its acceptance in writing to the requesting court and direct its probation officer or other person designated by it to take physical custody of the child from the requesting court and bring him before the court of this Commonwealth or make other appropriate provisions for his appearance before the court.

(b) Hearing on further disposition.--Upon the filing of certified copies of the orders of the requesting court:

(1) determining that the child committed a delinquent act or is an unruly or dependent child; and

(2) committing the child to the jurisdiction of the court of this Commonwealth;

the court of this Commonwealth shall immediately fix a time for a hearing on the need for treatment, supervision or rehabilitation and disposition of the child or on the continuance of any probation or protective supervision.

(c) Further proceedings.--The hearing and notice thereof and all subsequent proceedings are governed by this chapter. The court may make any order of disposition permitted by the facts and this chapter. The orders of the requesting court are conclusive that the child committed the delinquent act or is an unruly or dependent child and of the facts found by the court in making the orders. If the requesting court has made an order placing the child on probation or under protective supervision, a like order shall be entered by the court of this Commonwealth.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

Cross References. Section 6362 is referred to in sections 6321, 6361 of this title.

§ 6363. Ordering foreign supervision.

(a) General rule.--Subject to the provisions of this chapter governing dispositions and to the extent that funds are available the court may place a child in the custody of a suitable person in another state. On obtaining the written consent of a juvenile court of another state which has adopted

the Uniform Juvenile Court Act or a substantially similar law, which includes provisions corresponding to this section and section 6364 (relating to supervision under foreign order), the court of this Commonwealth may order that the child be placed under the supervision of a probation officer or other appropriate official designated by the accepting court. One certified copy of the order shall be sent to the accepting court and another filed with the clerk of the requesting court of this Commonwealth.

(b) Costs and expenses.--The reasonable cost of the supervision, including the expenses of necessary travel, shall be borne initially by the county of the requesting court of this Commonwealth. Upon receiving a certified statement signed by the judge of the accepting court of the cost incurred by the supervision the court of this Commonwealth shall certify if it so appears that the sum so stated was reasonably incurred and file it with the county for payment. The county shall thereupon make payment of the sum approved to the appropriate officials of the county or parish of the accepting court.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (b).

Cross References. Section 6363 is referred to in sections 6351, 6352, 6364 of this title.

§ 6364. Supervision under foreign order.

(a) General rule.--Upon receiving a request of a juvenile court of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar law which includes provisions corresponding to section 6363 (relating to ordering foreign supervision) and this section to provide supervision of a child under the jurisdiction of that court, a court of this Commonwealth may issue its written acceptance to the requesting court and designate its probation or other appropriate officer who is to provide supervision, stating the probable cost per day therefor.

(b) Supervision and report.--Upon the receipt and filing of a certified copy of the order of the requesting court placing the child under the supervision of the officer so designated the officer shall arrange for the reception of the child from the requesting court, provide supervision pursuant to the order and this chapter, and report thereon from time to time together with any recommendations he may have to the requesting court.

(c) Costs and expenses.--The court of this Commonwealth from time to time shall certify to the requesting court the cost of supervision that has been incurred and request payment therefor from the appropriate officials of the county or parish of the requesting court to the county of the accepting court.

(d) Termination of supervision.--The court of this Commonwealth at any time may terminate supervision by notifying the requesting court. In that case, or if the supervision is terminated by the requesting court, the probation officer supervising the child shall return the child to a representative of the requesting court authorized to receive him.

Cross References. Section 6364 is referred to in sections 6321, 6363 of this title.

§ 6365. Powers of foreign probation officers.

If a child has been placed on probation or protective supervision by a juvenile court of another state which has adopted the Uniform Juvenile Court Act or a substantially similar law which includes provisions corresponding to this section, and the child is in this Commonwealth with or without

the permission of that court, the probation officer of that court or other person designated by that court to supervise or take custody of the child has all the powers and privileges in this Commonwealth with respect to the child as given by this chapter to like officers or persons of this Commonwealth including the right of visitation, counseling, control, and direction, taking into custody, and returning to that state.

SUBCHAPTER F
JUVENILE COURT JUDGES' COMMISSION

Sec.

6371. Definitions.
6372. Juvenile Court Judges' Commission.
6373. Powers and duties.
6374. Power to make grants.
6375. Funding.

Enactment. Subchapter F was added December 4, 2007, P.L.427, No.64, effective immediately.

Special Provisions in Appendix. See sections 3 and 4 of Act 64 of 2007 in the appendix to this title for special provisions relating to continuation of prior law and continuation of Administrative Code sections.

§ 6371. 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:

"Commission." The Juvenile Court Judges' Commission created pursuant to section 6372(a) (relating to Juvenile Court Judges' Commission).

"Commissioner." A member appointed to the Juvenile Court Judges' Commission pursuant to section 6372(b) (relating to Juvenile Court Judges' Commission).

§ 6372. Juvenile Court Judges' Commission.

(a) Establishment.--There is hereby established in the Office of General Counsel the Juvenile Court Judges' Commission.

(b) Composition.--The commission shall consist of nine judges who shall be appointed by the Governor from a list of judges, serving in the juvenile courts, selected and submitted by the Chief Justice of Pennsylvania.

(c) Tenure.--Of the first nine appointees to the commission, three shall serve for three years, three for two years and three for one year. After the initial term, the term for all members shall be three years.

(d) Officers.--The commission shall annually select one of its members as chairman and one member as secretary.

(e) Staff.--The chairman, with the approval of the majority of the commission, may appoint and fix the compensation of assistants, clerks and stenographers as he deems necessary to enable the commission to perform its powers and duties. During his term of employment, no assistant shall engage, directly or indirectly, in the practice of law in any juvenile court in this Commonwealth.

(f) Staff compensation.--The compensation of the assistants, clerks and stenographers shall be fixed within limitations fixed by the Executive Board and shall be eligible to apply for membership in the State Employees' Retirement System.

(g) Meetings.--Each year there shall be quarterly meetings of the commission and such additional meetings as the chairman shall deem necessary. Each commissioner attending the meetings

shall be paid only his necessary expenses incurred in attending the meetings. Five members of the commission shall constitute a quorum at meetings.

Cross References. Section 6372 is referred to in section 6371 of this title.

§ 6373. Powers and duties.

The commission shall have the power and is required to do the following:

(1) Advise the juvenile court judges of this Commonwealth in all matters pertaining to the proper care and maintenance of delinquent and dependent children.

(2) Examine the administrative methods and judicial procedure used in juvenile courts throughout this Commonwealth, establish standards and make recommendations on the same to the courts presiding over juvenile proceedings within this Commonwealth.

(3) Examine the personnel practices and employment standards used in probation offices in this Commonwealth, establish standards and make recommendations on the same to courts presiding over juvenile proceedings within this Commonwealth.

(4) Collect and analyze data to identify trends and to determine the effectiveness of programs and practices to ensure the reasonable and efficient administration of the juvenile court system, make recommendations concerning evidence-based programs and practices to judges, the Administrative Office of Pennsylvania Courts and other appropriate entities and post related information on the commission's publicly accessible Internet website.

(May 17, 2012, P.L.261, No.42, eff. 60 days)

2012 Amendment. Act 42 amended par. (4).

Cross References. Section 6373 is referred to in section 6309 of this title.

§ 6374. Power to make grants.

The commission shall have the power, and its duty shall be to make annual grants to political subdivisions for the development and improvement of probation services for juveniles.

§ 6375. Funding.

The General Assembly shall annually appropriate such sums as it deems to be necessary for the operation and expenses of the commission.

CHAPTER 64

COURT-ORDERED INVOLUNTARY TREATMENT OF CERTAIN SEXUALLY VIOLENT PERSONS

Sec.

6401. Scope of chapter.
6402. Definitions.
6403. Court-ordered involuntary treatment.
6404. Duration of inpatient commitment and review.
6404.1. Transfer to involuntary outpatient treatment.
6404.2. Duration of outpatient commitment and review.
6405. Right to counsel.
6406. Duty of Department of Public Welfare.
6407. Regulations.
6408. Jurisdiction.
6409. Immunity for good faith conduct.

Enactment. Chapter 64 was added August 14, 2003, P.L.97, No.21, effective in 180 days.

Cross References. Chapter 64 is referred to in sections 6358, 9799.12, 9799.15, 9799.16, 9799.19, 9799.34 of this title.

§ 6401. Scope of chapter.

This chapter establishes rights and procedures for the civil commitment of sexually violent delinquent children who, due to a mental abnormality or personality disorder, have serious difficulty in controlling sexually violent behavior and thereby pose a danger to the public and further provides for additional periods of commitment for involuntary treatment for said persons.

§ 6402. Definitions.

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

"Act of sexual violence." Any conduct prohibited under the following provisions of law:

(1) 18 Pa.C.S. § 3121 (relating to rape).

(2) 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(3) 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(4) 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(5) 18 Pa.C.S. § 3126 (relating to indecent assault).

(6) 18 Pa.C.S. § 4302 (relating to incest).

"Board." The board as defined in section 6302 (relating to definitions).

"County solicitor." The solicitor appointed by the county commissioners or a similar body in home rule counties.

"Department." The Department of Public Welfare of the Commonwealth.

"Mental abnormality." A congenital or acquired condition of a person affecting the person's emotional or volitional capacity.

"Sexually violent delinquent child." A person who has been found delinquent for an act of sexual violence which if committed by an adult would be a violation of 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault), 3126 (relating to indecent assault) or 4302 (relating to incest) and who has been determined to be in need of commitment for involuntary treatment under this chapter.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 6402 is referred to in sections 6358, 9799.12, 9799.24, 9799.58 of this title.

§ 6403. Court-ordered involuntary treatment.

(a) Persons subject to involuntary treatment.--A person may be subject to court-ordered commitment for involuntary treatment under this chapter if the person:

(1) Has been adjudicated delinquent for an act of sexual violence which if committed by an adult would be a violation of 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault), 3126 (relating to indecent assault) or 4302 (relating to incest).

(2) Has been committed to an institution or other facility pursuant to section 6352 (relating to disposition of delinquent child) and remains in any such institution or facility upon attaining 20 years of age as a result of having been adjudicated delinquent for the act of sexual violence.

(3) Is in need of involuntary treatment due to a mental abnormality or personality disorder which results in serious difficulty in controlling sexually violent behavior that makes the person likely to engage in an act of sexual violence.

(b) Procedures for initiating court-ordered involuntary commitment.--

(1) Where, pursuant to the provisions of section 6358(f) (relating to assessment of delinquent children by the State Sexual Offenders Assessment Board), the court determines that a prima facie case has been presented that the child is in need of involuntary treatment under the provisions of this chapter, the court shall order that a petition be filed by the county solicitor or a designee before the court having jurisdiction of the person pursuant to Chapter 63 (relating to juvenile matters).

(2) The petition shall be in writing in a form adopted by the department and shall set forth the facts constituting reasonable grounds to believe the individual is within the criteria for court-ordered involuntary treatment as set forth in subsection (a). The petition shall include the assessment of the person by the board as required in section 6358.

(3) The court shall set a date for the hearing which shall be held within 30 days of the filing of the petition pursuant to paragraph (1) and direct the person to appear for the hearing. A copy of the petition and notice of the hearing date shall be served on the person, the attorney who represented the person at the most recent dispositional review hearing pursuant to section 6358(e) and the county solicitor or a designee. A copy of the petition, the assessment and notice of the hearing date shall also be provided to the director of the facility operated by the department pursuant to section 6406(a) (relating to duty of Department of Public Welfare). The person and the attorney who represented the person shall, along with copies of the petition, also be provided with written notice advising that the person has the right to counsel and that, if he cannot afford one, counsel shall be appointed for the person.

(4) The person shall be informed that the person has a right to be assisted in the proceedings by an independent expert in the field of sexually violent behavior. If the person cannot afford to engage such an expert, the court shall allow a reasonable fee for such purpose.

(c) Hearing.--A hearing pursuant to this chapter shall be conducted as follows:

(1) The person shall not be called as a witness without the person's consent.

(2) The person shall have the right to confront and cross-examine all witnesses and to present evidence on the person's own behalf.

(3) The hearing shall be public.

(4) A stenographic or other sufficient record shall be made.

(5) The hearing shall be conducted by the court.

(6) A decision shall be rendered within five days after the conclusion of the hearing.

(d) Determination and order.--Upon a finding by clear and convincing evidence that the person has a mental abnormality or personality disorder which results in serious difficulty in controlling sexually violent behavior that makes the person likely to engage in an act of sexual violence, an order shall be entered directing the immediate commitment of the person for involuntary inpatient treatment to a facility designated by the department. The order shall be in writing and shall be consistent with the protection of the public safety and the appropriate control, care and treatment of the person. An appeal shall not stay the execution of the order. If the court does not order the person to be committed for involuntary inpatient treatment by the department, the court shall order the director of the facility operated by the department pursuant to section 6406(a) to destroy the facility's copy of the petition and the assessment.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012)

2012 Amendment . Act 91 amended subsec. (a)(2).

2011 Amendment. Act 111 amended subsecs. (a)(2), (b)(3) and (d).

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 6403 is referred to in sections 6404, 6404.2, 9799.23 of this title.

§ 6404. Duration of inpatient commitment and review.

(a) Initial period of commitment.--The person shall be subject to a period of commitment for inpatient treatment for one year.

(b) Annual review.--

(1) Sixty days prior to the expiration of the one-year commitment period, the director of the facility or a designee shall submit an evaluation and the board shall submit an assessment of the person to the court.

(2) The court shall schedule a review hearing which shall be conducted pursuant to section 6403(c) (relating to court-ordered involuntary treatment) and which shall be held no later than 30 days after receipt of both the evaluation and the assessment under paragraph (1). Notice of the review hearing shall be provided to the person, the attorney who represented the person at the previous hearing held pursuant to this subsection or section 6403, the district attorney and the county solicitor or a designee. The person and the person's attorney shall also be provided with written notice advising that the person has the right to counsel and that, if he cannot afford one, counsel shall be appointed for the person. If the court determines by clear and convincing evidence that the person continues to have serious difficulty controlling sexually violent behavior while committed for inpatient treatment due to a mental abnormality or personality disorder that makes the person likely to engage in an act of sexual violence, the court shall order an additional period of involuntary inpatient treatment of one year; otherwise, the court shall order the department, in consultation with the board, to develop an outpatient treatment plan for the person. The order shall be in writing and shall be consistent with the protection of the public safety and appropriate control, care and treatment of the person.

(c) Outpatient treatment plan.--

(1) If at any time the director or a designee of the facility to which the person was committed concludes the person no longer has serious difficulty in controlling sexually violent behavior in an inpatient setting, the director shall petition the court for a hearing. Notice of the petition shall be given to the person, the attorney who represented the person at the previous hearing held pursuant to subsection (b) or section 6403, the board, the district attorney and the county solicitor. The person and the person's attorney shall also be provided with written notice advising that the person has the right to counsel and that, if he cannot afford one, counsel shall be appointed for the person.

(2) Upon receipt of notice under paragraph (1), the board shall conduct a new assessment within 30 days and provide that assessment to the court.

(3) Within 15 days after the receipt of the assessment from the board, the court shall hold a hearing pursuant to section 6403(c). If the court determines by clear and convincing evidence that the person continues to have serious difficulty controlling sexually violent behavior while committed for inpatient treatment due to a mental abnormality or personality disorder that makes the person likely to engage in an act of sexual violence, the court shall order that the person be subject to the remainder of the period of inpatient commitment. Otherwise, the court shall order the department, in consultation with the board, to develop an outpatient treatment plan for the person.

(4) The department shall provide the person with notice of the person's right to petition the court for transfer to involuntary outpatient treatment over the objection of the department. The court, after review of the petition, may schedule a hearing pursuant to section 6403(c).

(5) An outpatient treatment plan shall be in writing and shall identify the specific entity that will provide each clinical and support service identified in the plan.

(6) The department shall provide a copy of the outpatient treatment plan to the court, the person, the attorney who represented the person at the most recent hearing pursuant to section 6403, the board, the district attorney and the county solicitor or a designee.

(d) Prohibition on discharge.--The court shall not order discharge from involuntary treatment until the person has completed involuntary outpatient treatment pursuant to section 6404.2 (relating to duration of outpatient commitment and review).

(Nov. 29, 2004, P.L.1364, No.176, eff. imd.; Dec. 20, 2011, P.L.446, No.111, eff. one year)

§ 6404.1. Transfer to involuntary outpatient treatment.

The court may approve or disapprove an outpatient treatment plan. Upon approval of an outpatient treatment plan, the court shall order transfer of the person to involuntary outpatient treatment pursuant to section 6404.2 (relating to duration of outpatient commitment and review).

(Dec. 20, 2011, P.L.446, No.111, eff. one year)

2011 Amendment. Act 111 added section 6404.1.

Cross References. Section 6404.1 is referred to in sections 6404.2, 9799.15, 9799.19 of this title.

§ 6404.2. Duration of outpatient commitment and review.

(a) Terms and conditions.--If a court has ordered the transfer of the person to involuntary outpatient treatment

pursuant to section 6404.1 (relating to transfer to involuntary outpatient treatment), the court may, in its discretion, specify the terms and conditions of the outpatient commitment, including, but not limited to:

(1) Absolute compliance with the outpatient treatment plan.

(2) Restrictions and requirements regarding the location of the person's residence and the times the person must be physically present.

(3) Restrictions and requirements regarding areas the person is not permitted to visit.

(4) Restrictions and requirements regarding who the person may contact in any medium.

(5) Periodic polygraph tests.

(b) Duration.--The court shall order involuntary outpatient treatment for a period of one year.

(c) Status reports.--An involuntary outpatient treatment provider shall submit a report on the person's status and clinical progress, on a form prescribed by the department, to the facility operated by the department pursuant to section 6406(a) (relating to duty of Department of Public Welfare), not less than every 30 days.

(d) Failure to comply.--If an involuntary outpatient treatment provider becomes aware that the person has violated any provision of the treatment plan or any term or condition specified pursuant to subsection (a) or the provider concludes that the person is having serious difficulty controlling sexually violent behavior in an outpatient setting due to a mental abnormality or personality disorder that makes the person likely to engage in an act of sexual violence, the provider shall immediately notify the facility operated by the department pursuant to section 6406(a). The facility shall notify the court by the close of the next business day.

(e) Revocation of transfer.--Upon receiving notice pursuant to subsection (d) that the person has violated a material term or condition of transfer specified pursuant to subsection (a) or that the person is having serious difficulty controlling sexually violent behavior in an outpatient setting due to a mental abnormality or personality disorder that makes the person likely to engage in an act of sexual violence, the court shall revoke the transfer to involuntary outpatient treatment and order the immediate return to involuntary inpatient treatment without a prior hearing. The court may issue a warrant requiring any law enforcement officer or any person authorized by the court to take the person into custody and return the person to involuntary inpatient treatment. The person may file a written request for a hearing after revocation of the transfer to involuntary treatment. The court shall conduct a hearing pursuant to section 6403(c) (relating to court-ordered involuntary treatment) within ten days of filing of the request.

(f) Annual review and discharge.--

(1) Sixty days prior to the expiration of the one-year outpatient commitment period, the director of the facility or a designee shall submit an evaluation, and the board shall submit an assessment of the person to the court.

(2) The court shall schedule a review hearing which shall be conducted pursuant to section 6403(c) and which shall be held no later than 30 days after receipt of both the evaluation and the assessment under paragraph (1). Notice of the review hearing shall be provided to the person, the attorney who represented the person at the previous hearing held pursuant to section 6403, the district attorney and the

county solicitor or a designee. The person and the person's attorney shall also be provided with written notice advising that the person has the right to counsel and that, if the person cannot afford one, counsel shall be appointed for the person. If the court determines by clear and convincing evidence that the person has serious difficulty controlling sexually violent behavior due to a mental abnormality or personality disorder that makes the person likely to engage in an act of sexual violence, the court shall order an additional period of involuntary inpatient treatment of one year; otherwise, the court shall order the discharge of the person and inform the person on the record and in open court of the person's obligation to attend counseling under subsection (g), including the penalty for failing to attend counseling under 18 Pa.C.S. § 4915.1 (relating to failure to comply with registration requirements). The order shall be in writing and shall be consistent with the protection of the public safety and appropriate control, care and treatment of the person. Upon discharge, the person shall attend counseling under subsection (g).

(g) Counseling of sexually violent delinquent children.--For the time period under section 9799.15 (relating to period of registration), a sexually violent delinquent child shall attend at least monthly counseling sessions in a program approved by the board and shall be financially responsible for all fees assessed from the counseling sessions. The board shall monitor compliance. If the sexually violent delinquent child can prove to the satisfaction of the court inability to afford to pay for the counseling sessions, the sexually violent delinquent child shall attend the counseling sessions; and the board shall pay the requisite fees.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012)

2012 Amendment . Act 91 amended subsec. (g).

2011 Amendment. Act 111 added section 6404.2.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 6404.2 is referred to in sections 6404, 6404.1, 9799.23 of this title; section 4915.1 of Title 18 (Crimes and Offenses).

§ 6405. Right to counsel.

At each proceeding conducted pursuant to the provisions of this chapter, the person who is the subject of the proceeding shall have the right to assistance of counsel.

§ 6406. Duty of Department of Public Welfare.

(a) General rule.--The department shall have the duty to provide a separate, secure State-owned facility or unit utilized solely for the control, care and treatment of persons committed pursuant to this chapter. The department shall be responsible for all costs relating to the control, care and treatment of persons committed to involuntary treatment pursuant to this chapter.

(b) Interim facility.--(Expired).

(c) Treatment plans.--The department, in consultation with the Juvenile Court Judges' Commission and the board, shall develop policies and procedures for providing individualized treatment and discharge plans based on clinical guidelines and professional standards in the fields of sexual offender treatment and mental health.

(Dec. 20, 2011, P.L.446, No.111, eff. one year)

2011 Amendment. Act 111 amended subsec. (a).

2006 Expiration. Subsec. (b) expired July 1, 2006. See Act 21 of 2003.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 6406 is referred to in sections 6403, 6404.2 of this title.

§ 6407. Regulations.

The department shall adopt in consultation with the Juvenile Court Judges' Commission and the board such regulations as are necessary to effectuate the provisions of this chapter.

§ 6408. Jurisdiction.

The court of common pleas for the county which entered the order for commitment of the person for a delinquent act pursuant to Chapter 63 (relating to juvenile matters) shall have jurisdiction for proceedings under this chapter, including subsequent proceedings.

§ 6409. Immunity for good faith conduct.

The following entities shall be immune from liability for good faith conduct under this subchapter:

(1) Members of the board and its agents and employees.

(2) The department and its agents and employees.

(3) County probation departments and their agents and employees.

(4) Providers of involuntary outpatient treatment and their agents and employees.

(Dec. 20, 2011, P.L.446, No.111, eff. one year)

CHAPTER 65
HABEAS CORPUS

Sec.

6501. Writ not to be suspended.
6502. Power to issue writ.
6503. Right to apply for writ.
6504. Return on writ.
6505. Interference with writ prohibited.

Enactment. Chapter 65 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

§ 6501. Writ not to be suspended.

The privilege of the writ of habeas corpus shall not be suspended, unless when in the case of rebellion or invasion the public safety may require it.

§ 6502. Power to issue writ.

(a) General rule.--Any judge of a court of record may issue the writ of habeas corpus to inquire into the cause of detention of any person or for any other lawful purpose.

(b) Venue.--The venue of matters brought under this chapter shall be as prescribed by general rule.

§ 6503. Right to apply for writ.

(a) General rule.--Except as provided in subsection (b), an application for habeas corpus to inquire into the cause of detention may be brought by or on behalf of any person restrained of his liberty within this Commonwealth under any pretense whatsoever.

(b) Exception.--Where a person is restrained by virtue of sentence after conviction for a criminal offense, the writ of habeas corpus shall not be available if a remedy may be had by post-conviction hearing proceedings authorized by law.

§ 6504. Return on writ.

The writ, or the order to show cause why the writ should not issue, shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding 20 days, is allowed. The person to whom the writ or the order is directed shall make a return certifying the true cause of the detention and, except as otherwise prescribed by general rules or by rule or order of court, shall produce at the hearing the body of the person detained.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

§ 6505. Interference with writ prohibited.

Any person who shall fail or refuse to respond to a writ or to an order issued under this chapter, or who shall change the place of detention of any person for the purpose of defeating the writ, or shall, without express authorization from a judge of a court of record, recommit on substantially the same facts and circumstances any person set at large upon a habeas corpus, or shall do any act for the purpose of defeating the writ or the order, commits a misdemeanor of the second degree.

CHAPTER 66
PRISONER LITIGATION

Sec.

6601. Definitions.
6602. Prisoner filing fees.
6603. Limitations on remedies.
6604. Prospective relief.
6605. Types of prospective relief.
6606. Termination or modification of prospective relief.
6607. Time limits on settlements.
6608. Payment of damage award or settlement.

Enactment. Chapter 66 was added June 18, 1998, P.L.640, No.84, effective in 60 days.

Applicability. Section 6 of Act 84 of 1998 provided that Chapter 66 shall apply to cases pending or prospective relief that remains in effect on or after the effective date of Act 84.

§ 6601. Definitions.

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

"Consent decree." Relief entered or approved by the court that is based in whole or in part upon the consent or acquiescence of the parties. The term does not include a private settlement agreement.

"Frivolous." Lacking an arguable basis either in law or in fact.

"Government party." The Commonwealth or a political subdivision and any person elected or appointed to any office of, or hired, employed or contracted by, the Commonwealth or a political subdivision when acting within the scope of those duties.

"Prison." A State, county or other facility which incarcerates or officially detains persons accused of, convicted

of or sentenced for violations of criminal law or the terms or conditions of parole, probation, pretrial release or a diversionary program.

"Prison conditions litigation." A civil proceeding arising in whole or in part under Federal or State law with respect to the conditions of confinement or the effects of actions by a government party on the life of an individual confined in prison. The term includes an appeal. The term does not include criminal proceedings or habeas corpus proceedings challenging the fact or duration of confinement in prison.

"Prisoner." A person subject to incarceration, detention or admission to prison.

"Prisoner release order." An order, including a temporary restraining order or preliminary injunction, which has the purpose or effect of reducing or limiting the prison population or which directs the release of prisoners from or nonadmission of prisoners to a prison.

"Private settlement agreement." An agreement entered into among parties to an action which is not subject to judicial enforcement other than reinstatement of the civil proceeding which the agreement settled.

"Prospective relief." All relief other than compensatory monetary damages.

"Relief." Relief in any form which may be granted or approved by a court. The term includes a consent decree. The term does not include a private settlement agreement.

"Special master." A person appointed to assist the court in prison conditions litigation or to perform functions comparable to those performed by a special master in Federal court pursuant to Fed. Rules Civ. Proc. Rule 53 (relating to masters) or 18 U.S.C. § 3126 (relating to appropriate remedies with respect to prison crowding). The term includes persons performing such functions regardless of the title given by the court.

"Violation of Pennsylvania law." A violation of the Constitution of Pennsylvania or a Pennsylvania statute. The term does not include the violation of a regulation, consent decree or court order unless such violation also independently establishes a violation of the Constitution of Pennsylvania or a Pennsylvania statute.

§ 6602. Prisoner filing fees.

(a) Prisoner filing requirements.--

(1) A prisoner seeking to bring prison conditions litigation without the prepayment of fees or security due to indigency must submit a request to the court to proceed without the prepayment of fees. The request must include a certified copy of the prisoner's prison account statement, which shall be provided by the prison, for the six-month period immediately preceding the filing of the complaint or notice of appeal. The request shall include a statement of any other assets of the prisoner.

(2) The court shall deny in forma pauperis status to any prisoner where:

(i) the request is not accompanied by a certified copy as provided in paragraph (1);

(ii) the average monthly deposits or average highest monthly balance for the six-month period preceding the filing of the action exceeds the amount of the filing fee; or

(iii) other grounds exist for the denial of in forma pauperis status pursuant to the Pennsylvania Rules of Civil Procedure.

(b) Partial filing fees.--

(1) The court may grant in forma pauperis status to excuse the prisoner from paying the full filing fee prior to the initiation of the action or appeal. Where in forma pauperis status is granted, the court shall order the prisoner to pay the full amount of the filing fee and shall assess and, when funds exist, collect a full or partial payment of the filing fee which shall be the greater of the following:

(i) The average monthly deposits to the prisoner's account.

(ii) The average highest monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the complaint or notice of appeal requiring the payment of a fee.

(2) The court shall send a copy of the assessment order to the prisoner, the parties to the action and the prison having custody of the prisoner. The court may also direct upon condition of maintaining the action that the prisoner make a written request to the prison officials to deduct payments required by the court.

(3) The court may modify the assessment order for cause.

(c) Payment of filing fees.--Following payment of an initial partial filing fee, the prisoner shall make monthly payments of 20% of the preceding month's income credited to the prisoner's account. The prison having custody of the prisoner shall deduct payments from the prisoner's account when the prisoner's account balance exceeds $10 until the filing fees are paid in full. The prison shall forward to the prothonotary the deducted payments upon deduction, on a monthly basis, or upon complete payment of the full filing fee if the court so directs. The Department of Corrections and county prison systems shall develop written guidelines regarding the priority of payment, which shall be consistent with law.

(d) Implementation of filing fee assessments.--

(1) A prisoner shall not be prohibited from filing prison conditions litigation because the prisoner has no assets or other means to pay the filing fee. This paragraph shall not prevent the court from dismissing or otherwise disposing of prison conditions litigation pursuant to this chapter or any other provision of law.

(2) No sooner than 60 days after notice of the denial in forma pauperis status or the assessment of partial filing fees, the prothonotary shall enter a judgment of non pros in the action or strike the appeal if the fees remain unpaid. The action or appeal may be reinstated by the court for good cause shown.

(e) Dismissal of litigation.--Notwithstanding any filing fee which has been paid, the court shall dismiss prison conditions litigation at any time, including prior to service on the defendant, if the court determines any of the following:

(1) The allegation of indigency is untrue.

(2) The prison conditions litigation is frivolous or malicious or fails to state a claim upon which relief may be granted or the defendant is entitled to assert a valid affirmative defense, including immunity, which, if asserted, would preclude the relief.

The court may reinstate the prison conditions litigation where the dismissal is based upon an untrue allegation of indigency and the prisoner establishes to the satisfaction of the court that the untrue information was not known to the prisoner.

(f) Abusive litigation.--If the prisoner has previously filed prison conditions litigation and:

(1) three or more of these prior civil actions have been dismissed pursuant to subsection (e)(2); or

(2) the prisoner has previously filed prison conditions litigation against a person named as a defendant in the instant action or a person serving in the same official capacity as a named defendant and a court made a finding that the prior action was filed in bad faith or that the prisoner knowingly presented false evidence or testimony at a hearing or trial;

the court may dismiss the action. The court shall not, however, dismiss a request for preliminary injunctive relief or a temporary restraining order which makes a credible allegation that the prisoner is in imminent danger of serious bodily injury.

Cross References. Section 6602 is referred to in section 9728 of this title.

§ 6603. Limitations on remedies.

(a) Limitations on remedies for Federal claims.--Prison conditions litigation filed in or remanded to a court of this Commonwealth alleging in whole or in part a violation of Federal law shall be subject to any limitations on remedies established by Federal law or Federal courts with respect to the Federal claims.

(b) Limitations on remedies under Pennsylvania law.--Prison conditions litigation arising in whole or in part due to an allegation of a violation of Pennsylvania law shall be subject to the limitations set forth in this act with respect to those claims arising under Pennsylvania law.

(c) Special masters.--In prison conditions litigation arising in whole or in part under Pennsylvania law, the court shall not appoint a person to assist the court or delegate any judicial function, including fact-finding, reporting or monitoring, unless the appointment or delegation is specifically authorized under Pennsylvania court rules. Any court order appointing a special master shall state the specific duties delegated to the special master. Any fact-finding by the special master shall be based upon the record.

§ 6604. Prospective relief.

(a) General rule.--Prospective relief in prison conditions litigation shall extend no further than necessary to correct the violation of Pennsylvania law. The court shall not grant or approve prospective relief unless the relief is narrowly drawn, extends no further than necessary and is the least intrusive means necessary to correct the violation of Pennsylvania law. The court shall give substantial weight to any adverse impact on public safety, prison operations or the operation of the criminal justice system.

(b) Conformity.--The court shall not order any prospective relief that requires or permits a government official to exceed authority under or otherwise violate Pennsylvania law or the law of a political subdivision unless the relief meets all of the following:

(1) Is required by Pennsylvania law.

(2) Is necessary to correct the violation.

(3) Is the only relief which will correct the violation.

(c) Limitation.--Nothing in this section shall be construed to authorize the court to order the construction of prisons or to repeal or detract from otherwise applicable limitations on the remedial powers of the courts.

(d) Private settlement agreements.--The provisions of this section shall not apply to private settlement agreements.

Cross References. Section 6604 is referred to in section 6605 of this title.

§ 6605. Types of prospective relief.

(a) Preliminary injunctive relief.--In prison conditions litigation, the court may, to the extent authorized by law, enter a temporary restraining order or preliminary injunction. A preliminary injunction shall automatically expire 90 days after its entry unless the court makes the findings required under section 6604 (relating to prospective relief) for the entry of prospective relief and makes the order final before the expiration of the 90-day period.

(b) Prisoner release orders.--The court shall enter a prisoner release order only if it finds by clear and convincing evidence that crowding is the primary cause of the violation. The government party with jurisdiction over the prison subject to the prisoner release order or the prosecution or custody of persons who may be released from prison as a result of a prisoner release order shall have standing to intervene in any related proceeding and to oppose the imposition or continuation of the order and to seek termination of the order. No prisoner release order shall be entered unless:

(1) a court previously entered an order for less intrusive relief which has failed to remedy the violation sought to be remedied. Such order may include a prisoner release order;

(2) the defendant has had a reasonable amount of time to comply with the previous court order; and

(3) no other relief will remedy the violation.

§ 6606. Termination or modification of prospective relief.

(a) General rule.--In prison conditions litigation in which prospective relief is or has been ordered, the relief shall be terminable upon the motion of a party or intervener two years after the date the court granted or approved the prospective relief or one year after the date the court entered an order denying termination of prospective relief under this subsection.

(b) Early termination.--Nothing in this section shall prevent the parties from agreeing to terminate or modify relief before the relief is terminated under subsection (a).

(c) Immediate termination.--In prison conditions litigation, a party or intervener shall be entitled to the immediate termination of prospective relief if the relief was approved or granted in the absence of a finding on the record by the court that the relief is narrowly drawn, extends no further than necessary and is the least intrusive means necessary to correct the violation of Pennsylvania law.

(d) Limitation.--Prospective relief shall not terminate if the court makes written findings based on the record that prospective relief remains necessary to correct a current and ongoing violation of Pennsylvania law previously determined by the court to exist, extends no further than necessary and is the least intrusive means necessary to correct that violation of Pennsylvania law.

(e) Other termination or modification.--Nothing in this section shall prevent a party or intervener from seeking modification or termination to the extent otherwise legally permissible.

§ 6607. Time limits on settlements.

In prison conditions litigation, a government party, including an elected official who was not in office at the time

of the execution of the consent decree, may petition the court to modify or vacate the terms of the consent decree previously entered into. The court shall have the power and authority to void or modify the consent decree at any time upon a showing that, whether in whole or in part, it violates the provisions of this act or for other cause.

§ 6608. Payment of damage award or settlement.

Monetary damages awarded to a prisoner in connection with prison conditions litigation or paid in settlement of prison conditions litigation which is payable from funds appropriated by the General Assembly or by a political subdivision or an insurance policy purchased by the Commonwealth or political subdivision shall first be used to satisfy any outstanding court orders requiring the prisoner to pay restitution, costs, bail, judgments, fines, fees, sanctions or other court-imposed amounts in connection with a criminal prosecution or sentence. Upon receipt of a copy of an outstanding court order, the government party or person designated by the government party shall deduct the full amount owed from the remaining moneys and arrange to pay it directly to the person or entity owed in accordance with Pennsylvania law. Where the amount of outstanding court orders exceeds the monetary damage award or settlement, the government party shall notify the parties owed of the intended distribution of the amounts. Any person or entity owed who objects to the proposed distribution may seek a court order compelling a different distribution. Any remainder of a monetary damage award shall be used to satisfy any amount owed to a government party, including a judgment or any other costs and fees assessed against or imposed upon the prisoner, including, but not limited to, costs for medical services, incarceration and destruction of property. The procedures for such assessment shall be set forth by the prison in written policy and procedure. Notice that all or part of a monetary damage award has been expended pursuant to this section shall be provided to the prisoner by certified mail or personal service. The fact that a prisoner's monetary damage award may be subject to this section may not be taken into consideration in calculating the amount of any monetary damage award.

CHAPTER 67
PROTECTION FROM ABUSE
(Repealed)

1990 Repeal. Chapter 67 (§§ 6701 - 6717) was added July 11, 1990, P.L.454, No.111, and repealed December 19, 1990, P.L.1240, No.206, effective in 90 days. The subject matter is now contained in Chapter 61 of Title 23 (Domestic Relations).

CHAPTER 67A
RECORDINGS BY LAW ENFORCEMENT OFFICERS

Sec.

67A01. Definitions.
67A02. Scope of chapter.
67A03. Requests for law enforcement audio recordings or video recordings.
67A04. Law enforcement review.
67A05. Procedure.
67A06. Petition for judicial review.
67A07. Audio recording or video recording policies.

67A08. Construction.
67A09. Applicability.

Enactment. Chapter 67A was added July 7, 2017, P.L.304, No.22, effective in 60 days.

Cross References. Chapter 67A is referred to in sections 5729, 9158.5 of Title 18 (Crimes and Offenses).

§ 67A01. Definitions.

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

"Confidential information." Any of the following:

(1) The identity of a confidential source.

(2) The identity of a suspect or witness to whom confidentiality has been assured.

(3) Information made confidential by law or court order.

"Information pertaining to an investigation." An audio recording or video recording which contains any of the following:

(1) Complaints or depictions of criminal conduct, including all actions or statements made before or after the criminal conduct that are part of or relate to the same incident or occurrence.

(2) Upon disclosure, information that would:

(i) reveal the institution, progress or result of a criminal investigation;

(ii) deprive an individual of the right to a fair trial or an impartial adjudication;

(iii) impair the ability of the Attorney General, a district attorney or a law enforcement officer to locate a defendant or codefendant;

(iv) hinder the ability of the Attorney General, a district attorney or a law enforcement officer to secure an arrest, prosecution or conviction; or

(v) endanger the life or physical safety of an individual.

(3) Upon disclosure, information that would:

(i) Reveal the institution, progress or result of an agency investigation.

(ii) Deprive a person of the right to an impartial administrative adjudication.

(iii) Constitute an unwarranted invasion of privacy.

(iv) Hinder an agency's ability to secure an administrative or civil sanction.

(v) Endanger the life or physical safety of an individual.

"Law enforcement agency." The Office of Attorney General, a district attorney's office or an agency that employs a law enforcement officer.

"Law enforcement officer." A member of the Pennsylvania State Police, an individual employed as a police officer who holds a current certificate under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training), a sheriff or a deputy sheriff.

"Victim." An individual who was subjected to an act that was committed by another individual, including a juvenile, which constitutes any of the following:

(1) An offense committed under any of the following:

(i) The act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(ii) 18 Pa.C.S. (relating to crimes and offenses).

(iii) 30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance).

(iv) 30 Pa.C.S. § 5502.1 (relating to homicide by watercraft while operating under influence).

(v) 75 Pa.C.S. § 3732 (relating to homicide by vehicle).

(vi) 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).

(vii) 75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).

(viii) 75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).

(ix) 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).

(x) Any other Federal or State law.

(2) An offense similar to an offense listed under paragraph (1) committed outside of this Commonwealth.

(3) An offense which would constitute grounds for the issuance of relief under Chapter 62A (relating to protection of victims of sexual violence or intimidation) or 23 Pa.C.S. Ch. 61 (relating to protection from abuse).

(4) An offense against a resident of this Commonwealth which is an act of international terrorism.

"Victim information." Information that would disclose the identity or jeopardize the safety of a victim.

(Nov. 3, 2022, P.L.1788, No.121, eff. imd.)

2022 Amendment. Act 121 amended the def. of "law enforcement officer." See section 4 of Act 121 in the appendix to this title for special provisions relating to law enforcement certification.

§ 67A02. Scope of chapter.

(a) Exemption.--The provisions of this chapter, and not the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law, shall apply to any audio recording or video recording made by a law enforcement agency.

(b) Limitation.--Nothing in this chapter nor the Right-to-Know Law shall establish a right to production of an audio recording or video recording made inside a facility owned or operated by a law enforcement agency or to any communications between or within law enforcement agencies concerning an audio or video recording.

§ 67A03. Requests for law enforcement audio recordings or video recordings.

The following shall apply:

(1) An individual who requests an audio recording or video recording made by a law enforcement agency shall, within 60 days of the date when the audio recording or video recording was made, serve a written request to the individual who is designated as the open-records officer for the law enforcement agency under section 502 of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. Service is effective upon receipt of the written request by the open-records officer from personal delivery or certified mail with proof of service.

(2) The request under paragraph (1) shall specify with particularity the incident or event that is the subject of the audio recording or video recording, including the date, time and location of the incident or event.

(3) The request shall include a statement describing the requester's relationship to the incident or event that is the subject of the audio or video recording.

(4) If the incident or event that is the subject of the audio recording or video recording occurred inside a residence, the request shall identify each individual who was present at the time of the audio recording or video recording unless not known and not reasonably ascertainable.

Cross References. Section 67A03 is referred to in sections 67A05, 67A06 of this title.

§ 67A04. Law enforcement review.

(a) Determination.--Except as provided in this section, if a law enforcement agency determines that an audio recording or video recording contains potential evidence in a criminal matter, information pertaining to an investigation or a matter in which a criminal charge has been filed, confidential information or victim information and the reasonable redaction of the audio or video recording would not safeguard potential evidence, information pertaining to an investigation, confidential information or victim information, the law enforcement agency shall deny the request in writing. The written denial shall state that reasonable redaction of the audio recording or video recording will not safeguard potential evidence, information pertaining to an investigation, confidential information or victim information.

(b) Agreement.--A law enforcement agency may enter into a memorandum of understanding with the Attorney General or the district attorney with jurisdiction to:

(1) ensure consultation regarding the reviewing of audio recordings or video recordings in order to make a determination; or

(2) require the Attorney General or district attorney with jurisdiction to issue a denial permitted under subsection (a).

Cross References. Section 67A04 is referred to in sections 67A05, 67A06 of this title.

§ 67A05. Procedure.

(a) Disclosure.--A law enforcement agency that receives a request under section 67A03 (relating to requests for law enforcement audio recordings or video recordings) for an audio recording or video recording shall provide the audio recording or video recording or identify in writing the basis for denying the request within 30 days of receiving the request, unless the requester and law enforcement agency agree to a longer time period. If an agreement under section 67A04(b)(2) (relating to law enforcement review) is in effect between the law enforcement agency and the Attorney General or district attorney with jurisdiction, then an agreement to a longer time period must be between the requester and the Attorney General or district attorney with jurisdiction.

(b) Denials by operation of law.--The request under section 67A03 shall be deemed denied by operation of law if the law enforcement agency does not provide the audio recording or video recording to the requester or explain why the request is denied within the time period specified or agreed to under subsection (a).

(c) Preservation.--A law enforcement agency that has received a request for an audio recording or video recording shall preserve the unaltered audio recording or video recording that has been requested for no less than the time periods

provided in this chapter for service of and responses to written requests for the production of the audio recording or video recording and any period within which a petition for judicial review is allowable or pending.

(d) Fees.--A law enforcement agency may establish reasonable fees relating to the costs incurred to disclose audio recordings or video recordings. The fees shall be paid by the requesting party at the time of disclosure of the audio recording or video recording.

(e) Construction.--Nothing in this section shall be construed to prohibit a law enforcement agency from redacting an audio recording or video recording in order to protect potential evidence in a criminal matter, information pertaining to an investigation, confidential information or victim information.

Cross References. Section 67A05 is referred to in section 67A06 of this title.

§ 67A06. Petition for judicial review.

(a) Petition.--

(1) If a request under section 67A03 (relating to requests for law enforcement audio recordings or video recordings) is denied, the requester may file a petition for judicial review in the court of common pleas with jurisdiction within 30 days of the date of denial.

(2) The respondent to a petition filed under this section shall be the entity that denied the request for the audio recording or video recording under section 67A05(a) (relating to procedure) unless the request is denied under section 67A05(b), in which case the law enforcement agency that created the audio recording or video recording shall be the respondent.

(b) Duties of petitioner.--A petitioner under this section shall have the following duties:

(1) The petitioner shall pay a filing fee of $125.

(2) If the incident or event that is the subject of the request occurred inside a residence, the petitioner shall certify that notice of the petition has been served or that service was attempted on each individual who was present at the time of the audio recording or video recording and on the owner and occupant of the residence. Notice shall not be required under this paragraph if the identity of an individual present or the location is unknown and not reasonably ascertainable by the petitioner. Service shall be effective upon receipt from personal delivery or certified mail with proof of service.

(3) The petitioner shall include with the petition a copy of the written request under section 67A03 that was served on the law enforcement agency and any written responses to the request that were received.

(4) The petitioner shall serve the petition on the open-records officer of the respondent within five days of the date that the petitioner files the petition with the court of common pleas with jurisdiction, and service shall be effective upon receipt by the open-records officer for personal delivery or certified mail with proof of service.

(c) Intervention as matter of right.--If not a respondent, a prosecuting attorney with jurisdiction may intervene in the action as a matter of right.

(d) Summary dismissal.--It shall be grounds for summary dismissal of a petition filed under this section if:

(1) the request to the law enforcement agency under section 67A03 or the filing of the petition under subsection (a) is untimely;

(2) the request to the law enforcement agency failed to describe with sufficient particularity the incident or event that is the subject of the audio recording or video recording, including the date, time and location of the incident or event; or

(3) the petitioner has not complied with the requirements of subsection (b)(1), (2), (3) and (4).

(e) Approval.--A court of common pleas with jurisdiction may grant a petition under this section, in whole or in part, and order the disclosure of the audio recording or video recording only if the court determines that the petitioner has established all of the following by a preponderance of the evidence:

(1) The request was not denied under section 67A04 (relating to law enforcement review) or the request was denied under section 67A04 and the court of common pleas with jurisdiction determines that the denial was arbitrary and capricious.

(2) The public interest in disclosure of the audio recording or video recording or the interest of the petitioner outweighs the interests of the Commonwealth, the law enforcement agency or an individual's interest in nondisclosure. In making a determination under this paragraph, the court of common pleas may consider the public's interest in understanding how law enforcement officers interact with the public, the interests of crime victims, law enforcement and others with respect to safety and privacy and the resources available to review and disclose the audio recording or video recording.

§ 67A07. Audio recording or video recording policies.

(a) Policies.--A municipal law enforcement agency or sheriff that makes audio recordings or video recordings of communications under circumstances within paragraph (2) of the definition of "oral communication" in 18 Pa.C.S. § 5702 (relating to definitions) shall comply with the guidelines established under 18 Pa.C.S. § 5706(b)(4), (5) and (6) (relating to exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices) and shall establish written policies, which shall be public, for the following:

(1) The training of law enforcement officers authorized to make audio recordings or video recordings.

(2) The time periods when an electronic, mechanical or other device shall be in operation to make audio recordings or video recordings.

(3) The proper use, maintenance and storage of the electronic, mechanical or other device to make audio recordings or video recordings, including equipment inspections and audits and procedures to address malfunctioning equipment.

(4) The information collected from audio recordings or video recordings, including the information's storage, accessibility and retrieval.

(5) Electronic records retention.

(6) The use of facial recognition software or programs.

(7) A statement that a violation of the agency's policy subjects the violator to the agency's disciplinary policy.

(8) Supervisory responsibilities.

(b) Pennsylvania Commission on Crime and Delinquency.--The Pennsylvania Commission on Crime and Delinquency is authorized to condition funding or a grant related to the implementation, use, maintenance or storage of body-worn cameras or recordings from body-worn cameras on the following:

(1) Requiring the grantee to have protocols, guidelines or written policies related to the implementation, use, maintenance or storage of body-worn cameras.

(2) Requiring that such protocols, guidelines or written policies are publicly accessible, including being retrievable on a municipal website.

(3) Ensuring that the protocols, guidelines or written policies substantially comply with applicable recommendations by the commission.

§ 67A08. Construction.

The following shall apply:

(1) Nothing in this chapter shall be construed to alter the responsibilities of parties to any criminal or civil litigation to exchange information in accordance with applicable rules of procedure.

(2) Nothing in this chapter shall be construed to preclude a prosecuting attorney with jurisdiction or a law enforcement agency from disclosing an audio recording or video recording in the absence of a written request or beyond the time periods stated in this chapter.

(3) The prosecuting attorney with jurisdiction must agree in writing to the disclosure by a law enforcement agency if the prosecuting attorney determines that:

(i) the audio recording or video recording contains potential evidence in a criminal matter, information pertaining to an investigation, confidential information or victim information; and

(ii) reasonable redaction of the audio recording or video recording will not safeguard the potential evidence, information pertaining to an investigation, confidential information or victim information.

§ 67A09. Applicability.

Nothing in this chapter shall apply to an audio recording or video recording that is otherwise prohibited or protected from disclosure under any other Federal or State law.

CHAPTER 68
FORFEITURES

Sec.

6801. Controlled substances forfeiture (Repealed).
6801.1. Terrorism forfeiture (Repealed).
6802. Procedure with respect to seized property subject to liens and rights of lienholders (Repealed).

Enactment. Chapter 68 was added June 30, 1988, P.L.464, No.79, effective immediately.

Chapter Heading. The heading of Chapter 68 was amended July 7, 2006, P.L.342, No.71, effective in 60 days.

Cross References. Chapter 68 is referred to in section 9912 of this title; section 1504 of Title 62 (Procurement).

§ 6801. Controlled substances forfeiture (Repealed).

2017 Repeal. Section 6801 was repealed June 29, 2017, P.L.247, No.13, effective July 1, 2017.

§ 6801.1. Terrorism forfeiture (Repealed).

2017 Repeal. Section 6801.1 was repealed June 29, 2017, P.L.247, No.13, effective July 1, 2017.

§ 6802. Procedure with respect to seized property subject to liens and rights of lienholders (Repealed).

2017 Repeal. Section 6802 was repealed June 29, 2017, P.L.247, No.13, effective July 1, 2017.

CHAPTER 69
PARTICULAR RIGHTS AND IMMUNITIES

Sec.

6901. Short title of chapter.
6902. Definitions.
6903. Required disclosures in connection with rental-purchase agreement.
6904. Prohibited provisions of agreement.
6905. Lessee's right to acquire ownership.
6906. Lessee's right to reinstate agreement after termination.
6907. Rent reduction.
6908. Advertising and display of property.
6909. Lessor's liability for noncompliance.
6910. Limitations on lessor's liability.
6911. Conflict with other law.

Enactment. Chapter 69 was added July 11, 1996, P.L.607, No.104, effective in 60 days.

Cross References. Chapter 69 is referred to in section 1109 of Title 13 (Commercial Code).

§ 6901. Short title of chapter.

This chapter shall be known and may be cited as the Rental-Purchase Agreement Act.

§ 6902. Definitions.

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

"Advertisement." A written, visual or oral communication made to a lessee or prospective lessee by means of personal representation, newspaper, magazine, circular, billboard, direct mailing, sign, radio, television, telephone or other means of communication that aids, promotes or assists, directly or indirectly, a rental-purchase agreement.

"Cash price." The price at which the lessor would offer to sell in the ordinary course of business the same or similar property for cash on the day the lessee enters into a rental-purchase agreement.

"Lessee." A person who rents personal property pursuant to a rental-purchase agreement.

"Lessor." A person who, in the ordinary course of business, regularly offers to rent or arranges for personal property to be rented pursuant to a rental-purchase agreement. A lessor is a creditor as defined in 37 Pa. Code § 303.2 (relating to definitions) when owed or alleged to be owed a debt and is subject to 37 Pa. Code Ch. 303 (relating to debt collection trade practices).

"Personal property." Any property that is not real property under the laws of the state where it is located when it is offered or made available for a rental-purchase agreement.

"Rental-purchase agreement." An agreement for the use of personal property by an individual primarily for personal,

family or household purposes for an initial period of four months or less that is automatically renewable with each rental payment after the initial period and that permits the lessee to acquire ownership of the property. The term shall not be construed to be, nor is it subject to laws governing, any of the following:

(1) A lease for agricultural, business or commercial purposes.

(2) A lease made to an organization.

(3) A lease of money or intangible personal property.

(4) A lease of a motor vehicle, motor home, mobile home or manufactured housing.

(5) A home solicitation sale under section 7 of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law.

(6) A closed-end credit agreement, open-end credit agreement or sale as defined in 12 Pa.C.S. § 6302 (relating to definitions).

(7) A security interest as defined in 13 Pa.C.S. § 1201 (relating to general definitions).

"Rental-purchase property." Personal property displayed or offered by a lessor to consumers for rental-purchase agreements at a physical location where 50% or more of revenue is derived from rental-purchase agreements.

(Dec. 9, 2002, P.L.1705, No.215, eff. 60 days; Nov. 27, 2013, P.L.1081, No.98, eff. one year; July 11, 2022, P.L.1536, No.82, eff. 60 days)

2022 Amendment. Act 82 added the def. of "rental-purchase property."

2013 Amendment. Act 98 amended the def. of "rental-purchase agreement."

§ 6903. Required disclosures in connection with rental-purchase agreement.

(a) General rule.--A lessor shall disclose all of the following in a clear and conspicuous manner:

(1) A brief description of the rented property sufficient to identify it to the lessee and lessor and a statement as to whether the property is new, used or previously rented. If a rental is for multiple items of property, a description of each item may be provided in a separate statement incorporated by reference in the rental-purchase agreement or primary disclosure statement.

(2) The total amount of any initial payment, including any advance payment, delivery charge or any trade-in allowance, to be paid by the lessee at or before consummation of the rental-purchase agreement.

(3) The amount and timing of rental payments.

(4) The amount of all other charges, individually itemized, payable by the lessee to the lessor that are not included in the rental payments.

(5) The party who is liable for loss, damage in excess of normal wear and tear or destruction of the rented property.

(6) The right of the lessee to reinstate under section 6906 (relating to lessee's right to reinstate agreement after termination) and the amount of or method of determining the amount of the delinquency charges, reinstatement fee or delivery charge for reinstatement.

(7) The party responsible for maintaining or servicing the rental property and a brief description of the responsibility.

(8) The conditions upon which the lessee or lessor may terminate the rental agreement prior to the expiration of the rental term.

(9) The total of all initial payments, all rental payments and all other charges necessary to acquire ownership of the rented property.

(10) That the lessee has the option to purchase the rented property at any time at a price or by a formula or method specified in the rental-purchase agreement.

(11) The cash price of the personal property that is the subject of the rental-purchase agreement.

(12) The cost of lease services, which is the difference between the total of payments disclosed under paragraph (9) and the cash price of the property disclosed under paragraph (11).

(13) That if any part of a manufacturer's warranty exists on the leased property when a lessee acquires ownership of the property, the warranty will be transferred to the lessee if permitted by the terms of the warranty.

(14) That the lessee is not required to purchase insurance or liability damage waiver for the property that is the subject of the rental agreement from the lessor or from any vendor owned or controlled by the lessor.

(b) Notice required.--Every primary disclosure statement shall include a notice in a prominent place in at least ten-point type in substantially the following form:

NOTICE

You are renting this property. You will not own it until you make all of the regularly scheduled payments or you use the early purchase option. You do not have the right to keep the property if you do not make required payments or do not use the early purchase option. Subject to your grace periods and reinstatement rights, the lessor may repossess the property if you fail to make rental payments as scheduled. Your rights and responsibilities are fully explained in this rental-purchase agreement.

(c) Time of disclosure.--Every rental-purchase agreement shall be in writing. The information required by this section shall be disclosed by the lessor prior to the signing of the rental-purchase agreement by the lessee and shall be disclosed either in the rental-purchase agreement or on a dated, separate piece of paper that identifies the rental-purchase agreement and the parties to it.

(d) Manner of disclosure.--The disclosures required by subsection (a)(2), (3), (9), (11) and (12) shall be printed or typed in at least ten-point boldface type and grouped together. All other disclosures required by this section shall be printed or typed in at least eight-point type. All numerical amounts and percentages shall be stated in figures. All information required by this section shall be written, organized and designed so that it is easy to read and understand. The information shall be appropriately divided and captioned by its sections.

(e) Disclosure of additional information.--A lessor may disclose information that is not required by this section if the additional information is not stated, used or placed in a manner that will contradict, obscure or distract attention from the required information.

(f) Compliance with Federal law.--With respect to matters specifically governed by the Consumer Credit Protection Act (Public Law 90-321, 15 U.S.C. § 1601 et seq.), compliance with that act satisfies the requirements of this section.

(Oct. 27, 2014, P.L.2896, No.185, eff. 60 days)

2014 Amendment. Act 185 amended subsec. (a)(10).

Cross References. Section 6903 is referred to in section 6902 of this title.

§ 6904. Prohibited provisions of agreement.

A rental-purchase agreement or any document that the lessor requests the lessee to sign shall not contain any provision by which:

(1) A power of attorney is given to confess judgment in this Commonwealth or to appoint the lessor, its agents or its successors in interest as the lessee's agent in the collection of payments or the repossession of the rental property.

(2) The lessee authorizes the lessor or its agent to commit any breach of the peace in repossessing the rental property or to enter the lessee's dwelling or other premises without obtaining the lessee's consent at the time of entry.

(3) The lessor mandates that the lessee purchase insurance or liability waiver against loss or damage to the rental property from the lessor. This paragraph shall not, however, be construed to prohibit a lessor from offering insurance or a liability waiver to a lessee provided it is clearly disclosed that acceptance of the offer of insurance or a liability waiver is optional.

(4) The lessee waives or agrees to waive any defense, counterclaim or right the lessee may have against the lessor, its agent or its successor in interest.

(5) The lessee is required to pay a late fee unless the rental payment is five days or more late under a rental-purchase agreement with payments made monthly or two days or more late under a rental-purchase agreement with payments made more frequently than monthly.

(6) A lessee is required to pay a late fee exceeding the greater of $5 or 10% of the amount of the past due payment, regardless of how long the payment remains unpaid.

(7) The lessee is required to pay a fee in connection with retrieval of the property or the termination or rescission of the rental-purchase agreement.

(8) The lessee is charged a fee for in-home collection of a rental payment unless the amount of the fee is disclosed and the lessee expressly has agreed to pay the fee.

§ 6905. Lessee's right to acquire ownership.

(a) Limitation on cost of lease services.--The total amount charged by the lessor for the cost of lease services in a rental-purchase transaction shall not exceed the cash price of the property.

(b) Acquisition of ownership.--A rental-purchase agreement must provide that at any time after tendering an initial rental payment, a lessee may acquire ownership of the property that is the subject of the rental-purchase agreement at a price or by a formula or method specified in the rental-purchase agreement.

(c) Chart.--A rental-purchase agreement must be accompanied by a chart showing the amount required to exercise the option to purchase the rented property after each rental payment if rental payments are made as scheduled.

(d) Receipts.--After receiving each rental payment, the lessor shall provide a receipt to the lessee. The receipt shall disclose all of the following:

(1) The rental payment made by the lessee.

(2) The amount of the early purchase option that is applicable after the rental payment made by the lessee.

(3) The dates when the early purchase option price remain valid.

(Oct. 27, 2014, P.L.2896, No.185, eff. 60 days; July 11, 2022, P.L.1536, No.82, eff. 60 days)

2022 Amendment. Act 82 added subsec (d).

§ 6906. Lessee's right to reinstate agreement after termination.

(a) General rule.--A lessee who fails to make a timely rental payment may reinstate the agreement without losing any rights or options which exist under the agreement by the payment of all of the following within seven days of the renewal date:

(1) All past due rental charges.

(2) The reasonable costs of retrieval and redelivery, if the property has been retrieved.

(3) Any applicable late fee.

(b) Extended reinstatement after return of property.--

(1) In the case of a lessee who has paid less than two-thirds of the total payments necessary to acquire ownership and where the lessee has returned or voluntarily surrendered the property, other than through judicial process, during the applicable reinstatement period set forth in subsection (a), the lessee may reinstate the agreement during a period of not less than 90 days after the date of the return of the property.

(2) In the case of a lessee who has paid two-thirds or more of the total of payments necessary to acquire ownership and where the lessee has returned or voluntarily surrendered the property, other than through judicial process, during the applicable period set forth in subsection (a), the lessee may reinstate the agreement during a period of not less than 120 days after the date of the return of the property.

(c) Right to reinstate following repossession.--Nothing in this section shall prevent a lessor from attempting to repossess property during the reinstatement period, but a repossession during the reinstatement period shall not affect the lessee's right to reinstate. Upon reinstatement, the lessor shall provide the lessee with the same property or substitute property of comparable quality and condition.

Cross References. Section 6906 is referred to in section 6903 of this title.

§ 6907. Rent reduction.

(a) General rule.--If any lessee who has signed a rental-purchase agreement experiences an interruption or reduction of 25% or more of income due to involuntary job loss, involuntary reduced employment, illness, pregnancy or disability after two-thirds or more of the total amount of the rental payments necessary to acquire ownership under the agreement has been paid, the lessor shall reduce the amount of each rental payment by:

(1) the percentage of the reduction in the lessee's income; or

(2) fifty percent, whichever is less, for the period during which the lessee's income is interrupted or reduced.

(b) Number of payments.--If payments are reduced, the total dollar amount of payments necessary to acquire ownership shall not be increased, but the number of payments necessary to acquire ownership shall be increased accordingly and the rights

and duties of the lessor and the lessee shall not otherwise be affected.

(c) Income restored.--When the lessee's income is restored, the lessor may increase the amount of rental payments, but in no event shall rental payments exceed the originally disclosed amount of rental payments.

§ 6908. Advertising and display of property.

(a) Advertisements.--

(1) An advertisement for a rental-purchase agreement shall not state that a rental of any specific property is available at a specific amount or on specific terms unless the lessor will rent the property at the amount or on the terms specified.

(2) An advertisement shall not state that a payment or a rental payment is due upon origination of a rental without disclosing all of the following:

(i) The payment due upon origination of the rental.

(ii) The rental payment.

(iii) The total number of rental payments necessary to obtain ownership of the property that is the subject of the rental-purchase agreement.

(b) Information on displays or offers.--All rental-purchase property displayed or offered under a rental-purchase agreement shall have stamped on or affixed to the property and clearly and conspicuously indicated in Arabic numerals that are readable and understandable by visual inspection all of the following:

(1) The amount of the rental payment.

(2) The cash price of the property.

(3) The total number and amount of rental payments necessary to acquire ownership of the property that is the subject of the rental-purchase agreement.

(4) The cost of lease services.

(b.1) Information on online displays or offers.--For a rental-purchase property displayed or offered online for which a consumer can enter into a rental-purchase agreement online or remotely via electronic commerce, a lessor shall disclose the information required under subsection (b) to a consumer by electronic means in accordance with the following:

(1) The lessor shall disclose the information in a manner clearly and conspicuously indicated in Arabic numerals that are readable and understandable by visual inspection.

(2) The lessor shall disclose the information before disclosing the information required under section 6903 (relating to required disclosures in connection with rental-purchase agreement).

(b.2) Information on displays or offers of third-party inventory.--When personal property that is not rental-purchase property is offered for rental purchase by a lessor, the following shall apply:

(1) The lessor shall separately disclose the information required under subsection (b) to a consumer, by electronic means or otherwise, in a manner clearly and conspicuously indicated in Arabic numerals that are readable and understandable by visual inspection, prior to disclosing the information under section 6903.

(2) The lessor shall make the disclosures required under subsection (b) available in multiple languages.

(3) The lessor shall confirm that a prospective lessee has viewed and affirmatively acknowledged the disclosures required under subsection (b) prior to presenting a rental-purchase agreement to the prospective lessee for execution.

(4) The lessor shall provide an electronic copy of the disclosures required under subsection (b) to the lessee.

(c) Compliance with Federal law.--With respect to matters specifically governed by the Consumer Credit Protection Act (Public Law 90-321, 15 U.S.C. § 1601 et seq.), compliance with that act satisfies the requirements of this section.
(July 11, 2022, P.L.1536, No.82, eff. 60 days)

2022 Amendment. Act 82 amended subsec. (b) and added subsecs. (b.1) and (b.2).

§ 6909. Lessor's liability for noncompliance.

(a) Violation of other law.--A violation of this chapter shall constitute a violation of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law, and shall be subject to the enforcement provisions and private rights of action contained in that act, except as limited in this section.

(b) Recovery in class action limited.--Notwithstanding any other provision of this section or the Unfair Trade Practices and Consumer Protection Law, in any class action brought for violation of this chapter, the total recovery arising out of the same failure to comply shall not be more than the lesser of $500,000 or an amount equal to 1% of the net worth of the lessor.

(c) Recovery of damages.--If a particular rental-purchase agreement has more than one lessee, only one recovery of damages is allowed for a violation of this chapter. Multiple violations in connection with a single rental-purchase agreement entitle the lessee or multiple lessees to only one recovery under this chapter.

(d) Commencement of class action.--A class action alleging a violation of this chapter may not be brought more than two years after the occurrence of the violation that is the subject of the suit or more than two years after the lessee made the last rental payment, whichever is later. This subsection does not bar a lessee from asserting a violation of this chapter as a matter of defense by recoupment or setoff in an action brought by a lessor more than two years after the date of the occurrence of the violation on an obligation arising from the rental-purchase agreement.

(e) Counteraction or defense.--A lessee may not take any action to offset any amount for which a lessor is potentially liable under the Unfair Trade Practices and Consumer Protection Law against any amount owed by the lessee unless the amount of the liability of the lessor has been determined by a judgment of a court of competent jurisdiction in an action in which the lessor was a party. This subsection does not bar a lessee in default on an obligation arising from the rental-purchase agreement from asserting a violation of this chapter in an original action or as a defense or counterclaim to an action brought by the lessor to collect amounts owed by the lessee under the rental-purchase agreement.

Cross References. Section 6909 is referred to in section 6910 of this title.

§ 6910. Limitations on lessor's liability.

(a) Right to correct errors.--A lessor is not liable for any violation of the requirements of this chapter if, within 60 days after discovering an error and before an action for damages is filed against the lessor under section 6909 (relating to lessor's liability for noncompliance) or written notice of the error is received from the lessee, the lessor notifies the

lessee of the error and makes adjustments to the account of the lessee that are necessary to assure that the lessee is not required to pay an amount in excess of the amounts permitted by this chapter. This subsection applies whether the error was discovered through the lessor's own procedures or by any other means.

(b) Limitation in damages.--A lessor is not liable under subsection (a) for damages in excess of actual damage sustained by the lessee if the lessor shows by a preponderance of the evidence that the violation of this chapter resulted from a bona fide error, notwithstanding the maintenance by the lessor of procedures reasonably adopted to avoid the error.

(c) Definition.--As used in this section, the term "bona fide error" includes, but is not limited to, clerical or calculation mistakes, computer hardware or software malfunctions and programming and printing errors.

§ 6911. Conflict with other law.

In the event of a conflict between this chapter and 12 Pa.C.S. Ch. 63 (relating to goods and services installment sales), the provisions of this chapter shall be controlling. (Nov. 27, 2013, P.L.1081, No.98, eff. one year)

CHAPTER 70
IGNITION INTERLOCK DEVICES
(Repealed)

2003 Repeal. Chapter 70 (§§ 7001 - 7003) was added June 22, 2000, P.L.466, No.63, and repealed September 30, 2003, P.L.120, No.24, effective February 1, 2004. The subject matter is now contained in Chapter 38 of Title 75 (Vehicles).

PART VII
CIVIL ACTIONS AND PROCEEDINGS

Chapter

71. General Provisions
73. Arbitration
74. Collaborative Law Process
75. Commencement of Actions
77. Trial
79. Post-trial Matters
81. Judgments and Other Liens
83. Particular Rights and Immunities
85. Matters Affecting Government Units

Enactment. Part VII was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

CHAPTER 71
GENERAL PROVISIONS

Sec.

7101. Settlements and other agreements with hospitalized persons.
7102. Comparative negligence.
7103. Interpreters for the deaf (Deleted by amendment).

Enactment. Chapter 71 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

§ 7101. Settlements and other agreements with hospitalized persons.

(a) General rule.--

(1) No person whose interest is or may become adverse to a person injured who is confined to a hospital or sanitarium as a patient shall, within 15 days after the date of the occurrence causing the injury to such patient:

(i) Negotiate or attempt to negotiate a settlement with such patient.

(ii) Obtain or attempt to obtain a general release of liability from such patient.

(iii) Obtain or attempt to obtain any statement, either written or oral, from such patient for use in negotiating a settlement or obtaining a release.

(2) Any settlement agreement entered into, any general release of liability or any written or oral statement made by any person who is confined in a hospital or sanitarium after he incurs a personal injury, which is not obtained in accordance with the provisions of subsection (b) shall not be admissible in evidence in any matter relating to the injury and shall not be utilized for any purpose in any matter in connection therewith.

(3) Where a person is injured and confined as a patient to a hospital or sanitarium due to such injuries, no attorney shall, during the first 15 days of the confinement of such patient, enter or attempt to enter into an agreement relating to compensation wholly or partly on a contingent basis with such patient in connection with his injuries.

(b) Exception.--Subsection (a) shall not apply if at least five days prior to obtaining the settlement, release, statement or contingent fee agreement, the injured person has signified in writing, by a statement acknowledged before a notary public who has no interest adverse to the injured person, his willingness that a settlement, release, statement or contingent fee agreement be given or entered into.

§ 7102. Comparative negligence.

(a) General rule.--In all actions brought to recover damages for negligence resulting in death or injury to person or property, the fact that the plaintiff may have been guilty of contributory negligence shall not bar a recovery by the plaintiff or his legal representative where such negligence was not greater than the causal negligence of the defendant or defendants against whom recovery is sought, but any damages sustained by the plaintiff shall be diminished in proportion to the amount of negligence attributed to the plaintiff.

(a.1) Recovery against joint defendant; contribution.--

(1) Where recovery is allowed against more than one person, including actions for strict liability, and where liability is attributed to more than one defendant, each defendant shall be liable for that proportion of the total dollar amount awarded as damages in the ratio of the amount of that defendant's liability to the amount of liability attributed to all defendants and other persons to whom liability is apportioned under subsection (a.2).

(2) Except as set forth in paragraph (3), a defendant's liability shall be several and not joint, and the court shall enter a separate and several judgment in favor of the plaintiff and against each defendant for the apportioned amount of that defendant's liability.

(3) A defendant's liability in any of the following actions shall be joint and several, and the court shall enter a joint and several judgment in favor of the plaintiff and against the defendant for the total dollar amount awarded as damages:

(i) Intentional misrepresentation.

(ii) An intentional tort.

(iii) Where the defendant has been held liable for not less than 60% of the total liability apportioned to all parties.

(iv) A release or threatened release of a hazardous substance under section 702 of the act of October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act.

(v) A civil action in which a defendant has violated section 497 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

(4) Where a defendant has been held jointly and severally liable under this subsection and discharges by payment more than that defendant's proportionate share of the total liability, that defendant is entitled to recover contribution from defendants who have paid less than their proportionate share. Further, in any case, any defendant may recover from any other person all or a portion of the damages assessed that defendant pursuant to the terms of a contractual agreement.

(a.2) Apportionment of responsibility among certain nonparties and effect.--For purposes of apportioning liability only, the question of liability of any defendant or other person who has entered into a release with the plaintiff with respect to the action and who is not a party shall be transmitted to the trier of fact upon appropriate requests and proofs by any party. A person whose liability may be determined pursuant to this section does not include an employer to the extent that the employer is granted immunity from liability or suit pursuant to the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act. An attribution of responsibility to any person or entity as provided in this subsection shall not be admissible or relied upon in any other action or proceeding for any purpose. Nothing in this section shall affect the admissibility or nonadmissibility of evidence regarding releases, settlements, offers to compromise or compromises as set forth in the Pennsylvania Rules of Evidence. Nothing in this section shall affect the rules of joinder of parties as set forth in the Pennsylvania Rules of Civil Procedure.

(b) Recovery against joint defendant; contribution.--(Deleted by amendment).

(b.1) Recovery against joint defendant; contribution.--(Unconstitutional).

(b.2) Apportionment of responsibility among certain nonparties and effect.--(Unconstitutional).

(b.3) Off-road vehicle riding.--

(1) Off-road vehicle riding area operators shall have no duty to protect riders from common, frequent, expected and nonnegligent risks inherent to the activity, including collisions with riders or objects.

(2) The doctrine of knowing voluntary assumption of risk shall apply to all actions to recover damages for negligence resulting in death or injury to person or property brought against any off-road vehicle riding area operator.

(3) Nothing in this subsection shall be construed in any way to abolish or modify a cause of action against a

potentially responsible party other than an off-road vehicle riding area operator.

(c) Downhill skiing.--

(1) The General Assembly finds that the sport of downhill skiing is practiced by a large number of citizens of this Commonwealth and also attracts to this Commonwealth large numbers of nonresidents significantly contributing to the economy of this Commonwealth. It is recognized that as in some other sports, there are inherent risks in the sport of downhill skiing.

(2) The doctrine of voluntary assumption of risk as it applies to downhill skiing injuries and damages is not modified by subsections (a) and (a.1).

(c.2) Savings provisions.--Nothing in this section shall be construed in any way to create, abolish or modify a cause of action or to limit a party's right to join another potentially responsible party.

(d) Definitions.--As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Defendant or defendants." Includes impleaded defendants.

"Off-road vehicle." A motorized vehicle that is used off-road for sport or recreation. The term includes snowmobiles, all-terrain vehicles, motorcycles and four-wheel drive vehicles.

"Off-road vehicle riding area." Any area or facility providing recreational activities for off-road vehicles.

"Off-road vehicle riding area operator." A person or organization owning or having operational responsibility for any off-road vehicle riding area. The term includes:

(1) Agencies and political subdivisions of this Commonwealth.

(2) Authorities created by political subdivisions.

(3) Private companies.

"Plaintiff." Includes counter claimants and cross-claimants. (Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; June 19, 2002, P.L.394, No.57, eff. 60 days; July 15, 2004, P.L.736, No.87, eff. imd.; June 28, 2011, P.L.78, No.17, eff. imd.)

2011 Amendment. See sections 2 and 3 of Act 17 in the appendix to this title for special provisions relating to construction of law and applicability.

2007 Effectuation of Declaration of Unconstitutionality. The Legislative Reference Bureau effectuated the 2005 unconstitutionality.

2005 Unconstitutionality. Act 57 of 2002 was declared unconstitutional. Deweese v. Weaver, 880 A.2d 54 (Pa. Commonwealth 2005).

2002 Amendment. Section 6 of Act 57 provided that the amendment of section 7102 shall apply to all causes of action that accrue after the effective date of section 6.

§ 7103. Interpreters for the deaf (Deleted by amendment).

2006 Amendment. Section 7103 was deleted by amendment Nov. 29, 2006, P.L.1538, No.172, effective in 60 days.

CHAPTER 73
ARBITRATION

Subchapter

A. Statutory Arbitration
A.1. Revised Statutory Arbitration
B. Common Law Arbitration
C. Judicial Arbitration

Enactment. Chapter 73 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Cross References. Chapter 73 is referred to in section 3942 of Title 62 (Procurement).

SUBCHAPTER A
STATUTORY ARBITRATION

Sec.

7301. Short title of subchapter.
7302. Scope of subchapter.
7303. Validity of agreement to arbitrate.
7304. Court proceedings to compel or stay arbitration.
7305. Appointment of arbitrators by court.
7306. Action by arbitrators.
7307. Hearing before arbitrators.
7308. Representation by attorney.
7309. Witnesses, subpoenas, oaths and depositions.
7310. Award of arbitrators.
7311. Change of award by arbitrators.
7312. Fees and expenses of arbitration.
7313. Confirmation of award by court.
7314. Vacating award by court.
7315. Modification or correction of award by court.
7316. Judgment or decree on award.
7317. Form and service of applications to court.
7318. Court and jurisdiction.
7319. Venue of court proceedings.
7320. Appeals from court orders.

Enactment. The heading of Subchapter A was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53, and the remaining provisions were added October 5, 1980, P.L.693, No.142, effective in 60 days.

Cross References. Subchapter A is referred to in sections 7321.4, 7341 of this title.

§ 7301. Short title of subchapter.

This subchapter shall be known and may be cited as the "Uniform Arbitration Act."

§ 7302. Scope of subchapter.

(a) General rule.--An agreement to arbitrate a controversy on a nonjudicial basis shall be conclusively presumed to be an agreement to arbitrate pursuant to Subchapter B (relating to common law arbitration) unless the agreement to arbitrate is in writing and expressly provides for arbitration pursuant to this subchapter or any other similar statute, in which case the arbitration shall be governed by this subchapter.

(b) Collective bargaining agreements.--This subchapter shall apply to a collective bargaining agreement to arbitrate controversies between employers and employees or their respective representatives only where the arbitration pursuant to this subchapter is consistent with any statute regulating labor and management relations.

(c) Government contracts.--This subchapter shall apply to any written contract to which a government unit of this Commonwealth is a party to the same extent as if the government unit were a private person, except that where a contract to which the Commonwealth government is a party provides for arbitration of controversies but does not provide for arbitration pursuant to any specified statutory provision, the arbitration shall be governed by this subchapter.

(d) Special application.--

(1) Paragraph (2) shall be applicable where:

(i) The Commonwealth government submits a controversy to arbitration.

(ii) A political subdivision submits a controversy with an employee or a representative of employees to arbitration.

(iii) Any person has been required by law to submit or to agree to submit a controversy to arbitration pursuant to this subchapter.

(2) Where this paragraph is applicable a court in reviewing an arbitration award pursuant to this subchapter shall, notwithstanding any other provision of this subchapter, modify or correct the award where the award is contrary to law and is such that had it been a verdict of a jury the court would have entered a different judgment or a judgment notwithstanding the verdict.

Applicability. Section 501(b) of Act 142 of 1980 provided that the provisions of 42 Pa.C.S. § 7302(d)(2) shall be applicable to any nonjudicial arbitration pursuant to:

(1) An agreement made prior to the effective date of this act which expressly provides that it shall be interpreted pursuant to the law of this Commonwealth and which expressly provides for statutory arbitration.

(2) An agreement heretofore or hereafter made which expressly provides for arbitration pursuant to the former provisions of the act of April 25, 1927, P.L.381, No.248, relating to statutory arbitration.

§ 7303. Validity of agreement to arbitrate.

A written agreement to subject any existing controversy to arbitration or a provision in a written agreement to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity relating to the validity, enforceability or revocation of any contract.

Cross References. Section 7303 is referred to in sections 7304, 7318 of this title.

§ 7304. Court proceedings to compel or stay arbitration.

(a) Compelling arbitration.--On application to a court to compel arbitration made by a party showing an agreement described in section 7303 (relating to validity of agreement to arbitrate) and a showing that an opposing party refused to arbitrate, the court shall order the parties to proceed with arbitration. If the opposing party denies the existence of an agreement to arbitrate, the court shall proceed summarily to determine the issue so raised and shall order the parties to proceed with arbitration if it finds for the moving party. Otherwise, the application shall be denied.

(b) Stay of arbitration.--On application of a party to a court to stay an arbitration proceeding threatened or commenced the court may stay an arbitration on a showing that there is no agreement to arbitrate. When in substantial and bona fide

dispute, such an issue shall be forthwith and summarily tried and determined and a stay of the arbitration proceedings shall be ordered if the court finds for the moving party. If the court finds for the opposing party, the court shall order the parties to proceed with arbitration.

(c) Venue.--If a controversy alleged to be or not to be referable to arbitration under the agreement is also involved in an action or proceeding pending in a court having jurisdiction to hear applications to compel or stay arbitration, the application shall be made to that court. Otherwise, subject to section 7319 (relating to venue of court proceedings), the application may be made in any court of competent jurisdiction.

(d) Stay of judicial proceedings.--An action or proceeding, allegedly involving an issue subject to arbitration, shall be stayed if a court order to proceed with arbitration has been made or an application for such an order has been made under this section. If the issue allegedly subject to arbitration is severable, the stay of the court action or proceeding may be made with respect to the severable issue only. If the application for an order to proceed with arbitration is made in such action or proceeding and is granted, the court order to proceed with arbitration shall include a stay of the action or proceeding.

(e) No examination of merits.--An application for a court order to proceed with arbitration shall not be refused, nor shall an application to stay arbitration be granted, by the court on the ground that the controversy lacks merit or bona fides or on the ground that no fault or basis for the controversy sought to be arbitrated has been shown.

Cross References. Section 7304 is referred to in sections 7314, 7320 of this title.

§ 7305. Appointment of arbitrators by court.

If the agreement to arbitrate prescribes a method of appointment of arbitrators, the prescribed method shall be followed. In the absence of a prescribed method or if the prescribed method fails or for any reason cannot be followed, or when an arbitrator appointed fails to act or is unable to act and his successor has not been appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of an arbitrator specifically named in the agreement.

Cross References. Section 7305 is referred to in section 7314 of this title.

§ 7306. Action by arbitrators.

The powers of the arbitrators shall be exercised by a majority unless otherwise prescribed by the agreement or provided by this subchapter.

§ 7307. Hearing before arbitrators.

(a) General rule.--Unless otherwise prescribed by the agreement:

(1) The arbitrators shall appoint a time and place for the arbitration hearing and cause written notice thereof to be served personally or by registered or certified mail on all parties not less than ten days before the hearing. Appearance at the hearing constitutes a waiver of such notice.

(2) The arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause, or upon their own motion, may postpone the hearing

to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date.

(3) The arbitrators may hear and determine the controversy upon the evidence produced at the arbitration hearing notwithstanding the failure of a duly notified party to appear. On application by a party the court may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

(4) The parties and their attorneys have the right to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

(5) The hearing shall be conducted by all the arbitrators but a majority may determine any issue and render a final award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals may continue with the hearing and determine the controversy.

(b) Record.--On request of a party who shall pay the fees therefor all testimony shall be taken stenographically and a transcript thereof made a part of the record.

Cross References. Section 7307 is referred to in section 7314 of this title.

§ 7308. Representation by attorney.

A party has the right to be represented by an attorney at any proceeding or hearing under this subchapter. A waiver thereof prior to the proceeding or hearing is ineffective.

§ 7309. Witnesses, subpoenas, oaths and depositions.

(a) General rule.--The arbitrators may issue subpoenas in the form prescribed by general rules for the attendance of witnesses and for the production of books, records, documents and other evidence. Subpoenas so issued shall be served and, upon application to the court by a party or by the arbitrators, shall be enforced in the manner provided or prescribed by law for the service and enforcement of subpoenas in a civil action.

(b) Depositions.--On application of a party and for use as evidence the arbitrators, in the manner and upon the terms designated by them, may permit a deposition to be taken of a witness who cannot be served with a subpoena or who is unable to attend the hearing.

(c) Compulsory testimony.--The arbitrators shall have power to administer oaths. All provisions of law compelling a person under subpoena to testify are applicable.

(d) Fees.--Fees and expenses for attendance as a witness shall be governed by the provisions of section 5903 (relating to compensation and expenses of witnesses).

§ 7310. Award of arbitrators.

(a) General rule.--The award of the arbitrators shall be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy of the award to each party personally or by registered or certified mail, or as prescribed in the agreement to arbitrate.

(b) Time limitation.--The award shall be made within the time fixed by the agreement or, if not fixed by the agreement, within such time as is ordered by the court on application of a party. The parties by written stipulation may extend the time either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless he notifies the arbitrators of his objection prior to delivery of the award to him.

§ 7311. Change of award by arbitrators.

(a) General rule.--On application of a party to the arbitrators, or on submission to the arbitrators by the court under such conditions as the court may order if an application to the court is pending under section 7313 (relating to confirmation of award by court), section 7314 (relating to vacating award by court) or section 7315 (relating to modification or correction of award by court), the arbitrators may modify or correct the award upon the grounds stated in section 7315(a)(1) and (2), or for the purpose of clarifying the award.

(b) Time limitation.--An application to the arbitrators under subsection (a) shall be made within ten days after delivery of the award to the applicant. Written notice of presentation of the application shall be given forthwith by the applicant to all other parties stating that they must serve objections thereto within ten days from the date of the notice. The award as modified or corrected is subject to the provisions of sections 7313, 7314 and 7315.

§ 7312. Fees and expenses of arbitration.

Unless otherwise prescribed in the agreement to arbitrate, the expenses and fees of the arbitrators and other expenses (but not including counsel fees) incurred in the conduct of the arbitration shall be paid as prescribed in the award.

§ 7313. Confirmation of award by court.

On application of a party, the court shall confirm an award, unless within the time limits imposed by this subchapter, grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in section 7314 (relating to vacating award by court) or section 7315 (relating to modification or correction of award by court).

Cross References. Section 7313 is referred to in section 7311 of this title.

§ 7314. Vacating award by court.

(a) General rule.--

(1) On application of a party, the court shall vacate an award where:

(i) the court would vacate the award under section 7341 (relating to common law arbitration) if this subchapter were not applicable;

(ii) there was evident partiality by an arbitrator appointed as a neutral or corruption or misconduct in any of the arbitrators prejudicing the rights of any party;

(iii) the arbitrators exceeded their powers;

(iv) the arbitrators refused to postpone the hearing upon good cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of section 7307 (relating to hearing before arbitrators), as to prejudice substantially the rights of a party; or

(v) there was no agreement to arbitrate and the issue of the existence of an agreement to arbitrate was not adversely determined in proceedings under section 7304 (relating to court proceedings to compel or stay arbitration) and the applicant-party raised the issue of the existence of an agreement to arbitrate at the hearing.

(2) The fact that the relief awarded by the arbitrators was such that it could not or would not be granted by a court of law or equity is not a ground for vacating or refusing to confirm the award.

(b) Time limitation.--An application under this section shall be made within 30 days after delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud, misconduct or other improper means, it shall be made within 30 days after such grounds are known or should have been known to the applicant.

(c) Further hearing.--If the court vacates the award on grounds other than stated in subsection (a)(1)(v), the court may order a rehearing before new arbitrators chosen as prescribed in the agreement to arbitrate. Absent a method prescribed in the agreement to arbitrate, the court shall choose new arbitrators in accordance with section 7305 (relating to appointment of arbitrators by court). If the award is vacated on grounds not affecting the competency of the arbitrators under subsection (a)(1)(i) through (iv), the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with section 7305. The time period within which the agreement requires the original award to be made is applicable to the rehearing and commences from the date of the court order directing a rehearing.

(d) Confirmation of award.--If an application to vacate the award is denied and no application to modify or correct the award is pending, the court shall confirm the award.

Cross References. Section 7314 is referred to in sections 7311, 7313 of this title.

§ 7315. Modification or correction of award by court.

(a) General rule.--On application to the court made within 30 days after delivery of a copy of the award to the applicant, the court shall modify or correct the award where:

(1) there was an evident miscalculation of figures or an evident mistake in the description of any person, thing or property referred to in the award;

(2) the arbitrators awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

(3) the award is deficient in a matter of form, not affecting the merits of the controversy.

(b) Confirmation of award.--If an application to modify or correct the award is granted, the court shall modify and correct the award so as to effect its intent and shall confirm the award as so modified and corrected. Otherwise, the court shall confirm the award as made by the arbitrators.

(c) Alternative applications.--An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

Cross References. Section 7315 is referred to in sections 7311, 7313 of this title.

§ 7316. Judgment or decree on award.

Upon the granting of an order of court confirming, modifying or correcting an award, a judgment or decree shall be entered in conformity with the order. The judgment or decree may be enforced as any other judgment or decree. Subject to general rules, costs of any application to the court and of the proceedings subsequent thereto, and disbursements may be imposed by the court.

§ 7317. Form and service of applications to court.

Except as otherwise prescribed by general rules, an application to the court under this subchapter shall be by petition and shall be heard in the manner and upon the notice provided or prescribed by law for the making and hearing of

petitions in civil matters. Unless the parties otherwise agree, notice of an initial application for an order of court shall be served in the manner provided or prescribed by law for the service of a writ of summons in a civil action.

§ 7318. Court and jurisdiction.

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

"Court." As used in this subchapter means any court of competent jurisdiction of this Commonwealth.

"Jurisdiction." The making of an agreement described in section 7303 (relating to validity of agreement to arbitrate) providing for arbitration in this Commonwealth confers jurisdiction on the courts of this Commonwealth to enforce the agreement under this subchapter and to enter judgment on an award made thereunder.

§ 7319. Venue of court proceedings.

Except as otherwise prescribed by general rules:

(1) An initial application to a court under this subchapter shall be made to the court of the county in which the agreement prescribes that the arbitration hearing shall be held or, if the hearing has been held, in the county in which the hearing was held.

(2) If an application to a court cannot be made under paragraph (1) the application shall be made to the court in the county where the adverse party resides or has a place of business or, if he has no residence or place of business in this Commonwealth, to the court of any county.

(3) All subsequent applications to a court shall be made to the court hearing the initial application unless that court otherwise directs.

Cross References. Section 7319 is referred to in section 7304 of this title.

§ 7320. Appeals from court orders.

(a) General rule.--An appeal may be taken from:

(1) A court order denying an application to compel arbitration made under section 7304 (relating to proceedings to compel or stay arbitration).

(2) A court order granting an application to stay arbitration made under section 7304(b).

(3) A court order confirming or denying confirmation of an award.

(4) A court order modifying or correcting an award.

(5) A court order vacating an award without directing a rehearing.

(6) A final judgment or decree of a court entered pursuant to the provisions of this subchapter.

(b) Procedure.--The appeal shall be taken in the manner, within the time and to the same extent as an appeal from a final order of court in a civil action.

SUBCHAPTER A.1
REVISED STATUTORY ARBITRATION

Sec.

7321.1. Short title of subchapter.
7321.2. Definitions.
7321.3. Notice.
7321.4. When subchapter applies.

7321.5. Effect of agreement to arbitrate; nonwaivable provisions.
7321.6. Application for judicial relief.
7321.7. Validity of agreement to arbitrate.
7321.8. Motion to compel or stay arbitration.
7321.9. Provisional remedies.
7321.10. Initiation of arbitration.
7321.11. Consolidation of separate arbitration proceedings.
7321.12. Appointment of arbitrator; service as a neutral arbitrator.
7321.13. Disclosure by arbitrator.
7321.14. Action by majority.
7321.15. Immunity of arbitrator; competency to testify; attorney fees and costs.
7321.16. Arbitration process.
7321.17. Representation by attorney.
7321.18. Witnesses; subpoenas; depositions; discovery.
7321.19. Judicial enforcement of preaward ruling by arbitrator.
7321.20. Award.
7321.21. Change of award by arbitrator.
7321.22. Remedies; fees and expenses of arbitration proceeding.
7321.23. Confirmation of award.
7321.24. Vacating award.
7321.25. Modification or correction of award.
7321.26. Judgment on award; attorney fees and litigation expenses.
7321.27. Jurisdiction.
7321.28. Venue.
7321.29. Appeals.
7321.30. Uniformity of application and construction.
7321.31. Relationship to Electronic Signatures in Global and National Commerce Act.

Enactment. Subchapter A.1 was added June 28, 2018, P.L.381, No.55, effective July 1, 2019.

Applicability. See section 1 of Act 55 of 2018 in the appendix to this title for special provisions relating to findings and declarations. Section 4(1) of Act 55 of 2018 provided that the provisions of Subchapter A.1 shall not be construed to affect an action or proceeding commenced or right accrued before the effective date of section 4.

Cross References. Subchapter A.1 is referred to in sections 7341, 7342 of this title.

§ 7321.1. Short title of subchapter.

This subchapter shall be known and may be cited as the Revised Statutory Arbitration Act.

§ 7321.2. 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:

"Arbitration organization." Any association, agency, board, commission or other entity that is neutral and initiates, sponsors or administers an arbitration proceeding or is involved in the appointment of an arbitrator.

"Arbitrator." An individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.

"Consumer." An individual who incurs an obligation in an agreement with a merchant for personal, family or household purposes.

"Consumer transaction." A transaction between a consumer domiciled in this Commonwealth and a merchant, including all personal injury claims arising out of such a transaction.

"Court." A court of competent jurisdiction in this Commonwealth.

"Knowledge." Actual knowledge.

"Merchant." A person in the ordinary course of business that offers or sells goods or services to consumers or holds itself out as having knowledge or skill peculiar to such transactions, including a manufacturer, supplier or distributor of goods, or a supplier of personal or professional services.

"Person." Any individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture; a government; a governmental subdivision, agency or instrumentality; a public corporation; or any other legal or commercial entity.

"Record." Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

§ 7321.3. Notice.

(a) Giving notice.--Except as otherwise provided in this subchapter, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course whether or not the other person acquires knowledge of the notice.

(b) Having notice.--A person has notice if the person has knowledge of the notice or has received notice.

(c) Receiving notice.--A person receives notice when it comes to the person's attention or the notice is delivered at:

(1) the person's place of residence or business; or

(2) another location held out by the person as a place of delivery of such communications.

§ 7321.4. When subchapter applies.

(a) Subsequent agreements.--This subchapter governs an agreement to arbitrate made on or after the effective date of this subchapter.

(b) Prior agreements.--For an agreement to arbitrate made before the effective date of this subchapter, except as set forth in subsection (c):

(1) If all the parties to the agreement or to the arbitration proceeding agree in a record that this subchapter governs the agreement, this subchapter governs the agreement.

(2) If paragraph (1) does not apply, Subchapter A (relating to statutory arbitration) governs the agreement.

(c) Collective bargaining agreements.--This subchapter shall apply to collective bargaining agreements to arbitrate controversies between employers and employees or their respective representatives only to the extent that the arbitration under this subchapter is consistent with any other statute regulating labor and management relations.

Cross References. Section 7321.4 is referred to in section 7321.5 of this title.

§ 7321.5. Effect of agreement to arbitrate; nonwaivable provisions.

(a) Waiver or variance.--Except as otherwise provided in subsections (b) and (c), a party to an agreement to arbitrate or to an arbitration proceeding may waive, or the parties may vary the effect of, the requirements of this subchapter to the extent permitted by law.

(b) Prior to controversy.--Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not do any of the following:

(1) Waive or agree to vary the effect of the requirements of any of the following:

(i) Section 7321.6(a) (relating to application for judicial relief).

(ii) Section 7321.7(a) (relating to validity of agreement to arbitrate).

(iii) Section 7321.9 (relating to provisional remedies).

(iv) Section 7321.18(a) or (b) (relating to witnesses; subpoenas; depositions; discovery).

(v) Section 7321.27 (relating to jurisdiction).

(vi) Section 7321.29 (relating to appeals).

(2) Agree to unreasonably restrict the right under section 7321.10 (relating to initiation of arbitration) to notice of the initiation of an arbitration proceeding.

(3) Agree to unreasonably restrict the right under section 7321.13 (relating to disclosure by arbitrator) to disclosure of any facts by a neutral arbitrator.

(4) Waive the right under section 7321.17 (relating to representation by attorney) of a party to an agreement to arbitrate to be represented by an attorney at any proceeding or hearing under this subchapter, but an employer and a labor organization may waive the right to representation by an attorney in a labor arbitration.

(c) Absolute prohibition.--A party to an agreement to arbitrate or an arbitration proceeding may not waive, or the parties may not vary the effect of, the requirements of any of the following:

(1) This section.

(2) Section 7321.4(a) (relating to when subchapter applies).

(3) Section 7321.8 (relating to motion to compel or stay arbitration).

(4) Section 7321.15 (relating to immunity of arbitrator; competency to testify; attorney fees and costs).

(5) Section 7321.19 (relating to judicial enforcement of preaward ruling by arbitrator).

(6) Section 7321.21(d) or (e) (relating to change of award by arbitrator).

(7) Section 7321.23 (relating to confirmation of award).

(8) Section 7321.24 (relating to vacating award).

(9) Section 7321.25 (relating to modification or correction of award).

(10) Section 7321.26(a) or (b) (relating to judgment on award; attorney fees and litigation expenses).

(11) Section 7321.30 (relating to uniformity of application and construction).

(12) Section 7321.31 (relating to relationship to Electronic Signatures in Global and National Commerce Act).

§ 7321.6. Application for judicial relief.

(a) Procedure.--Except as otherwise provided in section 7321.29 (relating to appeals), an application for judicial relief under this subchapter must be made by motion to the court and heard in the manner provided by law or rule of court for making and hearing motions.

(b) Service.--Unless a civil action involving the agreement to arbitrate is pending, notice of an initial motion to the court under this subchapter must be served in the manner provided by law for the service of a summons in a civil action.

Otherwise, notice of the motion must be given in the manner provided by law or rule of court for serving motions in pending cases.

Cross References. Section 7321.6 is referred to in sections 7321.5, 7321.28, 7342 of this title.

§ 7321.7. Validity of agreement to arbitrate.

(a) General rule.--An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable and irrevocable except upon a ground that exists at law or in equity for the revocation of a contract.

(b) Court decision.--The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

(c) Arbitrator decision.--An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

(d) Challenge to arbitration.--If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

(e) Grounds for validity and enforceability.--

(1) Subject to paragraph (2), in determining the validity and enforceability of an agreement to arbitrate, a court may consider any grounds that exist at law or in equity for the revocation of a contract, regardless of whether arising out of Federal or State law or as a matter of public policy, that are applicable to other contracts, including fraud, duress, coercion, unconscionability or the imposition by a contract of adhesion of any requirement that unreasonably favors the party that imposed the provision.

(2) Paragraph (1) shall not apply in any manner prohibited by 9 U.S.C. (relating to arbitration) or other Federal law.

Cross References. Section 7321.7 is referred to in sections 7321.5, 7342 of this title.

§ 7321.8. Motion to compel or stay arbitration.

(a) Refusal to arbitrate under agreement.--On motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate under the agreement:

(1) if the refusing party does not appear or does not oppose the motion, the court shall order the parties to arbitrate; and

(2) if the refusing party opposes the motion, the court shall proceed summarily to decide the issue and order the parties to arbitrate unless it finds that there is no enforceable agreement to arbitrate.

(b) Agreement challenged.--On motion of a person alleging that an arbitration proceeding has been initiated or threatened but that there is no agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, the court shall order the parties to arbitrate.

(c) Enforceable agreement required.--If the court finds that there is no enforceable agreement, the court may not, under subsection (a) or (b), order the parties to arbitrate.

(d) Court refusal.--The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.

(e) Appropriate court.--If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, a motion under this section must be made in that court. Otherwise, a motion under this section may be made in any court as provided in section 7321.28 (relating to venue).

(f) Stay of judicial proceedings.--An action or proceeding allegedly involving an issue subject to arbitration shall be stayed if a court order to proceed with arbitration has been made or a motion for such an order has been made under this section. If the issue allegedly subject to arbitration is severable, the stay of the court action or proceeding may be made with respect to the severable issue only. If a motion for an order to proceed with arbitration is made in the action or proceeding and is granted, the court order to proceed with arbitration shall include a stay of the action or proceeding.

Cross References. Section 7321.8 is referred to in sections 7321.5, 7342 of this title.

§ 7321.9. Provisional remedies.

(a) Court.--Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

(b) Arbitrator.--After an arbitrator is appointed and is authorized and able to act:

(1) the arbitrator may issue orders for provisional remedies, including interim awards, as the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

(2) a party to an arbitration proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

(c) Effect.--A party does not waive a right of arbitration by making a motion under subsection (a) or (b).

Cross References. Section 7321.9 is referred to in section 7321.5 of this title.

§ 7321.10. Initiation of arbitration.

(a) Notice.--A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by certified or registered mail, return receipt requested and obtained, or by service as authorized for the commencement of a civil action. The notice must describe the nature of the controversy and the remedy sought.

(b) Lack of notice.--Unless a person objects for lack or insufficiency of notice under section 7321.16 (relating to arbitration process) not later than at the beginning of the arbitration hearing, the person by appearing at the hearing waives any objection to lack of or insufficiency of notice.

Cross References. Section 7321.10 is referred to in sections 7321.5, 7321.24 of this title.

§ 7321.11. Consolidation of separate arbitration proceedings.

(a) Conditions.--Except as otherwise provided in subsection (c), upon motion of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if:

(1) there are separate agreements to arbitrate or separate arbitration proceedings between the same persons, or one of them is a party to a separate agreement to arbitrate or a separate arbitration proceeding with a third person;

(2) the claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;

(3) the existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings; and

(4) prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

(b) Partial consolidation.--The court may order consolidation of separate arbitration proceedings as to some claims and allow other claims to be resolved in separate arbitration proceedings.

(c) Agreement governs.--The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

§ 7321.12. Appointment of arbitrator; service as a neutral arbitrator.

(a) Appointment.--If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method must be followed unless the method fails. If the parties have not agreed on a method, the agreed method fails or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on motion of a party to the arbitration proceeding, shall appoint the arbitrator. An arbitrator appointed by the court has all the powers of an arbitrator designated in the agreement to arbitrate or appointed under the agreed method.

(b) Neutral service.--An individual may not serve as an arbitrator required by an agreement to be neutral under the standards under which a judge would be required to disqualify himself or herself from participation in a proceeding under 207 Pa. Code Ch. 33 Canon 2 Rule 2.11 (relating to disqualification).

Cross References. Section 7321.12 is referred to in sections 7321.16, 7342 of this title.

§ 7321.13. Disclosure by arbitrator.

(a) Preappointment.--Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and the arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:

(1) a financial or personal interest in the outcome of the arbitration proceeding; and

(2) an existing or past relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, their counsel or representatives, a witness or another arbitrator.

(b) Continuing.--An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and the arbitration proceeding and to other arbitrators facts that the arbitrator learns after accepting appointment that a reasonable person would consider likely to affect the impartiality of the arbitrator.

(c) Objection.--If an arbitrator discloses a fact required by subsection (a) or (b) to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under section 7321.24(a)(2) (relating to vacating award) for vacating an award made by the arbitrator.

(d) Nondisclosure.--If the arbitrator does not disclose a fact as required by subsection (a) or (b), upon timely objection by a party, the court under section 7321.24(a)(2) may vacate an award.

(e) Presumption of neutrality.--An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct and material interest in the outcome of the arbitration proceeding or a known, existing and substantial relationship with a party is presumed to act with evident partiality under section 7321.24(a)(2).

(f) Procedure to challenge arbitrator.--If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under section 7321.24(a)(2).

Cross References. Section 7321.13 is referred to in sections 7321.5, 7321.15 of this title.

§ 7321.14. Action by majority.

If there is more than one arbitrator, the powers of an arbitrator must be exercised by a majority of the arbitrators but all of them shall conduct the hearing under section 7321.16(c) (relating to arbitration process).

§ 7321.15. Immunity of arbitrator; competency to testify; attorney fees and costs.

(a) Immunity.--An arbitrator or an arbitration organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of this Commonwealth acting in a judicial capacity.

(b) Other immunity.--The immunity afforded by this section supplements any immunity under other law.

(c) Failure to disclose.--The failure of an arbitrator to make a disclosure required by section 7321.13 (relating to disclosure by arbitrator) does not cause a loss of immunity under this section.

(d) Competency to testify.--In a judicial, administrative or similar proceeding, an arbitrator or representative of an arbitration organization is not competent to testify and may not be required to produce records as to any statement, conduct, decision or ruling occurring during the arbitration proceeding, to the same extent as a judge of a court of this Commonwealth acting in a judicial capacity. This subsection does not apply:

(1) to the extent necessary to determine the claim of an arbitrator, arbitration organization or representative

of the arbitration organization against a party to the arbitration proceeding; or

(2) to a hearing on a motion to vacate an award under section 7321.24(a)(1) or (2) (relating to vacating award) if the movant establishes prima facie that a ground for vacating the award exists.

(e) Attorney fees and costs.--If a person commences a civil action against an arbitrator, arbitration organization or representative of an arbitration organization arising from the services of the arbitrator, organization or representative, or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of subsection (d) and the court upon deciding whether the arbitrator, arbitration organization or representative of an arbitration organization is immune from civil liability or whether the arbitrator or representative of the organization is competent to testify, the court may award to the prevailing party, including the arbitrator, organization or representative, reasonable attorney fees and other reasonable expenses of litigation.

Cross References. Section 7321.15 is referred to in section 7321.5 of this title.

§ 7321.16. Arbitration process.

(a) Discretion of arbitrator.--An arbitrator may conduct an arbitration in a manner appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality and weight of any evidence.

(b) Summary disposition.--An arbitrator may decide a request for summary disposition of a claim or particular issue:

(1) if all interested parties agree; or

(2) upon request of one party to the arbitration proceeding if that party gives notice to all other parties to the proceeding and if the other parties have a reasonable opportunity to respond.

(c) Notice and hearing.--If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than five days before the hearing begins. Unless a party to the arbitration proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection. Upon request of a party to the arbitration proceeding and for good cause shown, or upon the arbitrator's own initiative, the arbitrator may adjourn the hearing as necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced although a party who was notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

(d) Procedure.--At a hearing under subsection (c), a party to the arbitration proceeding has a right to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

(e) Replacement.--If an arbitrator ceases or is unable to act during the arbitration proceeding, a replacement arbitrator

must be appointed in accordance with section 7321.12 (relating to appointment of arbitrator; service as a neutral arbitrator) to continue the proceeding and to resolve the controversy.

(f) Location for arbitration hearing for consumer transactions.--A hearing conducted under an arbitration agreement applicable to a consumer transaction shall be held at a location reasonably convenient to the consumer.

Cross References. Section 7321.16 is referred to in sections 7321.10, 7321.14, 7321.24, 7321.28 of this title.

§ 7321.17. Representation by attorney.

A party to an arbitration proceeding may be represented by an attorney.

Cross References. Section 7321.17 is referred to in section 7321.5 of this title.

§ 7321.18. Witnesses; subpoenas; depositions; discovery.

(a) Subpoenas.--An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at a hearing and may administer oaths. A subpoena must be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, may be enforced in the manner for enforcement of subpoenas in a civil action.

(b) Depositions.--In order to make the proceedings fair, expeditious and cost effective, upon request of a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition of a witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.

(c) Discovery.--An arbitrator may permit discovery as the arbitrator decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitration proceeding and other affected persons and the desirability of making the proceeding fair, expeditious and cost effective.

(d) Compliance with discovery.--If an arbitrator permits discovery under subsection (c), the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding and take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in this Commonwealth.

(e) Protective orders.--An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action in this Commonwealth.

(f) Compulsory laws.--All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition or a discovery proceeding as a witness apply to an arbitration proceeding as if the controversy were the subject of a civil action in this Commonwealth.

(g) Enforcement.--The court may enforce a subpoena or discovery-related order for the attendance of a witness within this Commonwealth and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another state upon conditions determined by the court so as to make the arbitration proceeding

fair, expeditious and cost effective. A subpoena or discovery-related order issued by an arbitrator in another state must be served in the manner provided by law for service of subpoenas in a civil action in this Commonwealth and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, may be enforced in the manner provided by law for enforcement of subpoenas in a civil action in this Commonwealth.

Cross References. Section 7321.18 is referred to in sections 7321.5, 7342 of this title.

§ 7321.19. Judicial enforcement of preaward ruling by arbitrator.

If an arbitrator makes a preaward ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award under section 7321.20 (relating to award). A prevailing party may make a motion to the court for an expedited order to confirm the award under section 7321.23 (relating to confirmation of award), in which case the court shall summarily decide the motion. The court shall issue an order to confirm the award unless the court vacates, modifies or corrects the award under section 7321.24 (relating to vacating award) or 7321.25 (relating to modification or correction of award).

Cross References. Section 7321.19 is referred to in section 7321.5 of this title.

§ 7321.20. Award.

(a) Record.--An arbitrator shall make a record of an award. The record must be signed or otherwise authenticated by an arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

(b) Time.--An award must be made within the time specified by the agreement to arbitrate or, if not specified in the agreement, within the time ordered by the court. The court may extend or the parties to the arbitration proceeding may agree in a record to extend the time. The court or the parties may do so within or after the time specified or ordered. A party waives an objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award.

Cross References. Section 7321.20 is referred to in sections 7321.19, 7321.21, 7321.24, 7321.25 of this title.

§ 7321.21. Change of award by arbitrator.

(a) Motion.--On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award:

(1) upon a ground stated in section 7321.25(a)(1) or (3) (relating to modification or correction of award);

(2) because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(3) to clarify the award.

(b) Time for motion.--A motion under subsection (a) must be made and notice given to all parties within 20 days after the movant receives notice of the award.

(c) Time for objection to motion.--A party to the arbitration proceeding must give notice of an objection to the motion within 10 days after receipt of the notice.

(d) Pending motion to court.--If a motion to the court is pending under section 7321.23 (relating to confirmation of award), 7321.24 (relating to vacating award) or 7321.25, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(1) upon a ground stated in section 7321.25(a)(1) or (3);

(2) because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(3) to clarify the award.

(e) Other provisions applicable.--An award modified or corrected under this section is subject to sections 7321.20(a) (relating to award), 7321.23, 7321.24 and 7321.25.

Cross References. Section 7321.21 is referred to in sections 7321.5, 7321.23, 7321.24, 7321.25 of this title.

§ 7321.22. Remedies; fees and expenses of arbitration proceeding.

(a) Punitive damages.--An arbitrator may award punitive damages or other exemplary relief if such an award is authorized by law in a civil action involving the same claim and the evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.

(b) Attorney fees and costs.--An arbitrator may award reasonable attorney fees and other reasonable expenses of arbitration if the award is authorized by law in a civil action involving the same claim, by the agreement of the parties to the arbitration proceeding or by the terms of an agreement subject to arbitration.

(c) Additional remedies.--As to all remedies other than those authorized by subsections (a) and (b), an arbitrator may order remedies as the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under section 7321.23 (relating to confirmation of award) or for vacating an award under section 7321.24 (relating to vacating award).

(d) Arbitrator costs and fees.--An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

(e) Justification for punitive damages.--If an arbitrator awards punitive damages or other exemplary relief under subsection (a), the arbitrator shall specify in the award the basis in fact justifying and the basis in law authorizing the award and state separately the amount of the punitive damages or other exemplary relief.

§ 7321.23. Confirmation of award.

After a party to an arbitration proceeding receives notice of an award, the party must make a motion to the court for an order confirming the award. The court shall then issue a confirming order unless the award is modified or corrected under section 7321.21 (relating to change of award by arbitrator) or 7321.25 (relating to modification or correction of award) or is vacated under section 7321.24 (relating to vacating award).

Cross References. Section 7321.23 is referred to in sections 7321.5, 7321.19, 7321.21, 7321.22, 7321.26 of this title.

§ 7321.24. Vacating award.

(a) Grounds.--Upon motion to the court by a party to an arbitration proceeding, the court shall vacate an award made in the arbitration proceeding if:

(1) the award was procured by corruption, fraud or other undue means;

(2) there was:

(i) evident partiality by an arbitrator appointed as a neutral arbitrator;

(ii) corruption by an arbitrator; or

(iii) misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;

(3) an arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy or otherwise conducted the hearing contrary to section 7321.16 (relating to arbitration process), so as to prejudice the rights of a party to the arbitration proceeding;

(4) an arbitrator exceeded the arbitrator's powers;

(5) there was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising the objection under section 7321.16(c) not later than the beginning of the arbitration hearing; or

(6) the arbitration was conducted without proper notice of the initiation of an arbitration as required in section 7321.10 (relating to initiation of arbitration) so as to prejudice substantially the rights of a party to the arbitration proceeding.

(b) Time.--A motion under this section must be filed within 30 days after the movant receives notice of the award under section 7321.20 (relating to award) or within 30 days after the movant receives notice of a modified or corrected award under section 7321.21 (relating to change of award by arbitrator), unless the movant alleges that the award was procured by corruption, fraud or other undue means, in which case the motion must be made within 30 days after the ground is known or by the exercise of reasonable care would have been known by the movant.

(c) Rehearing.--If the court vacates an award on a ground other than that set forth in subsection (a)(5), it may order a rehearing. If the award is vacated on a ground stated in subsection (a)(1) or (2), the rehearing shall be before a new arbitrator. If the award is vacated on a ground stated in subsection (a)(3), (4) or (6), the rehearing may be before the arbitrator who made the award or the arbitrator's successor. The arbitrator shall render the decision in the rehearing within the same time as that provided in section 7321.20(b) for an award.

(d) Confirmation.--If the court denies a motion to vacate an award, the court shall confirm the award unless a motion to modify or correct the award is pending.

Cross References. Section 7321.24 is referred to in sections 7321.5, 7321.13, 7321.15, 7321.19, 7321.21, 7321.22, 7321.23, 7321.25, 7321.26 of this title.

§ 7321.25. Modification or correction of award.

(a) Grounds.--Upon motion made within 90 days after the movant receives notice of the award under section 7321.20 (relating to award) or within 90 days after the movant receives notice of a modified or corrected award under section 7321.21 (relating to change of award by arbitrator), the court shall modify or correct the award if:

(1) there was an evident mathematical miscalculation or an evident mistake in the description of a person, thing or property referred to in the award;

(2) the arbitrator has made an award on a claim not submitted to the arbitrator and the award may be corrected

without affecting the merits of the decision upon the claims submitted; or

(3) the award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

(b) Court action.--If a motion made under subsection (a) is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, unless a motion to vacate is pending, the court shall confirm the award.

(c) Joinder.--A motion to modify or correct an award under this section may be joined with a motion to vacate the award under section 7321.24 (relating to vacating award).

Cross References. Section 7321.25 is referred to in sections 7321.5, 7321.19, 7321.21, 7321.23, 7321.26 of this title.

§ 7321.26. Judgment on award; attorney fees and litigation expenses.

(a) Judgment.--Upon granting an order confirming, vacating without directing a rehearing, modifying or correcting an award, the court shall enter a judgment in conformity with the order. The judgment may be recorded, docketed and enforced as any other judgment in a civil action.

(b) Court costs.--A court may allow reasonable costs of the motion and subsequent judicial proceedings.

(c) Attorney fees and costs.--On application of a prevailing party to a contested judicial proceeding under section 7321.23 (relating to confirmation of award), 7321.24 (relating to vacating award) or 7321.25 (relating to modification or correction of award), the court may add reasonable attorney fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying or correcting an award if attorney fees and other expenses are authorized by law to be added to an award in a civil action involving the same claim as the arbitration award.

Cross References. Section 7321.26 is referred to in section 7321.5 of this title.

§ 7321.27. Jurisdiction.

(a) Enforcement.--A court having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.

(b) Exclusivity.--An agreement to arbitrate providing for arbitration in this Commonwealth confers exclusive jurisdiction on the court to enter judgment on an award under this subchapter.

Cross References. Section 7321.27 is referred to in sections 7321.5, 7342 of this title.

§ 7321.28. Venue.

A motion under section 7321.6 (relating to application for judicial relief) must be made in the court of the county in which the agreement to arbitrate or section 7321.16(f) (relating to arbitration process) specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which the hearing was held. Otherwise, the motion may be made in the court of the county in this Commonwealth as provided by the Pennsylvania Rules of Civil Procedure. All subsequent motions must be made in the court hearing the initial motion unless the court otherwise directs.

Cross References. Section 7321.28 is referred to in sections 7321.8, 7342 of this title.

§ 7321.29. Appeals.

(a) Appealable orders.--An appeal may be taken from:

(1) an order denying a motion to compel arbitration;

(2) an order granting a motion to stay arbitration;

(3) an order confirming or denying confirmation of an award;

(4) an order modifying or correcting an award;

(5) an order vacating an award without directing a rehearing; or

(6) a final judgment entered under this subchapter.

(b) Procedure.--An appeal under this section must be taken as from an order or a judgment in a civil action and must be taken within 30 days of the order or judgment.

Cross References. Section 7321.29 is referred to in sections 7321.5, 7321.6, 7342 of this title.

§ 7321.30. Uniformity of application and construction.

(a) General rule.--In applying and construing this subchapter, consideration shall be given to the need to promote uniformity of the law with respect to the subject matter among states that enact it.

(b) Right to trial by jury.--Except as provided by an agreement to arbitrate, nothing in this subchapter is intended to require a party to waive the right to trial by jury to the extent provided by the Constitution of the United States and the Constitution of Pennsylvania.

(c) Severability.--If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the remainder of this subchapter and the application of such provisions to other persons or circumstances shall not be affected.

Cross References. Section 7321.30 is referred to in section 7321.5 of this title.

§ 7321.31. Relationship to Electronic Signatures in Global and National Commerce Act.

The provisions of this subchapter governing the legal effect, validity and enforceability of electronic records or electronic signatures and of contracts performed with the use of such records or signatures conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act (Public Law 106-229, 15 U.S.C. § 7002).

Cross References. Section 7321.31 is referred to in section 7321.5 of this title.

SUBCHAPTER B
COMMON LAW ARBITRATION

Sec.

7341. Common law arbitration.
7342. Procedure.

Cross References. Subchapter B is referred to in section 7302 of this title.

§ 7341. Common law arbitration.

The award of an arbitrator in a nonjudicial arbitration which is not subject to Subchapter A (relating to statutory arbitration), A.1 (relating to revised statutory arbitration) or a similar statute regulating nonjudicial arbitration

proceedings is binding and may not be vacated or modified unless it is clearly shown that a party was denied a hearing or that fraud, misconduct, corruption or other irregularity caused the rendition of an unjust, inequitable or unconscionable award. (Oct. 5, 1980, P.L.693, No.142, eff. 60 days; June 28, 2018, P.L.381, No.55, eff. July 1, 2019)

2018 Amendment. See section 1 of Act 55 of 2018 in the appendix to this title for special provisions relating to findings and declarations. Section 4(2) of Act 55 provided that the amendment of section 7341 shall not be construed to affect an action or proceeding commenced or right accrued before the effective date of section 4.

Cross References. Section 7341 is referred to in sections 7314, 7342 of this title.

§ 7342. Procedure.

(a) General rule.--The following provisions of Subchapter A.1 (relating to revised statutory arbitration) shall be applicable to arbitration conducted pursuant to this subchapter:

Section 7321.6 (relating to application for judicial relief).

Section 7321.7(a) (relating to validity of agreement to arbitrate).

Section 7321.8 (relating to motion to compel or stay arbitration).

Section 7321.12(a) (relating to appointment of arbitrator; service as a neutral arbitrator).

Section 7321.18 (relating to witnesses; subpoenas; depositions; discovery).

Section 7321.27 (relating to jurisdiction).

Section 7321.28 (relating to venue).

Section 7321.29 (relating to appeals), except section 7321.29(a)(4).

(b) Confirmation and judgment.--On application of a party made more than 30 days after an award is made by an arbitrator under section 7341 (relating to common law arbitration), the court shall enter an order confirming the award and shall enter a judgment or decree in conformity with the order. (Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; June 28, 2018, P.L.381, No.55, eff. July 1, 2019)

2018 Amendment. See section 1 of Act 55 of 2018 in the appendix to this title for special provisions relating to findings and declarations. Section 4(3) of Act 55 provided that the amendment of section 7342 shall not be construed to affect an action or proceeding commenced or right accrued before the effective date of section 4.

SUBCHAPTER C
JUDICIAL ARBITRATION

Sec.

7361. Compulsory arbitration.
7362. Voluntary arbitration of pending judicial matters.

Cross References. Subchapter C is referred to in section 8854 of Title 53 (Municipalities Generally).

§ 7361. Compulsory arbitration.

(a) General rule.--Except as provided in subsection (b), when prescribed by general rule or rule of court such civil matters or issues therein as shall be specified by rule shall

first be submitted to and heard by a board of three members of the bar of the court.

(b) Limitations.--No matter shall be referred under subsection (a):

(1) which involves title to real property; or

(2) where the amount in controversy, exclusive of interest and costs, exceeds $50,000.

(c) Procedure.--The arbitrators appointed pursuant to this section shall have such powers and shall proceed in such manner as shall be prescribed by general rules.

(d) Appeal for trial de novo.--Any party to a matter shall have the right to appeal for trial de novo in the court. The party who takes the appeal shall pay such amount or proportion of fees and costs and shall comply with such other procedures as shall be prescribed by general rules. In the absence of appeal the judgment entered on the award of the arbitrators shall be enforced as any other judgment of the court. For the purposes of this section and section 5571 (relating to appeals generally) an award of arbitrators constitutes an order of a tribunal.

(Apr. 6, 1980, P.L.100, No.38; Apr. 16, 1992, P.L.146, No.25, eff. 60 days; Nov. 30, 2004, P.L.1703, No.217, eff. imd.; May 11, 2006, P.L.166, No.41, eff. 60 days)

2006 Amendment. Act 41 amended subsec. (b).

1980 Amendment. Act 38 amended subsec. (d), effective immediately and retroactive to June 27, 1978, and amended the remainder of section 7361, effective in 60 days and applicable to actions filed on and after that date.

1984 Partial Repeal. Section 8 of the act of February 12, 1984, P.L.26, No.11, relating to motor vehicle financial responsibility, repealed section 7361(b)(2)(i) insofar as it is inconsistent with Act 11.

Cross References. Section 7361 is referred to in section 1794 of Title 75 (Vehicles).

§ 7362. Voluntary arbitration of pending judicial matters.

(a) General rule.--A civil matter or issue therein may be referred by consent of the parties to one or more appointive judicial officers or other persons for hearing or hearing and disposition.

(b) Government units.--Any government unit of this Commonwealth, with the consent of the solicitor or other official counsel of the unit, may agree to the reference of a civil matter pursuant to this section.

(c) Procedure.--The appointive judicial officers or other persons appointed or designated pursuant to this section shall have such powers and shall proceed in such manner as shall be prescribed by general rules.

(d) Appeal.--Any party to a matter referred under this section shall have such rights of appeal, if any, as shall be prescribed by general rules. Where no right to appeal is prescribed by general rule, all parties shall be deemed to have waived any right to appeal which they might otherwise enjoy under the Constitution of Pennsylvania or otherwise in mutual consideration of an expeditious final disposition of the matter, but no such waiver shall apply if it is clearly shown that a party was denied a hearing or that fraud, misconduct, corruption or other irregularity caused the rendition of an unjust, inequitable or unconscionable award.

COLLABORATIVE LAW PROCESS

Sec.
7401. Short title and scope of chapter.
7402. Definitions.
7403. Beginning the collaborative law process.
7404. Assessment and review.
7405. Collaborative law participation agreement.
7406. Concluding the collaborative law process.
7407. Disqualification of collaborative attorney.
7408. Disclosure of information.
7409. Confidentiality.
7410. Privilege.
7411. Professional responsibility.

Enactment. Chapter 74 was added June 28, 2018, P.L.381, No.55, effective in 60 days.

Applicability. See section 1 of Act 55 of 2018 in the appendix to this title for special provisions relating to findings and declarations.

§ 7401. Short title and scope of chapter.

(a) Short title.--This chapter shall be known and may be cited as the Collaborative Law Act.

(b) Scope.--This chapter shall apply to a collaborative law process between family members and arising from a participation agreement that meets the requirements of section 7405 (relating to collaborative law participation agreement).

§ 7402. Definitions.

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

"Collaborative communication." A statement or question that concerns the collaborative law process or a collaborative matter and that occurs after the parties sign a collaborative law participation agreement but before the collaborative law process is concluded. The term does not include a written settlement agreement that is signed by all parties to the agreement.

"Collaborative law process." A procedure to resolve a claim, transaction, dispute or issue without intervention by a tribunal, in which procedure all parties sign a collaborative law participation agreement, all parties are represented by counsel and counsel is disqualified from representing the parties in a proceeding before a tribunal.

"Collaborative matter." A dispute, transaction, claim or issue for resolution that is described in a participation agreement concerning any of the following:

(1) Marriage, divorce and annulment.
(2) Property distribution, usage and ownership.
(3) Child custody, visitation and parenting time.
(4) Parentage.
(5) Alimony, alimony pendente lite, spousal support and child support.
(6) Prenuptial, marital and postnuptial agreements.
(7) Adoption.
(8) Termination of parental rights.
(9) A matter arising under 20 Pa.C.S. (relating to decedents, estates and fiduciaries).
(10) A matter arising under 15 Pa.C.S. Pt. II (relating to corporations).

"Family members." All of the following:

(1) Spouses and former spouses.

(2) Parents and children, including individuals acting in loco parentis.

(3) Individuals currently or formerly cohabiting.

(4) Other individuals related by consanguinity or affinity.

"Nonparty participant." A person other than a party or a party's attorney that participates in the collaborative law process. The term may include, but is not limited to, support persons, mental health professionals, financial neutrals and potential parties.

"Party." A person that signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

"Person." An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

"Proceeding." A judicial, administrative, arbitral or other adjudicative process before a tribunal.

"Related matter." A matter involving the same parties, dispute, transaction, claim or issue as a collaborative matter.

"Tribunal." A court, arbitrator, administrative agency or other body acting in an adjudicative capacity that has jurisdiction to render a binding decision directly affecting a party's interests in a matter.

§ 7403. Beginning the collaborative law process.

(a) Voluntariness.--Participation in a collaborative law process is voluntary and may not be compelled by a tribunal. A party may terminate the collaborative law process at any time with or without cause.

(b) Commencement.--A collaborative law process shall begin when the parties sign a collaborative law participation agreement. Parties to a proceeding pending before a tribunal may enter into a collaborative law process to resolve a matter related to the proceeding.

Cross References. Section 7403 is referred to in section 7405 of this title.

§ 7404. Assessment and review.

(a) General assessment.--Before entering into a collaborative law participation agreement, a prospective party shall:

(1) Assess factors the prospective party's attorney reasonably believes relate to whether the collaborative law process is appropriate for the matter and for the parties, including a prospective party or nonparty participant's history, if any, of violent or threatening behavior.

(2) Review information that the attorney reasonably believes is sufficient for the prospective party to make an informed decision about the material benefits and risks of a collaborative law process, as compared with other alternatives.

(b) Threatening or violent behavior.--

(1) Before a prospective party signs a collaborative law participation agreement, an attorney shall inquire whether the prospective party has a history of threatening or violent behavior toward any party or nonparty participant who will be part of the collaborative law process.

(2) If an attorney learns or reasonably believes, before commencing or at any point in the collaborative law process, that a party or prospective party has engaged in or has a

history of threatening or violent behavior toward any other party or nonparty participant, the attorney may not begin or continue the collaborative law process unless the party or prospective party:

(i) Requests beginning or continuing the collaborative law process.

(ii) Indicates that the safety of all parties to the collaborative law process can be protected adequately during the collaborative law process.

(c) Private cause of action.--An attorney's failure to protect a party under this section shall not give rise to a private cause of action against the attorney.

§ 7405. Collaborative law participation agreement.

(a) Requirements.--A collaborative law participation agreement must:

(1) Be in writing.

(2) Be signed by the parties.

(3) State the parties' intention to resolve a collaborative matter through a collaborative law process.

(4) Describe the nature and scope of the collaborative matter.

(5) Identify the attorney who represents each party in the collaborative law process.

(6) Include a statement that the representation of each attorney is limited to the collaborative law process and that the attorneys are disqualified from representing any party or nonparty participant in a proceeding related to a collaborative matter, consistent with this chapter.

(b) Optional provisions.--Parties may include in a collaborative law participation agreement additional provisions not inconsistent with this chapter or other applicable law, including, but not limited to:

(1) An agreement concerning confidentiality of collaborative communications.

(2) An agreement that part or all of the collaborative law process will not be privileged in a proceeding.

(3) The scope of voluntary disclosure.

(4) The role of nonparty participants.

(5) The retention and role of nonparty experts.

(6) The manner and duration of a collaborative law process under sections 7403 (relating to beginning the collaborative law process) and 7406 (relating to concluding the collaborative law process).

(c) Nonconforming agreements.--This chapter shall apply to an agreement that does not meet the requirements of subsection (a) if:

(1) The agreement indicates an intent to enter into a collaborative law participation agreement.

(2) The agreement is signed by all parties.

(3) A tribunal determines that the parties intended to and reasonably believed that they were entering into a collaborative law agreement subject to the requirements of this chapter.

Cross References. Section 7405 is referred to in section 7401 of this title.

§ 7406. Concluding the collaborative law process.

(a) General rule.--A collaborative law process shall be concluded by:

(1) Resolution of the collaborative matter, as evidenced by a signed record.

(2) Resolution of a part of the collaborative matter and agreement by all parties that the remaining parts of the collaborative matter will not be resolved in the collaborative law process, as evidenced by a signed record.

(3) Termination under subsection (b).

(4) A method specified in the collaborative law participation agreement.

(b) Termination.--A collaborative law process shall be terminated when:

(1) A party gives written notice to all parties that the collaborative law process is terminated.

(2) A party begins or resumes a pending proceeding before a tribunal related to a collaborative matter without the agreement of all parties.

(3) Except as provided in subsection (c), a party discharges the party's attorney or the attorney withdraws from further representation of a party. An attorney who is discharged or withdraws shall give prompt written notice to all parties and nonparty participants.

(c) Continuation.--Notwithstanding the discharge or withdrawal of a collaborative attorney, a collaborative law process shall continue if, not later than 30 days after the date that the notice under subsection (b)(3) is sent, the unrepresented party engages a successor attorney and the participation agreement is amended to identify the successor attorney.

Cross References. Section 7406 is referred to in section 7405 of this title.

§ 7407. Disqualification of collaborative attorney.

(a) Rule.--

(1) Except as provided in subsection (b), an attorney who represents a party in a collaborative law process and any law firm or government agency with which the attorney is associated shall be disqualified from representing any party or nonparty participant in a proceeding related to the collaborative matter.

(2) Requesting the approval of a settlement agreement by a tribunal shall be considered part of the collaborative law process and not a related proceeding.

(b) Exception.--Disqualification under subsection (a) shall not operate to prevent a collaborative attorney from seeking or defending an emergency order to protect the health, safety or welfare of a party or a family member.

§ 7408. Disclosure of information.

During the collaborative law process, parties shall provide timely, full, candid and informal disclosure of information related to the collaborative matter without formal discovery, and shall update promptly previously disclosed information that has materially changed.

§ 7409. Confidentiality.

A collaborative law communication shall be confidential to the extent provided by the laws of this Commonwealth or as specified in the collaborative law participation agreement.

§ 7410. Privilege.

(a) General rule.--Except as otherwise provided in this section, a collaborative communication is privileged, may not be compelled through discovery and shall not be admissible as evidence in an action or proceeding. Evidence that is otherwise admissible and subject to discovery shall not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

(b) Waiver.--

(1) A party may waive a privilege belonging to the party only if all parties waive the privilege and, in the case of a communication by a nonparty participant, only if the nonparty participant and all parties waive the privilege.

(2) If a party discloses a privileged collaborative communication that prejudices another party, the disclosing party waives the right to assert a privilege under this section to the extent necessary for the party prejudiced to respond to the disclosure or representation.

(c) Nonapplicability.--Privilege under subsection (a) shall not apply to:

(1) A communication that is not subject to the privilege by agreement of the parties according to the terms of a participation agreement.

(2) A communication that is made during a session of a collaborative law process that is open, or required by law to be open, to the public.

(3) A communication sought, obtained or used to:

(i) threaten or plan to inflict bodily injury, commit or attempt to commit a crime; or

(ii) conceal ongoing criminal activity.

(d) Exceptions.--The following exceptions apply to the privilege under subsection (a):

(1) A communication sought or offered to prove or disprove facts relating to a claim or complaint of professional misconduct or malpractice or a fee dispute.

(2) A communication sought or offered to prove facts relating to the abuse, neglect, abandonment or exploitation of a child or abuse of an adult.

(3) A communication sought or offered in a criminal proceeding or in an action to enforce, void, set aside or modify a settlement agreement where a tribunal or court of competent jurisdiction finds that the evidence is not otherwise available and the need for the evidence substantially outweighs the interest in protecting the privilege.

(e) Limitation.--

(1) If a collaborative communication is subject to an exception under subsection (d), only the part of the collaborative communication necessary for the application of the exception may be disclosed or admitted.

(2) Disclosure or admission of evidence under subsection (d) does not make the evidence or any other collaborative communication discoverable or admissible for any other purpose.

(f) Construction.--This section shall not be construed to affect the scope of another applicable privilege under State law or rule of court.

§ 7411. Professional responsibility.

This chapter shall not affect the professional responsibility obligations and standards applicable to an attorney or other person professionally licensed or certified under State law.

CHAPTER 75
COMMENCEMENT OF ACTIONS

Subchapter

A. General Provisions
B. Interpleader Compacts
C. Declaratory Judgments

D. Reciprocal Tax Enforcement

Enactment. Chapter 75 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.
7501. Attachment of property prior to judgment.
7502. Affidavit of noninvolvement.

§ 7501. Attachment of property prior to judgment.

(a) General rule.--Except as otherwise provided in subsection (b) property may be attached prior to judgment in the manner and to the extent prescribed by general rule.

(b) Exemptions.--Any property exempt under Subchapter B of Chapter 81 (relating to exemptions from execution) from attachment or execution upon a judgment shall be exempt from attachment under this section.

(c) Effect of dissolution.--If an attachment is dissolved after sale of the property attached, such dissolution shall not have the effect of divesting any estate or interest acquired by virtue of such sale by a person not a party to the attachment.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 added section 7501.

§ 7502. Affidavit of noninvolvement.

(a) Dismissal by affidavit.--In any action for negligence, any construction design professional who is retained to perform professional services on a construction project may have the action against such construction design professional dismissed upon the filing of an affidavit of noninvolvement.

(b) Tolling statute.--The filing of such affidavit shall have the effect of tolling the statute of limitations as to the affiant with respect to the claim at issue.

(c) Reinstatement.--If the court determines that the statements made in any affidavit filed under subsection (a) are inaccurate, the court shall immediately reinstate the action against the affiant. In any action where the affiant is found by the court to have knowingly filed a false affidavit, such conduct shall constitute just cause for the court to instruct the jury that it may award exemplary damages in relation to such conduct.

(d) Discovery.--In any action reinstated pursuant to subsection (c), or in any case where the construction design professional is later joined as a defendant, all discovery taken in such action prior to the reinstatement or joinder may be used for any purpose permissible under any statute or rule of court as if the reinstated or joined defendant had participated fully in the action from the date of filing.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Affidavit of noninvolvement." A statement, in writing, setting forth with particularity facts which demonstrate that the construction design professional is misidentified or otherwise was not involved with regard to the cause of the injury or damage, individually or through its servants or employees, in the performance of professional services which

forms the subject matter of the action, signed by the party making it, and sworn to or affirmed before an officer authorized by the laws of this Commonwealth to take acknowledgments of deeds or to administer oaths.

"Construction design professional."

(1) Any person who is an architect, professional engineer, landscape architect or land surveyor licensed by the appropriate State board to practice such profession in this Commonwealth.

(2) Any corporation organized to render professional services through the practice of one or more of such professions in this Commonwealth.

(3) Any employee of such professional who is assisting or representing the professional in the performance of professional services on the site of the construction project.

(June 30, 1988, P.L.464, No.79, eff. imd.)

1988 Amendment. Act 79 added section 7502.

SUBCHAPTER B
INTERPLEADER COMPACTS

Sec.

7521. Short title of subchapter.
7522. Interpleader compact.
7523. Duties of the Department of State.
7524. Duties of the Governor.

§ 7521. Short title of subchapter.

This subchapter shall be known and may be cited as the "Interpleader Compact Law."

§ 7522. Interpleader compact.

The following interpleader compact is hereby approved, ratified, adopted and entered into by this Commonwealth as a party to take effect between this Commonwealth and any other state of the United States of America when entered into in accordance with the terms of the compact by the other state and not disapproved by the Governor under paragraph (c) of Article 7 of the compact:

The Interpleader Compact

The contracting states solemnly agree:

Article 1. Purpose.--The aims of this compact are to promote comity and judicial cooperation among the states party thereto; and to relieve from undue risk and uncertainty, a person who may be subject to double or multiple liability because of the existence of adverse claimants, one or more of whom in the absence of this compact may not be subject to the jurisdiction of the adjudicating court, when such person makes all reasonable efforts to secure judicial determination and discharge of his liability.

Article 2. Definitions.--For the purpose of this compact the following definitions shall apply:

(a) A state shall mean (1) a state of the United States or any territory or possession of the United States and the District of Columbia acting under Article 1, section 10, clause 3, of the Constitution of the United States in entering this compact with an American or a foreign jurisdiction, or (2) a

state of the community of nations and any component governmental unit of such a state which under the laws thereof may validly become party to this compact.

(b) A person shall include any entity capable of suing or being sued in the state in which the interpleader is pending.

(c) Interpleader shall mean a judicial procedure by which two or more persons who have adverse claims against a third person may be required to litigate these claims in one proceeding.

Article 3. Service of process.--(a) Service of process sufficient to acquire personal jurisdiction may be made within a state party to this compact, by a person who institutes an interpleader proceeding or interpleader part of a proceeding in another state, party to this compact, provided that such service shall fulfill the requirements for service of process of the state in which the service is made and provided further that such service shall meet the minimum standards for service of the jurisdiction where the proceeding is pending.

(b) No such service of process shall be valid unless either: (1) The subject matter of the proceeding is specific real property or tangible personal property situated within the state in which the proceeding is pending; or (2) One or more of the claimants shall be either a permanent resident or domiciliary of the state in which the proceeding is pending; or (3) A significant portion of the transaction out of which the proceeding shall have arisen shall have taken place in the state in which the proceeding is pending; or (4) One of the claimants shall have initiated the action.

Article 4. Scope of interpleader unaffected.--Nothing in this compact shall be construed to change any requirement or limitation on the scope of interpleader of the state in which the interpleader proceeding is pending except in relation to acquisition of personal jurisdiction.

Article 5. Finality of judgment.--No judgment obtained against any person in any proceeding to which he had become a party by reason of service of process effected pursuant to the provisions of this compact shall be subject to attack on the ground that the adjudicating court did not have personal jurisdiction over such person.

Article 6. Enactment.--(a) This compact shall enter into force and effect as to a state one year from the date it has taken whatever action may be necessary pursuant to its required processes to make this compact part of the laws of such state and the appropriate authority of such state shall have deposited a duly authenticated copy of its statute, proclamation, order, or similar official pronouncement having the force of law and embodying this compact as law with the appropriate officer or agency of each of the states party thereto. In the statute, proclamation, order, or similar act by which a state adopts this compact, it shall specify the officer or agency with whom the documents referred to in this article shall be deposited.

(b) Unless the statute, proclamation, order, or similar act by which a state adopts this compact shall specify otherwise, and name the states with which the state intends to compact, such adoption shall apply to all other states then party to or who may subsequently become party to this compact. In the event that a state shall enter this compact with some states but not with others, the deposit of documents required by paragraph (a)

of this article shall be effected only with those states to which the adopting state specifies an intention to be bound.

Article 7. Withdrawal.--(a) This compact shall continue in force and remain binding on a party state until such state shall withdraw therefrom. To be valid and effective, any withdrawal must be preceded by a formal notice in writing of one year from the appropriate authority of that state. Such notice shall be communicated to the same officer or agency in each party state with which the notice of adoption was deposited pursuant to Article 6 of this compact. In the event that a state wishes to withdraw with respect to one or more states, but wishes to remain a party to this compact with other states party thereto, its notice of withdrawal shall be communicated only to those states with respect to which withdrawal is contemplated.

(b) Withdrawal shall not be effective as to service of process accomplished pursuant to this compact prior to the actual date of withdrawal.

(c) Any state receiving a notice of adoption from another state may by action of its executive head within a year from the receipt of such notice in the manner provided for withdrawal in paragraph (a) of this article specify its intention not to be bound to the state depositing such notice and such adoption thereupon shall not be binding upon the state so acting.

Article 8. Severability and construction.--The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state, or in the case of a component governmental unit, to the constitution of the state of which it is a part, or the applicability thereof to any government, agency, person, or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby; provided that if this compact shall be held invalid or contrary to the constitution of any government participating therein the compact shall remain in full force and effect as to the remaining governments and in full force and effect as to the government affected as to all severable matters. It is the intent that the provisions of this compact shall be reasonably and liberally construed.

§ 7523. Duties of the Department of State.

The Department of State is hereby designated as the agency to receive all documents deposited pursuant to Articles 6 and 7 of the interpleader compact. The Department of State is also directed to act as the repository for all such documents and to keep and make available upon request a complete list of the states with which this Commonwealth is party to the interpleader compact together with such other information as may be in its possession concerning the status of such compact in respect to enactment and withdrawals therefrom. A current list of the states with which this Commonwealth is a party to the interpleader compact shall be published by the department in the Pennsylvania Code.

§ 7524. Duties of the Governor.

As used in paragraph (c) of Article 7 of the interpleader compact the phrase "executive head" shall mean the Governor of this Commonwealth. In the event that the Governor takes any action pursuant to paragraph (c) of Article 7 of the interpleader compact he shall promptly notify the Department

of State and shall deposit with it copies of all official communications and documents relating to the action.

SUBCHAPTER C
DECLARATORY JUDGMENTS

Sec.

7531. Short title of subchapter.
7532. General scope of declaratory remedy.
7533. Construction of documents.
7534. Before breach of contract.
7535. Rights of fiduciaries and other persons.
7536. Enumeration not exclusive.
7537. Remedy discretionary.
7538. Applications for relief.
7539. Issues of fact.
7540. Parties.
7541. Construction of subchapter.

§ 7531. Short title of subchapter.

This subchapter shall be known and may be cited as the "Declaratory Judgments Act."

§ 7532. General scope of declaratory remedy.

Courts of record, within their respective jurisdictions, shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect, and such declarations shall have the force and effect of a final judgment or decree.

Cross References. Section 7532 is referred to in section 7536 of this title.

§ 7533. Construction of documents.

Any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise, and obtain a declaration of rights, status, or other legal relations thereunder.

Cross References. Section 7533 is referred to in section 7536 of this title.

§ 7534. Before breach of contract.

A contract may be construed either before or after there has been a breach thereof.

Cross References. Section 7534 is referred to in section 7536 of this title.

§ 7535. Rights of fiduciaries and other persons.

Any person interested, as or through an executor, administrator, trustee, guardian, or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic, or insolvent, may have a declaration of rights or legal relations in respect thereto:

(1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others.

(2) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity.

(3) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

Cross References. Section 7535 is referred to in section 7536 of this title.

§ 7536. Enumeration not exclusive.

The enumeration in section 7533 (relating to construction of documents) through 7535 (relating to rights of fiduciaries and other persons) does not limit or restrict the exercise of the general powers, conferred in section 7532 (relating to general scope of declaratory remedy), in any proceeding, where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

§ 7537. Remedy discretionary.

The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding, but as provided in section 7541(b) (relating to effect of alternative remedy), the existence of an alternative remedy shall not be a ground for the refusal to proceed under this subchapter.

§ 7538. Applications for relief.

(a) General rule.--Judicial relief based on a declaratory judgment or decree may be granted whenever necessary or proper, subject to Chapter 55 (relating to limitation of time). If an application for supplemental relief is deemed sufficient the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by a previously entered declaratory judgment or decree to show cause why further relief should not be granted.

(b) Form of application.--An application for relief or supplemental relief under this subchapter shall be in the form prescribed by general rules.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

§ 7539. Issues of fact.

(a) General rule.--Relief may be granted under this subchapter notwithstanding the fact that the purpose or effect of the proceeding, in whole or in part, is to resolve or determine a question of fact.

(b) Jury trial.--When a proceeding under this subchapter involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.

§ 7540. Parties.

(a) General rule.--When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party and shall be entitled to be heard.

(b) Tax matters.--In any proceeding which involves the effect of any asserted legal relation, status, right, or privilege upon the determination of any tax, the appropriate taxing authority shall be served with a copy of the proceeding, but if such taxing authority does not enter its appearance, the requirements of this section shall nevertheless be satisfied

if the court considers that the interests of the taxing authority are adequately represented.

Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 2248, adopted June 3, 1994, provided that section 7540 shall not be deemed suspended or affected by Rules 2226 through 2232 relating to joinder of parties.

§ 7541. Construction of subchapter.

(a) General rule.--This subchapter is declared to be remedial. Its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations, and is to be liberally construed and administered.

(b) Effect of alternative remedy.--The General Assembly finds and determines that the principle rendering declaratory relief unavailable in circumstances where an action at law or in equity or a special statutory remedy is available has unreasonably limited the availability of declaratory relief and such principle is hereby abolished. The availability of declaratory relief shall not be limited by the provisions of 1 Pa.C.S. § 1504 (relating to statutory remedy preferred over common law) and the remedy provided by this subchapter shall be additional and cumulative to all other available remedies except as provided in subsection (c). Where another remedy is available the election of the declaratory judgment remedy rather than another available remedy shall not affect the substantive rights of the parties, and the court may pursuant to general rules change venue, require additional pleadings, fix the order of discovery and proof, and take such other action as may be required in the interest of justice.

(c) Exceptions.--Relief shall not be available under this subchapter with respect to any:

(1) Action wherein a divorce or annulment of marriage is sought except as provided by 23 Pa.C.S. § 3306 (relating to proceedings to determine marital status).

(2) Proceeding within the exclusive jurisdiction of a tribunal other than a court.

(3) Proceeding involving an appeal from an order of a tribunal.

(Dec. 19, 1990, P.L.1240, No.206, eff. 90 days)

1990 Amendment. Act 206 amended subsec. (c).

Cross References. Section 7541 is referred to in section 7537 of this title.

SUBCHAPTER D
RECIPROCAL TAX ENFORCEMENT

Sec.

7551. Enforcement of taxes imposed by other states.

§ 7551. Enforcement of taxes imposed by other states.

(a) General rule.--The courts of this Commonwealth shall recognize and enforce liabilities for taxes lawfully imposed by any other state or any political subdivision thereof, which extends a like comity to this Commonwealth and any political subdivision thereof, and the duly authorized officer of any such state or a political subdivision thereof may sue for the collection of such a tax in the courts of this Commonwealth. A certificate by the Secretary of State of such other state that an officer suing for collection of such a tax is duly authorized to collect the same shall be conclusive proof of such authority.

(b) Interest and penalties.--For the purposes of this section the words "tax" and "taxes" shall include interest and penalties due under any state taxing statute or local ordinance or resolution. Liability for such interest or penalties, or both, shall be recognized and enforced by the courts of this Commonwealth to the same extent that the laws of such other state permit the enforcement in its courts of liability due under a taxing statute of this Commonwealth or ordinance of any political subdivision thereof.

CHAPTER 77
TRIAL

Sec.
7701. Procedures, motions and other matters.
7702. Commencement and termination of trial.

Enactment. The heading of Chapter 77 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53, and the remaining provisions were added December 20, 1982, P.L.1409, No.326, effective in 60 days.

§ 7701. Procedures, motions and other matters.
All procedures, motions and other matters relating to the trial, by jury or otherwise, of any civil action or proceeding, trial de novo and returns on certiorari from the minor judiciary shall be conducted in the manner, at the times, on the terms and conditions and in the form prescribed by general rules.

§ 7702. Commencement and termination of trial.
The trial of a civil action or proceeding shall be deemed to commence and terminate at the times or on the occurrence of events prescribed by general rules.

CHAPTER 79
POST-TRIAL MATTERS

Sec.
7901. Procedures, motions and other matters.

Enactment. The heading of Chapter 79 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53, and the remaining provisions were added December 20, 1982, P.L.1409, No.326, effective in 60 days.

§ 7901. Procedures, motions and other matters.
All post-trial procedures, motions and other matters relating to any civil action or proceeding, trial de novo and returns on certiorari from the minor judiciary shall be conducted in the manner, at the times, on the terms and conditions and in the form prescribed by general rules.

CHAPTER 81
JUDGMENTS AND OTHER LIENS

Subchapter
A. General Provisions
B. Exemptions from Execution
C. Priority of Liens
D. Enforcement of Judgments

Enactment. Chapter 81 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Chapter Heading. The heading of Chapter 81 was amended April 28, 1978, P.L.202, No.53, effective in 60 days.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

8101. Interest on judgments.
8102. Contribution among joint judgment debtors.
8103. Deficiency judgments.
8104. Duty of judgment creditor to enter satisfaction.

§ 8101. Interest on judgments.

Except as otherwise provided by another statute, a judgment for a specific sum of money shall bear interest at the lawful rate from the date of the verdict or award, or from the date of the judgment, if the judgment is not entered upon a verdict or award.

§ 8102. Contribution among joint judgment debtors.

Whenever the property of several persons is subject to the lien of any judgment to the discharge of which such persons should by law or equity contribute, or to which one of such persons should have subrogation against another, the court may require the judgment creditor to levy upon and make sale of the property liable to execution for the payment of the judgment in the proportion or in the succession in which the properties of the several persons are in law or equity liable to contribute towards the discharge of the common incumbrance. The court may direct to what uses the judgment shall be assigned, and when assigned may direct all executions thereon, so as to subserve the rights and equities of all persons whose property is liable to execution.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

§ 8103. Deficiency judgments.

(a) General rule.--Whenever any real property is sold, directly or indirectly, to the judgment creditor in execution proceedings and the price for which such property has been sold is not sufficient to satisfy the amount of the judgment, interest and costs and the judgment creditor seeks to collect the balance due on said judgment, interest and costs, the judgment creditor shall petition the court to fix the fair market value of the real property sold. The petition shall be filed as a supplementary proceeding in the matter in which the judgment was entered. If the judgment was transferred from the county in which it was entered to the county where the execution sale was held, the judgment shall be deemed entered in the county in which the sale took place.

(b) Effect of failure to give notice.--Any debtor and any owner of the property affected thereby, who is neither named in the petition nor served with a copy thereof or notice of the filing thereof as prescribed by general rule, shall be deemed to be discharged from all personal liability to the judgment creditor on the debt, interest and costs, but any such failure to name such person in the petition or to serve the petition or notice of the filing thereof shall not prevent proceedings against any respondent named and served.

(c) Action on petition.--

(1) If no answer is filed within the time prescribed by general rule, or if an answer is filed which does not controvert the allegation of the fair market value of the property as averred in the petition, the court shall determine and fix as the fair market value of the property sold the amount thereof alleged in the petition to be the fair market value.

(2) If an answer is filed controverting the averment in the petition as to the fair market value of the property, but no testimony is produced at the hearing supporting such denial of the fair market value, the court shall determine and fix as the fair market value of the property sold the amount thereof alleged in the petition to be the fair market value.

(3) If an answer is filed alleging as the fair market value an amount in excess of the fair market value of the property as averred in the petition, the judgment creditor may agree to accept as the fair market value of the property the value set up in the answer and in such case may file a stipulation releasing the debtors and the owners of the property affected thereby, from personal liability to the judgment creditor to the extent of the fair market value as averred in the answer, less the amount of any prior liens, costs, taxes and municipal claims not discharged by the sale, and also less the amount of any such items paid at distribution on the sale.

(4) If an answer is filed and testimony produced setting forth that the fair market value of the property is more than the value stated in the petition, the court shall hear evidence of and determine and fix the fair market value of the property sold.

(5) After the hearing, if any, and the determination by the court under paragraph (1), (2) or (4) of the fair market value of the property sold, then, except as otherwise provided in subsection (f), the debtor shall be released and discharged of such liability to the judgment creditor to the extent of the fair market value of said property determined by the court, less the amount of all prior liens, costs, taxes and municipal claims not discharged by the sale, and also less the amount of any such items paid at the distribution on the sale, and shall also be released and discharged of such liability to the extent of any amount by which the sale price, less such prior liens, costs, taxes and municipal claims, exceeds the fair market value as agreed to by the judgment creditor or fixed and determined by the court as provided in this subsection, and thereupon the judgment creditor may proceed by appropriate proceedings to collect the balance of the debt.

(d) Action in absence of petition.--If the judgment creditor shall fail to present a petition to fix the fair market value of the real property sold within the time after the sale of such real property provided by section 5522 (relating to six months limitation), the debtor, obligor, guarantor or any other person liable directly or indirectly to the judgment creditor for the payment of the debt, or any person interested in any real estate which would, except for the provisions of this section, be bound by the judgment, may file a petition, as a supplementary proceeding in the matter in which the judgment was entered, in the court having jurisdiction, setting forth the fact of the sale, and that no petition has been filed within the time limited by section 5522 to fix the fair market value of the property sold, whereupon the court, after notice as

prescribed by general rule, and being satisfied of such facts, shall direct the clerk to mark the judgment satisfied, released and discharged.

(e) Waiver of benefit of section prohibited.--Any agreement made by any debtor at any time, either before or after or at the time of incurring any obligation, to waive the benefits of this section or to release any obligee from compliance with the provisions hereof shall be void.

(f) Certain special allocations.--Notwithstanding the provisions of subsection (c)(5), if the judgment creditor is a nonconsumer judgment creditor and:

(1) if the judgment has been entered with respect to a partial recourse obligation, the fair market value of the property determined as provided in subsection (c) will be applied first to discharge, as provided in subsection (c)(5), all liability for the nonrecourse portion of the obligation before any portion of such value is applied to discharge any liability for the recourse portion of the obligation; and

(2) if the judgment has been entered with respect to an obligation of which only a portion is guaranteed, the fair market value of the property determined as provided in subsection (c) will be applied first to discharge, as provided in subsection (c), all liability for the portion of the obligation which is not guaranteed before any portion of such value is applied to discharge any liability for the portion of such obligation which is guaranteed.

(f.1) Collateral located in more than one county.--

(1) If the real property collateral is located in more than one county in this Commonwealth, a judgment creditor may elect not to file a valuation petition in the court in each of such counties as provided under subsection (a) and shall not be subject to the penalties for failure to file the petition under subsection (d) if the judgment creditor is a nonconsumer judgment creditor and the provisions of paragraphs (2) and (3) are satisfied.

(2) The judgment creditor shall petition the deficiency court to determine and fix the fair market value of all of the real property collateral as provided under subsection (c)(1), (2), (3) and (4). The value shall be determined on a parcel-by-parcel basis, and the amount so fixed for each parcel comprising the real property collateral shall be the fair market value for the parcel for all purposes under this subsection unless redetermined as provided in paragraph (4).

(3) The determination of the fair market value of the real property collateral by the deficiency court as provided in paragraph (2) shall be made before an execution sale is held with respect to any of the real property collateral.

(4) (i) If the execution sale of a parcel of real property is concluded and the judgment creditor is the purchaser of the parcel at the sale, then either the judgment creditor or the debtor may file a petition with the deficiency court seeking a redetermination of the fair market value of the parcel provided the petition is filed within the six-month period established under section 5522(b)(6).

(ii) If the petition is filed in a timely manner, the deficiency court shall redetermine the fair market value of the parcel in the manner provided in subsection (c)(1), (2), (3) and (4). The redetermined value shall be the fair market value of the parcel for all purposes under this subsection.

(iii) The filing of the petition for the redetermination shall not limit or affect the judgment creditor's ability to execute on the real property collateral unless and until the value is redetermined by the court. However, where the debtor alleges in its petition that an appropriate redetermination of value by the court with respect to property that has already been sold to the judgment creditor at an execution sale would be sufficient to satisfy the judgment in full, the deficiency court may issue a stay of further execution proceedings pending the court's ruling on the petition for redetermination of value.

(5) In cases subject to this subsection, the debtor shall be released and discharged from liability for the payment of the debt in the manner provided in subsection (c)(5) to the extent of:

(i) the fair market value determined by the deficiency court of all real property collateral purchased by the judgment creditor in execution proceedings on the judgment less the deductible items described in subsection (c)(5); and

(ii) the amount distributed to the judgment creditor as a result of the sale of the real property collateral purchased in the proceedings by third parties.

(f.2) Foreign collateral.--

(1) No deficiency court shall have the power to fix the fair market value of real property located outside this Commonwealth and may not take into account the value of that property in considering whether or not a deficiency exists under this section.

(2) This section shall not apply to the sale of any real property located outside this Commonwealth.

(g) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Adjusted value." The assessed value of a parcel of real property collateral determined for real estate tax purposes times the applicable common level ratio factor published by the State Tax Equalization Board.

"Consumer credit transaction." A credit transaction in which the party to whom credit is offered or extended is a natural person and the money, property or services which are the subject of the transaction are primarily for personal, family or household purposes.

"Debtor." A debtor, obligor, guarantor, surety and any other person liable directly or indirectly to a judgment creditor for the payment of a debt.

"Deficiency court." With respect to cases covered by subsection (f.1), the court of common pleas located in the county where the highest adjusted value land is located.

"Highest adjusted value land." The real property collateral located in a county that has a higher aggregate adjusted value than real property collateral located in any other county.

"Judgment." The judgment which was enforced by the execution proceedings referred to in subsection (a), whether that judgment is a judgment in personam such as a judgment requiring the payment of money or a judgment de terris or in rem such as a judgment entered in an action of mortgage foreclosure or a judgment entered in an action or proceeding upon a mechanic's lien, a municipal claim, a tax lien or a charge on land.

"Judgment creditor." The holder of the judgment which was enforced by the execution proceedings.

"Nonconsumer judgment creditor." Any judgment creditor except a judgment creditor whose judgment was entered with respect to a consumer credit transaction.

"Nonrecourse portion of the obligation." The portion as to which the judgment creditor's recourse is limited to the mortgaged property or other specified assets of the debtor which are less than all of such assets.

"Partial recourse obligation." An obligation which includes both a nonrecourse portion and a recourse portion.

"Real property collateral." All of the real property subject to a lien securing the obligation evidenced by the judgment and located within this Commonwealth.

"Recourse portion of the obligation." All of the obligation except the nonrecourse portion thereof.

"Valuation petition." A petition to fix the fair market value of real property sold as required by subsection (a).
(Dec. 21, 1998, P.L.1082, No.144, eff. imd.; Nov. 24, 2004, P.L.1243, No.152, eff. 60 days; Mar. 14, 2014, P.L.46, No.20, eff. imd.)

2014 Amendment. Act 20 reenacted subsecs. (a), (b), (c)(3) and (5), (e), (f.1), (f.2) and (g), retroactive to January 24, 2005.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

Cross References. Section 8103 is referred to in section 5522 of this title.

§ 8104. Duty of judgment creditor to enter satisfaction.

(a) General rule.--A judgment creditor who has received satisfaction of any judgment in any tribunal of this Commonwealth shall, at the written request of the judgment debtor, or of anyone interested therein, and tender of the fee for entry of satisfaction, enter satisfaction in the office of the clerk of the court where such judgment is outstanding, which satisfaction shall forever discharge the judgment.

(b) Liquidated damages.--A judgment creditor who shall willfully or unreasonably fail without good cause or refuse for more than 90 days after written notice in the manner prescribed by general rules to comply with a request pursuant to subsection (a) shall pay to the judgment debtor as liquidated damages 1% of the original amount of the judgment for each month of delinquency beyond such 90 days, but not less than $250 nor more than $2,500. Such liquidated damages shall be recoverable pursuant to general rules, by supplementary proceedings in the matter in which the judgment was entered.
(June 25, 1997, P.L.321, No.32, eff. imd.)

1997 Amendment. Act 32 amended subsec. (b).

SUBCHAPTER B
EXEMPTIONS FROM EXECUTION

Sec.
8121. Scope of subchapter.
8122. Waiver of exemption.
8123. General monetary exemption.
8124. Exemption of particular property.
8125. Tangible personal property exhibited at international exhibitions.
8126. Common carriers not liable.

8127. Personal earnings exempt from process.
8128. Transfer of claim to avoid policy of Commonwealth.

Cross References. Subchapter B is referred to in section 7501 of this title; section 4361 of Title 23 (Domestic Relations).

§ 8121. Scope of subchapter.

(a) General rule.--Except as provided by subsection (b) the exemptions from execution specified in this subchapter are in addition to any other exemptions from execution granted by any other statute.

(b) Specific sum of money.--Except as otherwise expressly provided by statute, where the provisions of this subchapter and of any other statute granting exemption from execution in terms of a specific sum of money are simultaneously applicable to execution against a judgment debtor, such exemptions shall not be aggregated, but the judgment debtor shall be entitled to the benefit of the applicable statute granting exemption in terms of the largest specific sum of money.

§ 8122. Waiver of exemption.

Exemptions from attachment or execution granted by statute may not be waived by the debtor by express or implied contract before or after the commencement of the matter, the entry of judgment or otherwise.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

§ 8123. General monetary exemption.

(a) General rule.--In addition to any other property specifically exempted by this subchapter, property of the judgment debtor (including bank notes, money, securities, real property, judgments or other indebtedness due the judgment debtor) to the value of $300 shall be exempt from attachment or execution on a judgment. Within such time as may be prescribed by general rules the judgment debtor may claim the exemption in kind and may designate the specific items of property to which the exemption provided by this section shall be applicable unless the designated property is not capable of appropriate division, or the judgment debtor may claim the exemption in cash out of the proceeds of the sale.

(b) Exception.--Subsection (a) shall not apply to any judgment:

(1) For support.

(2) Debtor who is not an individual.

(3) Obtained for board for four weeks or less.

(4) For $100 or less obtained for wages for manual labor.

(5) Obtained in foreclosing a mortgage secured upon real property whether the judgment is by an action in mortgage foreclosure or an action on a note, bond or other evidence of indebtedness accompanying a mortgage. The exception to the general monetary exemption provided for in this paragraph shall be limited to the real property secured by the mortgage. The exception shall not apply to any deficiency judgment.

(c) Executions issued by minor judiciary.--As to executions issued by the minor judiciary the amount of the exemption specified in subsection (a) shall be reduced by the value of any real or personal property of the judgment debtor which is generally subject to attachment or execution but which by law is not subject to attachments or executions issued by the minor judiciary.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; June 8, 1979, P.L.42, No.14, eff. imd.; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

1982 Amendment. Act 326 amended subsecs. (a) and (c).

1979 Amendment. Act 14 amended subsecs. (a) and (b). Section 2 of Act 14 provided that Act 14 shall be retroactive to June 27, 1978, and further provided that all amounts heretofore collected by officers enforcing orders under 42 Pa.C.S. § 8123 as purported monetary exemptions in mortgage foreclosure actions shall be refunded forthwith to the party entitled thereto.

Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 3159(b)(9), adopted April 20, 1998, provided that section 8123(b)(3) and (4) shall not be deemed suspended or affected by Rules 3101 through 3149 relating to enforcement of money judgments for the payment of money.

Cross References. Section 8123 is referred to in sections 3315, 4315, 5315 of Title 68 (Real and Personal Property).

§ 8124. Exemption of particular property.

(a) Goods.--The following personal property of the judgment debtor shall be exempt from attachment or execution on a judgment:

(1) Wearing apparel.

(2) Bibles and school books.

(3) Sewing machines belonging to seamstresses or used and owned by private families, but not including sewing machines kept for sale or hire.

(4) Uniforms and accoutrements as provided by 51 Pa.C.S. § 4103 (relating to exemption of uniforms and equipment).

(b) Retirement funds and accounts.--

(1) Except as provided in paragraph (2), the following money or other property of the judgment debtor shall be exempt from attachment or execution on a judgment:

(i) Certain amounts payable under the Public School Employees' Retirement Code as provided by 24 Pa.C.S. § 8533 (relating to taxation, attachment and assignment of funds).

(ii) Certain amounts payable under the State Employees' Retirement Code as provided by 71 Pa.C.S. § 5953 (relating to taxation, attachment and assignment of funds).

(iii) The retirement allowance provided for in the act of May 24, 1893 (P.L.129, No.82).

(iv) Compensation or pension provided for in the act of May 20, 1915 (P.L.566, No.242).

(v) Compensation or pension provided for in the act of May 28, 1915 (P.L.596, No.259).

(vi) The retirement allowance, contributions and returned contributions under the act of February 1, 1974 (P.L.34, No.15), known as the "Pennsylvania Municipal Retirement Law."

(vii) Any pension or annuity, whether by way of a gratuity or otherwise, granted or paid by any private corporation or employer to a retired employee under a plan or contract which provides that the pension or annuity shall not be assignable.

(viii) Any retirement or annuity fund of any self-employed person (to the extent of payments thereto made while solvent, but not exceeding the amount actually excluded or deducted as retirement funding for Federal income tax purposes) and the appreciation thereon, the

income therefrom and the benefits or annuity payable thereunder.

(ix) Any retirement or annuity fund provided for under section 401(a), 403(a) and (b), 408, 408A, 409 or 530 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a), 403(a) and (b), 408, 408A, 409 or 530), the appreciation thereon, the income therefrom, the benefits or annuity payable thereunder and transfers and rollovers between such funds. This subparagraph shall not apply to:

(A) Amounts contributed by the debtor to the retirement or annuity fund within one year before the debtor filed for bankruptcy. This shall not include amounts directly rolled over from other funds which are exempt from attachment under this subparagraph.

(B) Amounts contributed by the debtor to the retirement or annuity fund in excess of $15,000 within a one-year period. This shall not include amounts directly rolled over from other funds which are exempt from attachment under this subparagraph.

(C) Amounts deemed to be fraudulent conveyances.

(2) The exemptions provided by paragraph (1)(i) through (vi) shall be subject to any inconsistent provision of the act of July 8, 1978 (P.L.752, No.140), known as the "Public Employee Pension Forfeiture Act."

(c) Insurance proceeds.--The following property or other rights of the judgment debtor shall be exempt from attachment or execution on a judgment:

(1) Certain amounts paid, provided or rendered by a fraternal benefit society as provided by 40 Pa.C.S. § 6531 (relating to benefits not attachable).

(2) Claims and compensation payments under the act of June 2, 1915 (P.L.736, No.338), known as "The Pennsylvania Workmen's Compensation Law," except as otherwise provided in the act.

(3) Any policy or contract of insurance or annuity issued to a solvent insured who is the beneficiary thereof, except any part thereof exceeding an income or return of $100 per month.

(4) Any amount of proceeds retained by the insurer at maturity or otherwise under the terms of an annuity or policy of life insurance if the policy or a supplemental agreement provides that such proceeds and the income therefrom shall not be assignable.

(5) Any policy of group insurance or the proceeds thereof.

(6) The net amount payable under any annuity contract or policy of life insurance made for the benefit of or assigned to the spouse, children or dependent relative of the insured, whether or not the right to change the named beneficiary is reserved by or permitted to the insured. The preceding sentence shall not be applicable to the extent the judgment debtor is such spouse, child or other relative.

(7) The net amount payable under any accident or disability insurance.

(8) Certain amounts paid, provided or rendered by a fraternal benefit society as provided by section 305 of the act of July 29, 1977 (P.L.105, No.38), known as the "Fraternal Benefit Society Code."

(9) Certain amounts paid, provided or rendered under the provisions of section 106(f) of the act of July 19, 1974

(P.L.489, No.176), known as the "Pennsylvania No-fault Motor Vehicle Insurance Act."

(10) Certain amounts paid, provided or rendered under the provisions of section 703 of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the "Unemployment Compensation Law."

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Oct. 12, 1990, P.L.531, No.128, eff. 60 days; Feb. 18, 1998, P.L.170, No.26, eff. imd.; Dec. 20, 2000, P.L.742, No.105, eff. 60 days)

2000 Amendment. Act 105 amended subsec. (b)(1)(ix).

1982 Amendment. Act 326 added subsec. (c)(9) and (10).

1980 Amendment. Act 142 reenacted and amended subsec. (b), retroactive to the effective date of the act of July 8, 1978, P.L.752, No.140, known as the Public Employee Pension Forfeiture Act, and added subsec. (c)(8). Section 210(d) of Act 142 provided that, notwithstanding 1 Pa.C.S. § 1957 (relating to ineffective provisions not revived by reenactment in amendatory statutes), it is hereby declared to be the intent of (the amendment affecting subsec. (b)) to restore such provisions to their status prior to the partial repeal effected by section 5 of the Public Employee Pension Forfeiture Act except as otherwise expressly provided by such provisions as reenacted and amended hereby.

1984 Partial Repeal. Section 8 of the act of February 12, 1984, P.L.26, No.11, relating to motor vehicle financial responsibility, repealed section 8124(c)(9) insofar as it is inconsistent with Act 11.

References in Text. The act of July 19, 1974, P.L.489, No.176, known as the Pennsylvania No-fault Motor Vehicle Insurance Act, referred to in subsec. (c)(9), was repealed by the act of February 12, 1984, P.L.26, No.11. The subject matter is now contained in Chapter 17 of Title 75 (Vehicles).

Section 305 of the act of July 29, 1977, P.L.105, No.38, known as the Fraternal Benefit Society Code, referred to in subsec. (c)(8), was repealed by the act of Dec. 14, 1992, P.L.835, No.134, known as the Fraternal Benefit Societies Code, which was repealed by the act of July 10, 2002, P.L.749, No.110. The subject matter is now contained in section 2433 of the act of May 17, 1921, P.L.682, No.284, known as The Insurance Company Law of 1921.

Section 6531 of Title 40 (Insurance), referred to in subsec. (c)(1), was repealed by the act of Dec. 14, 1992, P.L.835, No.134, known as the Fraternal Benefit Societies Code, which was repealed by the act of July 10, 2002, P.L.749, No.110. The subject matter is now contained in section 2433 of the act of May 17, 1921, P.L.682, No.284, known as The Insurance Company Law of 1921.

The short title of the act of June 2, 1915, P.L.736, No.338, known as The Pennsylvania Workmen's Compensation Law, referred to in subsec. (c)(2), was amended by the act of July 2, 1993, P.L.190, No.44. The amended short title is now the Workers' Compensation Act.

§ 8125. Tangible personal property exhibited at international exhibitions.

Tangible personal property on exhibition or deposited by exhibitors at any international exhibition held under the auspices of the Federal Government shall be exempt from distress, attachment, levy, sale or any other seizure for any

cause whatsoever in the hands of the authorities of such exhibition or otherwise.

§ 8126. Common carriers not liable.

No common carrier or other person engaged in the business of forwarding or transporting tangible personal property shall be liable in attachment as garnishee or otherwise when such tangible personal property is in transit and at the time of service of process is beyond the limits of this Commonwealth without default, collusion or fraud on the part of such person.

§ 8127. Personal earnings exempt from process.

(a) General rule and exceptions.--The wages, salaries and commissions of individuals shall while in the hands of the employer be exempt from any attachment, execution or other process except upon an action or proceeding:

(1) Under 23 Pa.C.S. Pt. IV (relating to divorce).

(2) For support.

(3) For board for four weeks or less.

(3.1) For amounts awarded to a judgment creditor-landlord arising out of a residential lease upon which the court has rendered judgment which is final. However, the amount subject to attachment shall have deducted from it any security deposit held by the judgment creditor-landlord and forfeited by the judgment debtor-tenant under section 511.1 of the act of April 6, 1951 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951, unless the security deposit has been applied to payment of rent due on the same premises for which the judgment for attachment has been entered. The judgment creditor-landlord shall have the burden of proving that such security deposit has been applied to payment of rent due on the premises herein described. The sum attached shall be no more than 10% of the net wages per pay period of the judgment debtor-tenant or a sum not to place the debtor's net income below the poverty income guidelines as provided annually by the Federal Office of Management and Budget, whichever is less. For the purposes of this paragraph, "net wages" shall mean all wages paid less only the following items:

(i) Federal, State and local income taxes.

(ii) F.I.C.A. payments and nonvoluntary retirement payments.

(iii) Union dues.

(iv) Health insurance premiums.

(3.2) In the case of wage attachment arising out of a residential lease, to implement the wage attachment, the judgment creditor-landlord shall comply with the Pennsylvania Rules of Civil Procedure and any applicable local rules. The judgment of the magisterial district judge, magistrate or any other court having jurisdiction over landlord and tenant matters or a judgment before the court of common pleas shall reflect that portion of the judgment which is for physical damages arising out of a residential lease.

(4) Under the act of August 7, 1963 (P.L.549, No.290), referred to as the Pennsylvania Higher Education Assistance Agency Act.

(5) For restitution to crime victims, costs, fines or bail judgments pursuant to an order entered by a court in a criminal proceeding.

(b) Priority.--An order of attachment for support shall have first priority and an order described in subsection (a)(5) shall have second priority over any other attachment, execution, garnishment or wage assignment.

(c) Duty of employer.--

(1) For any wage attachment arising out of a residential lease, the employer shall send the attached wages to the prothonotary of the court of common pleas within 15 days from the close of the last pay period in each month. The employer shall be entitled to deduct from the moneys collected from each employee the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding $5 of the amount of money so collected. If an employer is served with more than one attachment arising out of a residential lease against the same judgment debtor, then the attachments shall be satisfied in the order in which they were served. Each prior attachment shall be satisfied before any effect is given to a subsequent attachment, subject to subsection (a)(3.2). Upon receipt of the wages, the prothonotary of the court of common pleas shall record and send said wages to the judgment creditor-landlord.

(2) For any wage attachment not arising out of a residential lease, the employer shall send the attached withheld wages to the prothonotary of the court of common pleas to be recorded, and upon receipt, the wages shall be sent to the creditor.

(d) Duty of judgment creditor-landlord.--

(1) Any judgment creditor-landlord who has received satisfaction of any judgment pursuant to this section shall enter satisfaction in the office of the clerk of the court where such judgment is outstanding, which satisfaction shall forever discharge the judgment.

(2) A judgment creditor-landlord who shall fail or refuse for more than 30 days after receiving satisfaction to comply with paragraph (1) shall pay to the judgment debtor-tenant as liquidated damages 1% of the original amount of the judgment for each day of delinquency beyond such 30 days but not more than 50% of the original amount of the judgment. Such liquidated damages shall be recoverable pursuant to general rules, by supplementary proceedings in the matter in which the judgment was entered.

(e) Prohibition against discharge.--The employer shall not take any adverse action against any individual solely because his wages, salaries or commissions have been attached.

(f) Victim of abuse.--This section shall not apply and no wage attachment shall be issued against an abused person or victim, as defined in 23 Pa.C.S. § 6102 (relating to definitions), for physical damages related to residential leases when said person has obtained a civil protection order pursuant to 23 Pa.C.S. § 6101 et seq. (relating to protection from abuse), or has obtained a protective order pursuant to 18 Pa.C.S. § 4954 (relating to protective orders), or is a victim-witness as defined by 18 Pa.C.S. § 4951 (relating to definitions), in a criminal proceeding against a family or household member, as defined in 23 Pa.C.S. § 6102, and it is determined by the court that the physical damages were caused by the family or household member.

(g) Application of section.--This section shall apply to all judgments which remain unsatisfied or arise on or after the effective date of this subsection.

(h) Definition.--For purposes of this section, "physical damages" shall mean the abuse of the physical makeup of the leasehold premises. The term shall include, but not be limited to, the abuse of walls, floors, ceilings or any other physical makeup of the leasehold premises.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Dec. 19, 1990, P.L.1240, No.206,

eff. 90 days; Feb. 15, 1996, P.L.13, No.5, eff. imd.; June 18, 1998, P.L.640, No.84, eff. 120 days; Dec. 9, 2002, P.L.1705, No.215, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 amended subsec. (b).

2004 Amendment. Act 207 amended subsec. (a)(3.2). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

2002 Amendment. Act 215 amended subsecs. (a)(3.1) and (3.2), (c), (f) and (h).

1998 Amendment. Act 84 amended subsec. (a).

Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 3159(b)(10), adopted April 20, 1998, provided that section 8127(b) shall not be deemed suspended or affected by Rules 3101 through 3149 relating to enforcement of money judgments for the payment of money.

§ 8128. Transfer of claim to avoid policy of Commonwealth.

(a) General rule.--It shall be unlawful for any creditor or obligee to commence an action on or to transfer any claim against a resident of this Commonwealth for the purpose of having such claim collected by proceedings in a forum which accords such resident less favorable exemptions from attachment or execution than are accorded by this Commonwealth, or for the purpose of depriving such resident of the right to have his personal earnings while in the hands of his employer exempt from application to the payment of his debts.

(b) Remedy.--In addition to remedy by injunction or otherwise, a resident of this Commonwealth who is aggrieved by any action by a creditor or obligee in violation of subsection (a) shall have a right of action against the creditor or obligee for treble the amount recovered from such resident in violation of this section and reasonable counsel fees. The transfer of any claim against the resident and the commencement of any action thereon outside this Commonwealth shall be prima facie evidence of a purpose to violate the provisions of subsection (a).

(c) Application to Title 15.--The provisions of this section shall also apply to the limitations set forth in 15 Pa.C.S. § 1929.1 (relating to limitations on asbestos-related liabilities relating to certain mergers or consolidations).

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; Dec. 17, 2001, P.L.904, No.101, eff. imd.)

SUBCHAPTER C
PRIORITY OF LIENS

Sec.

8141. Time from which liens have priority.
8142. Endorsement of time.
8143. Open-end mortgages.
8144. Mortgages to secure certain advances.

Enactment. Subchapter C was added April 28, 1978, P.L.202, No.53, effective in 60 days.

§ 8141. Time from which liens have priority.

Liens against real property shall have priority over each other on the following basis:

(1) Purchase money mortgages, from the time they are delivered to the mortgagee, if they are recorded within ten days after their date; otherwise, from the time they are

left for record. A mortgage is a "purchase money mortgage" to the extent that it is:

(i) taken by the seller of the mortgaged property to secure the payment of all or part of the purchase price; or

(ii) taken by a mortgagee other than the seller to secure the repayment of money actually advanced by such person to or on behalf of the mortgagor at the time the mortgagor acquires title to the property and used by the mortgagor at that time to pay all or part of the purchase price, except that a mortgage other than to the seller of the property shall not be a purchase money mortgage within the meaning of this section unless expressly stated so to be.

(2) Other mortgages and defeasible deeds in the nature of mortgages, from the time they are left for record.

(3) Verdicts for a specific sum of money, from the time they are recorded by the court.

(4) Adverse judgments and other orders, from the time they are rendered.

(5) Amicable judgments, from the time the instruments on which they are entered are left for entry.

(6) Writs which when issued and indexed by the office of the clerk of the court of common pleas create liens against real property, from the time they are issued.

(7) Other instruments which when entered or filed and indexed in the office of the clerk of the court of common pleas create liens against real property, from the time they are left for entry or filing.

Cross References. Section 8141 is referred to in section 8143 of this title.

§ 8142. Endorsement of time.

(a) Recorder of deeds.--The recorder of deeds shall endorse upon each mortgage and defeasible deed and on the record thereof, the time when each is left for record.

(b) Recorded verdicts, etc.--The person who records a verdict or a judgment or other order rendered in open court shall endorse on the record thereof the time it was recorded.

(c) Orders signed by a judge.--The judge who signs a judgment or other order shall endorse thereon the time he signed it.

(d) Writs and amicable judgments.--The office of the clerk of the court of common pleas shall endorse upon:

(1) Each instrument on which an amicable judgment is entered or which otherwise creates a lien against real property, the time it was left for entry or filing.

(2) Each writ creating a lien against real property, the time it was issued.

(e) Docket entries.--The office of the clerk of the court of common pleas shall note on the dockets in such office where each verdict, judgment, order, instrument or writ creating a lien against real property is entered, the time it was recorded, rendered, left for filing, or issued.

§ 8143. Open-end mortgages.

(a) General rule.--Whether or not it secures any other debt or obligation, an open-end mortgage, other than a purchase money mortgage as defined in section 8141 (relating to time from which liens have priority), may secure unpaid balances of advances made after such open-end mortgage is left for record. The validity and enforceability of the lien of an open-end mortgage shall not be affected by the fact that the first advance is

made after the date of recording of the mortgage or that there may be no outstanding indebtedness for a period of time after an advance or advances may have been made and repaid.

(b) Unobligated advance after notice.--An open-end mortgage securing unpaid balances of advances referred to in subsection (a) is a lien on the premises described therein from the time the mortgage is left for record for the full amount of the total unpaid indebtedness, including the unpaid balances of the advances that are made under the mortgage plus interest thereon, regardless of the time when the advances are made. However, if an advance is made after the holder of the mortgage receives written notice which complies with subsection (d) of a lien or encumbrance on the mortgaged premises which is subordinate to the lien of the mortgage and if the holder is not obligated to make the advance at the time the notice is received, then the lien of the mortgage for the unpaid balance of the advance so made is subordinate to the lien or encumbrance unless the advance so made is in order to pay toward, or to provide funds to the mortgagor to pay toward, all or part of the cost of completing any erection, construction, alteration or repair of any part of the mortgaged premises, the financing of which, in whole or in part, the mortgage was given to secure. If an advance is made after the holder of an open-end mortgage receives written notice of labor performed or to be performed or materials furnished or to be furnished for the erection, construction, alteration or repair of any part of the mortgaged premises and if the holder is not obligated to make the advance at the time the notice is received, then the lien of the mortgage for the unpaid balance of the advance so made is subordinate to a valid mechanic's lien for the labor actually performed or materials actually furnished as specified in the notice unless the advance so made is in order to pay toward, or to provide funds to the mortgagor to pay toward, all or part of the cost of completing any erection, construction, alteration or repair of any part of the mortgaged premises, the financing of which, in whole or in part, the mortgage was given to secure.

(c) Mortgagor may limit indebtedness.--The mortgagor may limit the indebtedness secured by an open-end mortgage, and release the obligation of the mortgagee to make any further payments, to that in existence at the time of the delivery of a written notice to that effect to the recorder for record, if the notice is executed by the mortgagor, is acknowledged according to law and states the volume and initial page of the record or the recorder's file number of the mortgage, and a copy thereof is served upon the holder of the mortgage more than three days prior to the delivery of the notice to the recorder for record. The notice shall be recorded and indexed by the recorder as an amendment of the mortgage and shall be noted on the margin of the record of the mortgage, giving the book and page number where the notice is recorded. The right of the mortgagor to limit indebtedness secured by the mortgage is not applicable to interest subsequently accruing on indebtedness or advances made after the delivery of the notice to the recorder for record in order to pay for all or part of the cost of completing any erection, construction, alteration or repair of any part of the mortgaged premises, the financing of which, in whole or in part, the mortgage was given to secure.

(d) Notice.--The written notices provided for in subsection (b) shall be signed by the holder of the lien or encumbrance or the person who has performed or intends to perform the labor or who has furnished or intends to furnish materials, or by his agent or attorney, and shall set forth a description of the

real property to which the notice relates, the date, the parties to, the volume and initial page of the record or the recorder's file number of the mortgage over which priority is claimed for the lien or encumbrance and the amount and nature of the claim to which the lien or encumbrance relates or the nature of the labor performed or to be performed or materials furnished or to be furnished and the amount claimed or to be claimed therefor. The written notices provided for in subsections (b) and (c) shall be deemed to have been received by or served upon the holder of the mortgage when delivered to the holder personally or by registered or certified mail at the address of the holder appearing in the mortgage or an assignment thereof or, if no address is so given, at the principal place of business or residence of the holder or the agent of the holder within this Commonwealth or, if the holder has no principal place of business or residence or agent within this Commonwealth, when posted in some conspicuous place on the mortgaged premises.

(e) Section not exclusive.--This section is not exclusive and shall not be construed to change existing law with respect to the priority of the lien of advances made pursuant to a mortgage except to the extent that it gives priority to the lien for advances under an open-end mortgage complying with the requirements of this section which would not have such priority in the absence of this section.

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Holder of the mortgage." The holder of the mortgage as disclosed by the records of the recorder or recorders of the county or counties in which the mortgaged premises are situated.

"Indebtedness." The unpaid principal balance of advances exclusive of interest and unpaid balances of advances and other extensions of credit secured by the mortgage made for the payment of taxes, assessments, maintenance charges, insurance premiums and costs incurred for the protection of the mortgaged premises.

"Mortgage." Includes a mortgage, deed of trust or other instrument in the nature of a mortgage.

"Mortgagor." Includes the mortgagor's successors in interest as disclosed by the records of the recorder or recorders of the county or counties in which the mortgaged premises are situated.

"Open-end mortgage." A mortgage which secures advances, up to a maximum amount of indebtedness outstanding at any time stated in the mortgage, plus accrued and unpaid interest. Such a mortgage shall be identified at the beginning thereof as an "open-end mortgage" and shall clearly state that it secures future advances, which in the case of a home equity plan, the lender has a contractual obligation to make on the terms and conditions set forth in the mortgage and open-end loan agreement with the borrower. Such open-end mortgage shall be deemed to secure obligatory future advances even though the mortgage or loan agreement contains some or all of the limitations and conditions on the obligation to make advances which are permitted for home equity plans under the Home Equity Loan Consumer Protection Act of 1988 (Public Law 100-709, 102 Stat. 4725), as implemented by Regulation Z issued thereunder in 12 CFR 226.5(b) (relating to general disclosure requirements).

"Recorder." The recorder of deeds or other official in charge of recording mortgages in each county in which the mortgaged premises are located.

(Oct. 12, 1990, P.L.525, No.126, eff. 60 days)

1990 Amendment. Act 126 added section 8143. Section 2 of Act 126 provided that nothing contained in Act 126 shall be construed to affect the priority of advances made under any mortgage recorded before the effective date of Act 126.

§ 8144. Mortgages to secure certain advances.

In addition to any other indebtedness, a mortgage may secure unpaid balances of advances made, with respect to the mortgaged premises, for the payment of taxes, assessments, maintenance charges, insurance premiums or costs incurred for the protection of the mortgaged premises or the lien of the mortgage, expenses incurred by the mortgagee by reason of default by the mortgagor under the mortgage or advances made under a construction loan to enable completion of the improvements for which the construction loan was originally made, if such mortgage states that it shall secure such unpaid balances. A mortgage complying with this section is a lien on the premises described therein from the time the mortgage is left for record or the time of delivery to the mortgagee of a purchase money mortgage which is recorded within ten days after its date for the full amount of the unpaid balances of such advances that are made under the mortgage, plus interest thereon, regardless of the time when the advances are made.

(Oct. 12, 1990, P.L.525, No.126, eff. 60 days)

1990 Amendment. Act 126 added section 8144. Section 2 of Act 126 provided that nothing contained in Act 126 shall be construed to affect the priority of advances made under any mortgage recorded before the effective date of Act 126.

SUBCHAPTER D
ENFORCEMENT OF JUDGMENTS

Sec.

8151. Notice to Department of Revenue of judicial sale of property.
8152. Judicial sale as affecting lien of mortgage.

Enactment. Subchapter D was added April 28, 1978, P.L.202, No.53, effective in 60 days.

§ 8151. Notice to Department of Revenue of judicial sale of property.

(a) General rule.--No judicial officer or officer enforcing orders of a court or magisterial district judge shall, as such, sell the property of any person without filing with the Department of Revenue at least 20 days prior to the sale a report or return with respect to such property containing such information as the department may specify by regulation.

(b) Exceptions.--The department may by regulation exempt certain classes of transactions from the requirements of subsection (a) if it finds that such reports are not necessary to facilitate the collection of the public revenues. The requirements of subsection (a) shall not be applicable to any transaction where the court, after notice to the department, finds that the exigency of the case is such as to impel the omission of usual procedures.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (a). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Saved from Suspension. Pennsylvania Rule of Civil Procedure for District Justices No. 482(7), as amended June 30, 1982, provided that section 8151 shall not be deemed suspended or affected. Rules 401 through 482 relate to execution of judgments for the payment of money rendered by district justices. Act 207 of 2004 changed justices of the peace to magisterial district judges. Rule 482 can now be found in the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.

Pennsylvania Rule of Civil Procedure No. 3159(b)(8), adopted April 20, 1998, provided that section 8151 shall not be deemed suspended or affected by Rules 3101 through 3149 relating to enforcement of money judgments for the payment of money.

§ 8152. Judicial sale as affecting lien of mortgage.

(a) General rule.--Except as otherwise provided in this section, a judicial or other sale of real estate shall not affect the lien of a mortgage thereon, if the lien of the mortgage is or shall be prior to all other liens upon the same property except:

(1) Other mortgages, ground rents and purchase money due the Commonwealth.

(2) Taxes, municipal claims and assessments, not at the date of the mortgage duly entered as a lien in the office of the clerk of the court of common pleas.

(3) Taxes, municipal claims and assessments whose lien though afterwards accruing has by law priority given it.

(b) Property of a decedent, etc.--A judicial sale of the property shall divest the lien of a mortgage to the extent authorized by the court pursuant to the following provisions of Title 20 (relating to decedents, estates and fiduciaries):

Section 3353 (relating to order of court).

Section 3357 (relating to title of purchaser).

(c) Sale on prior lien.--A judicial or other sale of real estate in proceedings under a prior judgment or a prior ground rent, or in foreclosure of a prior mortgage, shall discharge a mortgage later in lien.

(d) Unseated lands.--Subsection (a) shall not apply to mortgages upon unseated lands or sales of unseated lands for taxes.

Cross References. Section 8152 is referred to in sections 3315, 4315, 5315 of Title 68 (Real and Personal Property).

CHAPTER 83
PARTICULAR RIGHTS AND IMMUNITIES

Subchapter

A. Rights of Action
B. Contribution Among Tort-feasors
C. Immunities Generally
D. Defamation
E. Wrongful Use of Civil Proceedings
F. Corporate Directors' Liability (Repealed)
F.1. Successor Business Entity Liability
G. Special Damages
H. Drug Nuisances

Enactment. Present Chapter 83 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Prior Provisions. Former Chapter 83, which related to bases of jurisdiction, was added November 15, 1972, P.L.1063, No.271, and repealed July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53. The subject matter is now contained in Chapter 53 of this title.

SUBCHAPTER A
RIGHTS OF ACTION

Sec.

8301. Death action.
8302. Survival action.
8303. Action for performance of a duty required by law.
8304. Damages in actions on bad checks.
8305. Actions for wrongful birth and wrongful life.
8306. Defense against claim for injury sustained in utero barred.
8307. Action by parent, guardian or other custodian for damages in the sale or transfer of controlled substances to a child.
8308. Damages in actions on retail theft.
8309. Civil rights violations.
8310. Damages in actions on thefts of leased property.
8311. Damages in actions for conversion of timber.
8312. Profits received as a result of commission of crime.
8313. Agricultural crop destruction.
8314. Assault with biological agent on animal, fowl or honey bees.
8315. Damages in actions for identity theft.
8316. Unauthorized use of name or likeness.
8316.1. Damages in actions for unlawful dissemination of intimate image.
8316.2. Contracts or agreements for nondisclosure of certain conduct.
8317. Actions involving products or services used to invade privacy.
8318. Terrorism action.
8319. Ecoterrorism.
8320. Commemorative service demonstration action.

§ 8301. Death action.

(a) General rule.--An action may be brought, under procedures prescribed by general rules, to recover damages for the death of an individual caused by the wrongful act or neglect or unlawful violence or negligence of another if no recovery for the same damages claimed in the wrongful death action was obtained by the injured individual during his lifetime and any prior actions for the same injuries are consolidated with the wrongful death claim so as to avoid a duplicate recovery.

(b) Beneficiaries.--Except as provided in subsection (d), the right of action created by this section shall exist only for the benefit of the spouse, children or parents of the deceased, whether or not citizens or residents of this Commonwealth or elsewhere. The damages recovered shall be distributed to the beneficiaries in the proportion they would take the personal estate of the decedent in the case of intestacy and without liability to creditors of the deceased person under the statutes of this Commonwealth.

(c) Special damages.--In an action brought under subsection (a), the plaintiff shall be entitled to recover, in addition to other damages, damages for reasonable hospital, nursing,

medical, funeral expenses and expenses of administration necessitated by reason of injuries causing death.

(d) Action by personal representative.--If no person is eligible to recover damages under subsection (b), the personal representative of the deceased may bring an action to recover damages for reasonable hospital, nursing, medical, funeral expenses and expenses of administration necessitated by reason of injuries causing death.

(Dec. 20, 1982, P.L.1409, No.326, eff. imd.; July 6, 1995, P.L.309, No.46, eff. 60 days)

1995 Amendment. Act 46 amended subsec. (a). Section 2 of Act 46 provided that Act 46 shall apply to a cause of action that accrues on or after the effective date of Act 46.

1982 Amendment. Act 326 amended subsecs. (a), (c) and (d), retroactive to June 27, 1978.

§ 8302. Survival action.

All causes of action or proceedings, real or personal, shall survive the death of the plaintiff or of the defendant, or the death of one or more joint plaintiffs or defendants.

Cross References. Section 8302 is referred to in section 3371 of Title 20 (Decedents, Estates and Fiduciaries).

§ 8303. Action for performance of a duty required by law.

A person who is adjudged in an action in the nature of mandamus to have failed or refused without lawful justification to perform a duty required by law shall be liable in damages to the person aggrieved by such failure or refusal.

§ 8304. Damages in actions on bad checks.

(a) General rule.--In a civil action to recover damages and costs following a conviction for passing a bad check pursuant to 18 Pa.C.S. § 4105 (relating to bad checks) and failure to make full restitution, the payee shall, upon obtaining judgment, be entitled to recover damages in an amount equal to $100 or triple the amount for which the check was drawn, whichever is greater.

(b) Limitation.--Damages recovered under this section may not exceed by more than $500 the value of the check and shall be awarded only if:

(1) the payee made written demand of the issuer for payment of the amount of the check, including interest and service charges authorized by 18 Pa.C.S. § 4105(e), not less than ten days before commencing the action; and

(2) the issuer failed to tender to the payee, prior to commencement of the action, an amount of money not less than the amount demanded.

(c) Restriction.--Notwithstanding subsection (a), if partial restitution has been made, damages recovered under this section may not exceed triple the amount of the unpaid restitution.

(Dec. 11, 1986, P.L.1481, No.151, eff. 90 days; Dec. 15, 1986, P.L.1598, No.177, eff. 60 days; June 22, 2000, P.L.382, No.50, eff. 60 days)

2000 Amendment. Act 50 amended subsec. (b).

1986 Amendments. Acts 151 and 177 added section 8304. The amendments by Acts 151 and 177 are identical and therefore have been merged.

§ 8305. Actions for wrongful birth and wrongful life.

(a) Wrongful birth.--There shall be no cause of action or award of damages on behalf of any person based on a claim that, but for an act or omission of the defendant, a person once conceived would not or should not have been born. Nothing

contained in this subsection shall be construed to prohibit any cause of action or award of damages for the wrongful death of a woman, or on account of physical injury suffered by a woman or a child, as a result of an attempted abortion. Nothing contained in this subsection shall be construed to provide a defense against any proceeding charging a health care practitioner with intentional misrepresentation under the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or any other act regulating the professional practices of health care practitioners.

(b) Wrongful life.--There shall be no cause of action on behalf of any person based on a claim of that person that, but for an act or omission of the defendant, the person would not have been conceived or, once conceived, would or should have been aborted.

(c) Conception.--A person shall be deemed to be conceived at the moment of fertilization.

(Apr. 13, 1988, P.L.336, No.47, eff. imd.)

1988 Amendment. Act 47 added section 8305. Section 7 of Act 47 provided that section 8305 shall not apply to any case in which a final award of damages has been made and with regard to which the time to take an appeal has expired without an appeal being taken. Section 8 of Act 47 provided that, except as provided in section 2 of Act 47, which added section 8305, section 8305 shall have retroactive effect, including application to any case pending or on appeal.

§ 8306. Defense against claim for injury sustained in utero barred.

Where a person has, by reason of the wrongful act or negligence of another, sustained injury while in utero, it shall not be a defense to any action brought to recover damages for the injury, or a factor in mitigation of damages, that the person could or should have been aborted.

(Apr. 13, 1988, P.L.336, No.47, eff. imd.)

1988 Amendment. Act 47 added section 8306. Section 7 of Act 47 provided that section 8306 shall not apply to any case in which a final award of damages has been made and with regard to which the time to take an appeal has expired without an appeal being taken. Section 8 of Act 47 provided that, except as provided in section 2 of Act 47, which added section 8306, section 8306 shall have retroactive effect, including application to any case pending or on appeal.

§ 8307. Action by parent, guardian or other custodian for damages in the sale or transfer of controlled substances to a child.

(a) Cause of action established.--The parent, guardian or other custodian of any child under 18 years of age to whom a controlled substance or designer drug, as defined under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, is sold or transferred shall have a cause of action against the person who sold or transferred the controlled substance or the designer drug to the child, and recovery may be sought by the child's parent, guardian or other custodian for damages caused by the sale or transfer of the controlled substance or designer drug.

(b) Damages.--Damages shall include the cost for treatment and rehabilitation relating to or resulting from the child's drug dependency or use. The court may order that some or all

of this award be placed in a fund for the purpose of providing for the treatment and rehabilitation of the child's drug dependency or use, including past treatment and rehabilitation.

(c) Attorney fees.--Reasonable attorney fees shall be awarded to a party that brings suit and prevails under this cause of action.

(d) Exception.--This section shall not apply to a practitioner who sells or transfers a controlled substance listed in The Controlled Substance, Drug, Device and Cosmetic Act to a child pursuant to a valid prescription.

(Dec. 22, 1989, P.L.722, No.96, eff. 60 days)

1989 Amendment. Act 96 added section 8307.

§ 8308. Damages in actions on retail theft.

(a) General rule.--In a civil action based on retail theft, as defined in 18 Pa.C.S. § 3929(a) (relating to retail theft), a court of competent jurisdiction shall utilize the following remedies:

(1) Order the defendant to restore the merchandise to the plaintiff in its original condition, if possible.

(2) Award damages as follows:

(i) If it is not possible to restore the merchandise in its original condition under paragraph (1), award the value of the merchandise as damages.

(ii) Award actual damages arising from the incident. Damages under this subparagraph do not include the loss of time or wages incurred by the plaintiff in connection with the apprehension and prosecution of the defendant.

(iii) Award reasonable attorney fees and reasonable court costs.

(3) Award a civil penalty to the plaintiff in the amount of the value of the merchandise plus $150.

(b) Minors.--If the defendant is a minor, the act of July 27, 1967 (P.L.186, No.58), entitled "An act imposing liability upon parents for personal injury, or theft, destruction, or loss of property caused by the willful, tortious acts of children under eighteen years of age, setting forth limitations, and providing procedure for recovery," applies.

(c) Criminal disposition.--Criminal prosecution under 18 Pa.C.S. § 3929 is not a prerequisite to the applicability of this section.

(d) Limitations.--

(1) The plaintiff shall send a notice to the defendant's last known address giving the defendant 20 days to respond before a civil action may be commenced.

(2) No civil action under this section may be maintained if the defendant has paid the plaintiff a penalty equal to the retail value of the merchandise, not to exceed $500, plus the sum of $150.

(e) Release.--If the person to whom a written demand is made complies with such demand within 20 days after the receipt of the demand, that person shall be given a written release from further civil liability with respect to the specific act of retail theft.

(Nov. 21, 1990, P.L.563, No.141, eff. 60 days)

1990 Amendment. Act 141 added section 8308.

References in Text. The act of July 27, 1967, P.L.186, No.58, referred to in subsec. (b), was repealed by the act of December 19, 1990, P.L.1240, No.206. The subject matter is now contained in Chapter 55 of Title 23 (Domestic Relations).

§ 8309. Civil rights violations.

(a) Redress for personal injury.--A person who incurs injury to his person or damage or loss to his property as a result of conduct described in 18 Pa.C.S. § 2710 (relating to ethnic intimidation) or 3307 (relating to institutional vandalism) shall have a right of action against the actor for injunction, damages or other appropriate civil or equitable relief. In the action, the issue of whether the defendant engaged in the conduct alleged shall be determined according to the burden of proof used in other civil actions for similar relief. The plaintiff may seek recovery for any of the following:

(1) General and special damages, including damages for emotional distress. Damages under this paragraph shall be actual damages or $500, whichever is greater.

(2) Punitive damages.

(3) Reasonable attorney fees and costs.

(4) Injunctive and other equitable relief.

(5) Such other relief which the court deems necessary and proper.

(b) Redress sought by public official on behalf of others.--When conduct which would constitute a violation of 18 Pa.C.S. § 2710 or 3307 has occurred, the district attorney of the county in which the violation took place or the Attorney General, after consulting with the district attorney, may institute a civil action for injunctive or other equitable relief if needed to protect any person or property. The civil action shall be brought in the name of the Commonwealth of Pennsylvania in the county where the violation occurred.

(c) Filing of court orders.--The prothonotary of the court in which a civil action is brought under subsection (a) or (b) shall transmit two certified copies of any order issued in the action to each appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to have committed the act and where the defendant resides or has his principal place of business. The sheriff of the county in which the defendant resides shall serve a copy of the order on the defendant. Unless otherwise ordered by the court, service shall be by delivering a copy in hand to the defendant. Law enforcement agencies shall establish procedures adequate to ensure that all officers responsible for the enforcement of the order are informed of its existence and terms. When a law enforcement officer has probable cause to believe that a defendant has violated the provisions of an order, the officer may arrest him.

(d) Contempt notice required to be part of order.--In actions brought under this section, when a court issues a temporary restraining order or a preliminary or permanent injunction ordering a defendant to refrain from certain conduct or activities, the order issued shall contain the following statement: VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

(e) Penalties.--A violation of an order issued and served as set forth in this section shall be a misdemeanor of the second degree. If bodily injury results from the violation, the violation shall be a misdemeanor of the first degree.

(f) Vacated orders.--When the court vacates a temporary restraining order or a preliminary or permanent injunction issued under this section, the prothonotary shall promptly notify in writing each appropriate law enforcement agency which had been notified of the issuance of the order and shall direct each such agency to destroy all records of the order, and the agency shall comply with the directive upon receipt of the notification.

(Dec. 19, 1990, P.L.1394, No.216, eff. 60 days)

1990 Amendment. Act 216 added section 8309.

§ 8310. Damages in actions on thefts of leased property.

(a) General rule.--In a civil action based on theft of leased property, as defined in 18 Pa.C.S. § 3932(a) (relating to theft of leased property), a court of competent jurisdiction may utilize the following remedies:

(1) Order the defendant to restore the merchandise to the plaintiff in its original condition, if possible.

(2) Award damages as follows:

(i) If it is not possible to restore the merchandise in its original condition under paragraph (1), award the value of the merchandise as damages.

(ii) Award actual damages arising from the incident. Damages under this subparagraph do not include the loss of time or wages incurred by the plaintiff in connection with the apprehension and prosecution of the defendant.

(iii) Award reasonable attorney fees and court costs.

(3) Award a civil penalty to the plaintiff in the amount of the value of the merchandise plus $150.

(b) Minors.--If the defendant is a minor, the act of July 27, 1967 (P.L.186, No.58), entitled "An act imposing liability upon parents for personal injury, or theft, destruction, or loss of property caused by the wilful, tortious acts of children under eighteen years of age, setting forth limitations, and providing procedure for recovery," applies.

(c) Criminal disposition.--Criminal prosecution under 18 Pa.C.S. § 3932 is not a prerequisite to the applicability of this section.

(d) Limitations.--

(1) No civil action under this section may be maintained if the defendant has returned the merchandise to the plaintiff and paid all obligations under the contract establishing a lease agreement plus the sum of $150.

(2) No civil action under this section may be maintained unless:

(i) the plaintiff has sent a notice to defendant's last known address; and

(ii) the plaintiff has given the defendant 20 days to respond to the notice before the action is commenced.

(e) Release.--If the person to whom a written demand is made complies with such demand within 20 days after the receipt of the demand, that person shall be given a written release from further civil liability with respect to the specific act of theft of leased property.

(July 11, 1991, P.L.79, No.14, eff. 60 days)

1991 Amendment. Act 14 added section 8310.

References in Text. The act of July 27, 1967, P.L.186, No.58, referred to in subsec. (b), was repealed by the act of December 19, 1990, P.L.1240, No.206. The subject matter is now contained in Chapter 55 of Title 23 (Domestic Relations).

§ 8311. Damages in actions for conversion of timber.

(a) General rule.--In lieu of all other damages or civil remedies provided by law, a person who cuts or removes the timber of another person without the consent of that person shall be liable to that person in a civil action for an amount of damages equal to:

(1) the usual and customary costs of establishing the value of the timber cut or removed and of complying with the

erosion and sedimentation control regulations contained in 25 Pa. Code Ch. 102 (relating to erosion control);

(1.1) the cost of any surveys obtained in connection with the civil action; and

(2) one of the following:

(i) three times the market value of the timber cut or removed if the act is determined to have been deliberate;

(ii) two times the market value of the timber cut or removed if the act is determined to have been negligent; or

(iii) the market value of the timber cut or removed if the defendant is determined to have had a reasonable basis for believing that the land on which the act was committed was his or that of the person in whose service or by whose direction the act was done.

(b) Restitution.--Any damages awarded under this section shall be reduced by any restitution which is made under 18 Pa.C.S. § 1107 (relating to restitution for theft of timber).

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Timber." Standing trees, logs or parts of trees that are commonly merchandized as wood products.

"Market value." The value of the standing timber at local market prices for the species and quality of timber cut or removed at the time it was cut or removed.

(Feb. 17, 1994, P.L.113, No.10, eff. 60 days; May 17, 2001, P.L.23, No.7, eff. 60 days)

2001 Amendment. Act 7 amended subsec. (a).

1994 Amendment. Act 10 added section 8311.

§ 8312. Profits received as a result of commission of crime.

(a) General rule.--If a person has been convicted of a crime, every person who knowingly contracts for, pays or agrees to pay any profit from a crime to that person shall give written notice to the board of the payment or obligation to pay as soon as practicable after discovering that the payment or intended payment is a profit from a crime. The board, upon receipt of notice of a contract, an agreement to pay or payment of profits from a crime, shall notify all known eligible persons at their last known address of the existence of the profits.

(b) Right of action.--Notwithstanding any inconsistent provision of law or rules of civil procedure with respect to the timely bringing of an action, any eligible person shall have the right to bring a civil action in a court of competent jurisdiction to recover money damages from a person convicted of a crime or the legal representative of that convicted person within three years of the discovery of any profits from a crime. Any damages awarded in this action shall be recoverable only up to the value of the profits from the crime. If an action is filed under this subsection after the expiration of all other applicable statutes of limitation, any other eligible person must file any action for damages as a result of the crime within three years of the actual discovery of profits from the crime or of actual notice received from or notice published by the board of the discovery, whichever is later. If any profits from a crime remain after the payment of claims made under this section, the board shall have the right to bring a civil action within two years in a court of competent jurisdiction to recover any payments made by the board pursuant to Article IV of the act of April 9, 1929 (P.L.177, No.175), known as The

Administrative Code of 1929, and any expenses incurred by the board pursuant to Article IV of The Administrative Code of 1929 or this section with regard to such crime or the person convicted of such crime.

(c) Notice.--Upon filing an action under subsection (b), the eligible person shall give notice to the board of the filing by delivering a copy of the complaint to the board. The eligible person may also give notice to the board prior to filing the action so as to allow the board to apply for any appropriate remedies which are otherwise authorized to be invoked prior to the commencement of an action.

(d) Responsibilities of board.--Upon receipt of a copy of a complaint, the board shall immediately take action as necessary to:

(1) Notify all other known eligible persons of the alleged existence of profits from a crime by certified mail, return receipt requested, where the eligible persons' names and addresses are known by the board.

(2) Publish, at least once a year for three years from the date it is initially notified by an eligible person under subsection (c), a legal notice in newspapers of general circulation in the county wherein the crime was committed and in counties contiguous to that county advising any eligible persons of the existence of profits from a crime. The board may in its discretion provide for additional notice as it deems necessary.

(3) Avoid the wasting of the assets identified in the complaint as the newly discovered profits from a crime in any manner consistent with subsection (e).

(e) Other remedies.--The board, acting on behalf of all eligible persons, shall have the right to apply for any and all remedies that are also otherwise available to an eligible person bringing an action under subsection (b). The remedies of attachment, injunction, receivership and notice of pendency available under law to an eligible person bringing an action under subsection (b) shall also be available to the board in all actions under this subsection. On a motion for a remedy, the moving party shall state whether any other remedy has previously been sought in the same action against the same defendant. The court may require the moving party to elect between those remedies to which it would otherwise be entitled.

(f) Evasive action null and void.--Any action taken by any person convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities or otherwise, to defeat the purpose of this section shall be null and void as against the public policy of this Commonwealth.

(g) Penalties.--

(1) Any person who willfully fails to do any of the following is subject to a civil penalty of not less than $10,000 for each offense and not more than an amount equal to three times the contract amount:

(i) submit to the board a copy of the contract described in subsection (a); or

(ii) pay over to the board any moneys or other consideration as required by this section.

(2) If two or more persons are subject to the penalties provided in this section, the persons shall be jointly and severally liable for the payment of the penalty imposed.

(3) After notice and opportunity to be heard is provided, the board may by order assess the penalties described in this section.

(4) If the penalties are not paid within 30 days from the date of the order, any penalty assessed under this section shall bear interest at the rate of 1% per month, compounded monthly.

(5) An action to recover a civil penalty assessed under this section may be brought by the board in a court of competent jurisdiction within six years after the cause of action accrues.

(6) Any moneys recovered under this subsection shall be paid into the Crime Victim's Compensation Fund.

(h) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Board." The Crime Victim's Compensation Board as defined in section 477 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

"Convicted." Includes conviction by entry of a plea of guilty or nolo contendere, conviction after trial and a finding of not guilty due to insanity or of guilty but mentally ill.

"Eligible person." Includes any of the following persons:

(1) A victim of the particular crime in question, as "victim" is defined in section 479.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(2) An intervenor in such crime.

(3) A surviving spouse, parent or child of a deceased victim of or intervenor in such crime.

(4) Any other person dependent for his principal support upon a deceased victim of or intervenor in such crime.

No person who is criminally responsible for the crime in question or was an accomplice of the person who is criminally responsible shall be an eligible person.

"Profit from a crime." Includes any of the following:

(1) Any property obtained through or income generated from the commission of a crime of which the defendant was convicted.

(2) Any property obtained by or income generated from the sale, conversion or exchange of proceeds of a crime of which the defendant was convicted, including any gain realized by such sale, conversion or exchange.

(3) Any property which the defendant obtained or income generated as a result of having committed the crime of which the defendant was convicted, including any assets obtained through the use of unique knowledge obtained during the commission of or in preparation for the commission of the crime, as well as any property obtained by or income generated from the sale, conversion or exchange of such property and any gain realized by such sale, conversion or exchange.

(May 3, 1995, 1st Sp.Sess., P.L.999, No.12, eff. imd.)

1995 Amendment. Act 12, 1st Sp.Sess., added section 8312.

References in Text. Sections 477 and 479.1 of the act of April 9, 1929, P.L.177, No.175, known as The Administrative Code of 1929, referred to in subsec. (h), were repealed by the act of November 24, 1998, P.L.882, No.111, known as the Crime Victims Act. The subject matter is now contained in Act 111.

§ 8313. Agricultural crop destruction.

(a) Civil action and relief available.--An aggrieved owner of damaged field crops, vegetable or fruit plants or trees raised for scientific or commercial purposes or for any testing or research purpose in conjunction with a public or private

research facility or a university or any Federal, State or local government agency may, in a civil action in any court of competent jurisdiction, obtain appropriate relief, including compensatory and punitive damages, reasonable investigative expenses and reasonable attorney fees and other costs associated with the litigation. Upon a showing of cause for the issuance of injunctive relief, a court may issue temporary restraining orders, preliminary injunctions and permanent injunctions as may be appropriate. During any period that an action under this section is pending, a court may order the cessation of the activity forming the basis of the complaint.

(b) Valuations.--In awarding damages under this section, the courts shall consider the market value of the field crops, vegetable or fruit plants or trees prior to damage and production, research, testing, replacement and crop development costs directly related to the crop that has been damaged as part of the value of the crop as well as damage to any records, data and data-gathering equipment or devices.

(c) Limitations.--Damages recovered under this section shall be limited to treble the market value of the field crops, vegetable or fruit plants or trees prior to damage and actual damages involving production, research, testing, replacement and development costs directly related to the crop that has been damaged.

(d) Exceptions.--The provisions of this section shall not apply to field crops, vegetable or fruit plants or trees damaged through research or normal commercial activity.

(June 22, 2001, P.L.386, No.27, eff. imd.)

2001 Amendment. Act 27 added section 8313.

§ 8314. Assault with biological agent on animal, fowl or honey bees.

(a) Civil action and relief available.--An animal owner aggrieved by exposure of an animal, fowl or honey bees to any virus, bacteria, prion or other agent which causes infectious disease, including foot-and-mouth disease, bovine spongiform encephalopathy (BSE), commonly known as mad cow disease, avian influenza or varroamite, may, in a civil action in any court of competent jurisdiction, obtain appropriate relief, including compensatory and punitive damages, reasonable investigation expenses and reasonable attorney fees and other costs associated with the litigation of the action. Upon a showing of cause for the issuance of injunctive relief, a court may issue temporary restraining orders, preliminary injunctions and permanent injunctions as may be appropriate under this section. During any period that an action under this section is pending, a court may order the cessation of the complained-of activity.

(b) Exceptions.--The provisions of this section shall not apply to research or veterinarian services, including immunizations, vaccinations or other treatments administered during the normal scope of practice.

(June 25, 2001, P.L.619, No.54, eff. imd.)

2001 Amendment. Act 54 added section 8314.

§ 8315. Damages in actions for identity theft.

In a civil action based on identity theft as defined in 18 Pa.C.S. § 4120 (relating to identity theft), a court of competent jurisdiction may award damages as follows:

(1) Actual damages arising from the incident or $500, whichever is greater. Damages include loss of money, reputation or property, whether real or personal. The court

may, in its discretion, award up to three times the actual damages sustained, but not less than $500.

(2) Reasonable attorney fees and court costs.

(3) Additional relief the court deems necessary and proper.

(June 19, 2002, P.L.430, No.62, eff. 60 days)

2002 Amendment. Act 62 added section 8315.

Cross References. Section 8315 is referred to in section 5525 of this title.

§ 8316. Unauthorized use of name or likeness.

(a) Cause of action established.--Any natural person whose name or likeness has commercial value and is used for any commercial or advertising purpose without the written consent of such natural person or the written consent of any of the parties authorized in subsection (b) may bring an action to enjoin such unauthorized use and to recover damages for any loss or injury sustained by such use.

(b) Parties authorized to bring action.--Such action may be brought by:

(1) The natural person.

(2) A parent or guardian of a natural person, if the natural person is a minor.

(3) If such natural person is deceased, any person, firm or corporation authorized in writing to license the commercial or advertising use of the natural person's name or likeness by the natural person during the natural person's lifetime or by will or other testamentary device; an executor named in a will or designated by a court of competent jurisdiction; or where there is no such authorization, then by the deceased person's surviving spouse at the time of death until the surviving spouse's death or, in a case where there is no surviving spouse, then any other heir or group of heirs having at least a 50% interest in the deceased person's estate as provided for under law.

(4) Any other person, firm or corporation authorized in writing by such natural person to license the commercial or advertising purposes of the person's name or likeness.

(c) Repose.--No action shall be commenced under this section more than 30 years after the death of such natural person.

(d) Immunity.--No person, firm or corporation, including their employees and agents, in the business of producing, manufacturing, publishing or disseminating material for commercial or advertising purposes by any communications medium shall be held liable under this section unless they had actual knowledge of the unauthorized use of the name or likeness of a natural person as prohibited by this section.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Commercial or advertising purpose."

(1) Except as provided in paragraph (2), the term shall include the public use or holding out of a natural person's name or likeness:

(i) on or in connection with the offering for sale or sale of a product, merchandise, goods, services or businesses;

(ii) for the purpose of advertising or promoting products, merchandise, goods or services of a business; or

(iii) for the purpose of fundraising.

(2) The term shall not include the public use or holding out of a natural person's name or likeness in a communications medium when:

(i) the natural person appears as a member of the public and the natural person is not named or otherwise identified;

(ii) it is associated with a news report or news presentation having public interest;

(iii) it is an expressive work;

(iv) it is an original work of fine art;

(v) it is associated with announcement for a commercial or advertising purpose for a use permitted by subparagraph (ii), (iii) or (iv); or

(vi) it is associated with the identification of a natural person as the author of or contributor to a written work or the performer of a recorded performance under circumstances in which the written work or the recorded performance is lawfully produced, reproduced, exhibited or broadcast.

"Commercial value." Valuable interest in a natural person's name or likeness that is developed through the investment of time, effort and money.

"Communications medium." Includes, but is not limited to, a newspaper, magazine, book, newsletter, billboard, telephone, radio, television, recording, computer software, digital communications network, transit ad, audiovisual work or global communications network.

"Expressive work." A literary, dramatic, fictional, historical, audiovisual or musical work regardless of the communications medium by which it is exhibited, displayed, performed or transmitted, other than when used or employed for a commercial or advertising purpose.

"Name" or "likeness." Any attribute of a natural person that serves to identify that natural person to an ordinary, reasonable viewer or listener, including, but not limited to, name, signature, photograph, image, likeness, voice or a substantially similar imitation of one or more thereof.

"Natural person." A living person or a deceased person who was domiciled within this Commonwealth at the time of such person's death.

(Dec. 9, 2002, P.L.1320, No.154, eff. 60 days)

2002 Amendment. Act 154 added section 8316.

§ 8316.1. Damages in actions for unlawful dissemination of intimate image.

(a) Cause of action established.--A person may bring a civil cause of action based upon unlawful dissemination of intimate image, as defined in 18 Pa.C.S. § 3131 (relating to unlawful dissemination of intimate image), in order to recover damages for any loss or injury sustained as a result of the violation.

(b) Parties authorized to bring action.--An action may be brought by a natural person or a guardian of the natural person, if the person is incompetent.

(c) Damages.--A court of competent jurisdiction may award damages as set forth in this subsection. In determining the extent of injury, the court shall consider that dissemination of an intimate image may cause long-term or permanent injury. The court may award:

(1) Actual damages arising from the incident or $500, whichever is greater. Damages include loss of money, reputation or property, whether real or personal. The court

may, in its discretion, award up to three times the actual damages sustained, but not less than $500.

(2) Reasonable attorney fees and court costs.

(3) Additional relief the court deems necessary and proper.

(d) Other remedies preserved.--Nothing in this section shall be construed to limit the ability of a person to receive restitution under 18 Pa.C.S. § 1106 (relating to restitution for injuries to person or property).

(e) Nonapplicability.--The provisions of this section shall not be applicable to a law enforcement officer engaged in the law enforcement officer's official duties.

(f) Definition.--As used in this section, the term "law enforcement officer" means any officer of the United States, of the Commonwealth or political subdivision thereof, or of another state or subdivision thereof, who is empowered to conduct investigations of or to make arrests for offenses enumerated in 18 Pa.C.S. (relating to crimes and offenses), or an equivalent crime in another jurisdiction, and any attorney authorized by law to prosecute or participate in the prosecution of such offense.

(July 9, 2014, P.L.1013, No.115, eff. 60 days)

2014 Amendment. Act 115 added section 8316.1.

§ 8316.2. Contracts or agreements for nondisclosure of certain conduct.

(a) Void provisions.--A provision of an agreement, contract, settlement or similar instrument that does any of the following shall be void and unenforceable:

(1) prohibits or attempts to prohibit the disclosure of the name of a person suspected of childhood sexual abuse to law enforcement authorities;

(2) suppresses or attempts to suppress information relevant to an investigation by law enforcement authorities into a claim of childhood sexual abuse; or

(3) impairs or attempts to impair the ability of a person to report a claim of childhood sexual abuse to law enforcement authorities.

(b) Form.--Any agreement, contract, settlement or similar instrument settling a claim of childhood sexual abuse shall be presumed to satisfy this section if it does not contain a provision prohibited by subsection (a) and if it includes a notice printed in boldface, 12-point font or larger, as follows or in a substantially similar form:

NOTICE TO ALL PARTIES

By signing this agreement, you do not surrender your right to speak to law enforcement about the actions, underlying facts or circumstances referenced in this agreement.

I (we) acknowledge receipt of the above notice.

(Signature).....(Date).....

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Childhood sexual abuse." The term shall have the same meaning as "sexual abuse or exploitation" in 23 Pa.C.S. § 6303 (relating to definitions).

"Law enforcement authorities." The term shall have the same meaning as "law enforcement official" in 23 Pa.C.S. § 6303.

(Nov. 26, 2019, P.L.649, No.89, eff. 60 days)

2019 Amendment. Act 89 added section 8316.2.

§ 8317. Actions involving products or services used to invade privacy.

No person shall have a cause of action against a manufacturer of a device or a provider of a product or service that is used to commit a violation of 18 Pa.C.S. § 7507.1 (relating to invasion of privacy).

(Nov. 16, 2005, P.L.378, No.69, eff. 60 days)

2005 Amendment. Act 69 added section 8317.

§ 8318. Terrorism action.

(a) General rule.--In addition to any other right of action and any other remedy provided by law, an action may be brought to recover damages against a terrorist, terrorist organization or person who knowingly provided material support or resources to or aided a terrorist or terrorist organization for the death of an individual or for an injury to an individual or damage to or loss of property caused by an act of terrorism.

(b) Application of section.--This section shall not apply to:

(1) A financial institution as defined by 31 U.S.C. § 5312(a)(2) (relating to definitions and application), including an operating or financial subsidiary, that complies with Federal laws and regulations relating to a financial transaction at the time the transaction occurs, including, to the extent applicable, the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001 (Title III of Public Law 107-56, 31 U.S.C. § 5301 et seq.).

(2) Conduct by a party to a labor dispute as defined in the act of June 2, 1937 (P.L.1198, No.308), known as the Labor Anti-Injunction Act, or to any constitutionally protected activity.

(c) Recovery.--The plaintiff may seek recovery for any of the following:

(1) General and special damages, including damages for emotional distress, loss of consortium, loss of filial consortium and loss of life's pleasures.

(2) Punitive damages.

(3) Reasonable attorney fees and costs.

(4) Such other relief that the court deems necessary and proper.

(d) Assets.--In making a recovery under this section, the plaintiff may enforce the judgment against the assets of the terrorist, terrorist organization or person who knowingly provided material support or resources to or aided the terrorist or terrorist organization.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Act of terrorism." An act or acts constituting an offense under 18 Pa.C.S. Pt. II (relating to definition of specific offenses), including an attempt, conspiracy or solicitation to commit any such offense, which is punishable by imprisonment of more than one year and involves an act dangerous to human life or property, intended either to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion or affect the conduct of a government.

"Dangerous to human life or property." A violent act which is intended to or likely to cause death, serious bodily injury or mass destruction.

"Mass destruction." An act which is intended to or likely to destroy or cause serious damage to transportation-related infrastructure or facilities, energy-related infrastructure or

facilities, public or private buildings, places of public accommodation or public works under circumstances evincing depraved indifference to human life or property.

"Material support or resources." Currency or other financial securities, financial services, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation and other physical assets, except medicine or religious materials.

"Terrorist." A person who commits an act of terrorism.

"Terrorist organization." A domestic or foreign organization which directly engages in the planning, preparation, carrying out or aiding of an act of terrorism. The term includes any organization designated as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (66 Stat. 163, 8 U.S.C. § 1189) (relating to designation of foreign terrorist organizations).

(Jan. 6, 2006, P.L.11, No.2, eff. imd.)

2006 Amendment. Act 2 added section 8318.

§ 8319. Ecoterrorism.

(a) Civil action and relief.--An individual aggrieved by the offense of ecoterrorism as defined in 18 Pa.C.S. § 3311(a) (relating to ecoterrorism) may, in a civil action in any court of competent jurisdiction, obtain appropriate relief, including compensatory and punitive damages, reasonable investigative expenses and reasonable attorney fees and other costs associated with the litigation. Upon a showing of cause for the issuance of injunctive relief, a court may issue temporary restraining orders, preliminary injunctions and permanent injunctions as may be appropriate under this section. During any period that an action under this section is pending, a court may order the cessation of the activity forming the basis of the complaint.

(b) Valuations.--In awarding damages under this section, a court shall consider the market value of the property prior to damage and production, research, testing, replacement and development costs directly related to the property that has been damaged as part of the value of the property as well as damage to any records, data and data-gathering equipment or devices.

(c) Limitations.--Damages recovered under this section shall be limited to triple the market value of the property prior to damage and actual damages involving production, research, testing, replacement and development costs directly related to the property that has been damaged.

(Apr. 14, 2006, P.L.81, No.27, eff. 60 days)

2006 Amendment. Act 27 added section 8319.

Cross References. Section 8319 is referred to in section 3311 of Title 18 (Crimes and Offenses).

§ 8320. Commemorative service demonstration action.

(a) Civil action.--In addition to any other right of action and any other remedy provided by law, an individual aggrieved by the offense defined in 18 Pa.C.S. § 7517 (relating to commemorative service demonstration activities) may bring a civil action in any court of competent jurisdiction to obtain appropriate relief.

(b) General relief.--In a civil action brought under this section, the aggrieved individual may recover general and special damages, including damages for emotional distress, punitive damages, reasonable attorney fees and other costs

associated with the litigation, and such other relief that the court deems necessary and proper.

(c) Injunctive relief.--Upon a showing of cause for the issuance of injunctive relief, a court may issue temporary restraining orders, preliminary injunctions and permanent injunctions as may be appropriate under this section. During any period that an action under this section is pending, a court may order the cessation of the activity forming the basis of the complaint.

(June 30, 2006, P.L.288, No.63, eff. 60 days)

2006 Amendment. Act 63 added section 8320.

SUBCHAPTER B
CONTRIBUTION AMONG TORT-FEASORS

Sec.

8321. Short title of subchapter.
8322. Definition.
8323. Scope of subchapter.
8324. Right of contribution.
8325. Effect of judgment.
8326. Effect of release as to other tort-feasors.
8327. Liability to make contribution as affected by release.

Cross References. Subchapter B is referred to in section 6141 of this title.

§ 8321. Short title of subchapter.

This subchapter shall be known and may be cited as the "Uniform Contribution Among Tort-feasors Act."

§ 8322. Definition.

As used in this subchapter "joint tort-feasors" means two or more persons jointly or severally liable in tort for the same injury to persons or property, whether or not judgment has been recovered against all or some of them.

§ 8323. Scope of subchapter.

This subchapter does not impair any right of indemnity under existing law.

§ 8324. Right of contribution.

(a) General rule.--The right of contribution exists among joint tort-feasors.

(b) Payment required.--A joint tort-feasor is not entitled to a money judgment for contribution until he has by payment discharged the common liability or has paid more than his pro rata share thereof.

(c) Effect of settlement.--A joint tort-feasor who enters into a settlement with the injured person is not entitled to recover contribution from another joint tort-feasor whose liability to the injured person is not extinguished by the settlement.

§ 8325. Effect of judgment.

The recovery of a judgment by the injured person against one joint tort-feasor does not discharge the other joint tort-feasors.

§ 8326. Effect of release as to other tort-feasors.

A release by the injured person of one joint tort-feasor, whether before or after judgment, does not discharge the other tort-feasors unless the release so provides, but reduces the claim against the other tort-feasors in the amount of the consideration paid for the release or in any amount or

proportion by which the release provides that the total claim shall be reduced if greater than the consideration paid.

§ 8327. Liability to make contribution as affected by release.

A release by the injured person of one joint tort-feasor does not relieve him from liability to make contribution to another tort-feasor, unless the release is given before the right of the other tort-feasor to secure a money judgment for contribution has accrued and provides for a reduction to the extent of the pro rata share of the released tort-feasor of the injured person's damages recoverable against all the other tort-feasors.

SUBCHAPTER C
IMMUNITIES GENERALLY

Sec.

8331. Medical good Samaritan civil immunity.
8331.1. Veterinary good Samaritan civil immunity.
8331.2. Good Samaritan civil immunity for use of automated external defibrillator.
8331.3. Criminal victim aid good Samaritan civil immunity.
8332. Emergency response provider and bystander good Samaritan civil immunity.
8332.1. Manager, coach, umpire or referee and nonprofit association negligence standard.
8332.2. Officer, director or trustee of nonprofit organization negligence standard.
8332.3. Volunteer firefighter civil immunity.
8332.4. Volunteer-in-public-service negligence standard.
8332.5. Corporate representatives.
8332.6. Antidrug and town-watch volunteer civil immunity.
8332.7. Immunity of State parole officers.
8332.8. Immunity of county probation officers.
8333. Body fluid and tissue limited civil immunity.
8334. Civil immunity in mass immunization projects.
8335. Damages for conversion of property of fluctuating value.
8336. Civil immunity for assistance upon request in incidents involving the transportation of hazardous substances.
8337. Civil immunity of school officers or employees relating to drug or alcohol abuse.
8337.1. Civil immunity of school officers or employees relating to emergency care, first aid and rescue.
8338. Liability for damages from donated food and grocery products.
8338.1. Liability for damages from donated vehicles or equipment to volunteer fire companies.
8339. Agricultural immunity.
8339.1. Railroad civil immunity.
8340. Immunity of program administrators and supervisors.
8340.1. Employer immunity from liability for disclosure of information regarding former or current employees.
8340.2. Civil immunity for use of force.
8340.3. Rescue from motor vehicle.

§ 8331. Medical good Samaritan civil immunity.

(a) General rule.--Any physician or any other practitioner of the healing arts or any registered nurse, licensed by any state, who happens by chance upon the scene of an emergency or who arrives on the scene of an emergency by reason of serving on an emergency call panel or similar committee of a county medical society or who is called to the scene of an emergency by the police or other duly constituted officers of a government

unit or who is present when an emergency occurs and who, in good faith, renders emergency care at the scene of the emergency, shall not be liable for any civil damages as a result of any acts or omissions by such physician or practitioner or registered nurse in rendering the emergency care, except any acts or omissions intentionally designed to harm or any grossly negligent acts or omissions which result in harm to the person receiving emergency care.

(b) Definition.--As used in this section "good faith" shall include, but is not limited to, a reasonable opinion that the immediacy of the situation is such that the rendering of care should not be postponed until the patient is hospitalized.

§ 8331.1. Veterinary good Samaritan civil immunity.

(a) General rule.--Any individual licensed to practice veterinary medicine who, in good faith, renders emergency care to any animal which such individual has discovered at the scene of an accident or emergency situation or which has immediately prior to the rendering of such care been brought to such individual's attention at or from the scene of any accident or emergency situation shall not be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care, except any acts or omissions intentionally designed to harm, or any grossly negligent acts or omissions which result in harm to the animal.

(b) Definition.--As used in this section, "good faith" shall include, but is not limited to, a reasonable opinion that the immediacy of the situation is such that the rendering of care should not be postponed until the animal is hospitalized.

(c) Exception.--This section shall not apply where the owner of the animal is in attendance and can be consulted as to the proposed action by the veterinarian.

(Dec. 13, 1982, P.L.1141, No.260, eff. imd.)

1982 Amendment. Act 260 added section 8331.1.

§ 8331.2. Good Samaritan civil immunity for use of automated external defibrillator.

(a) General rule.--Any person who in good faith acquires and maintains an AED or uses an AED in an emergency shall not be liable for any civil damages as a result of any acts or omissions by an individual using the AED, except if acts or omissions intentionally designed to harm or any grossly negligent acts or omissions result in harm to the individual receiving the AED treatment.

(b) Requirements.--Any person who acquires and maintains an AED for use in accordance with this section shall:

(1) Ensure that expected AED users receive training pursuant to subsection (c).

(2) Maintain and test the AED according to the manufacturer's operational guidelines.

(3) Provide instruction requiring the user of the AED to utilize available means to immediately contact and activate the emergency medical services system.

(4) Assure that any appropriate data or information is made available to emergency medical services personnel or other health care providers as requested.

(c) Training.--For purposes of this section, expected AED users shall complete training in the use of an AED consistent with American Red Cross, American Heart Association or other national standards as identified and approved by the Department of Health in consultation with the Pennsylvania Emergency Health Services Council.

(d) Obstruction of emergency medical services personnel.--Nothing in this section shall relieve a person who uses an AED from civil damages when that person obstructs or interferes with care and treatment being provided by emergency medical services personnel or a health professional.

(e) Exception.--(Deleted by amendment).

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Automated external defibrillator" or "AED." A portable device that uses electric shock to restore a stable heart rhythm to an individual in cardiac arrest.

"Emergency." A situation where an individual is believed to be in cardiac arrest or is in need of immediate medical attention to prevent death or serious injury.

"Good faith." Includes a reasonable opinion that the immediacy of the situation is such that the use of an AED should not be postponed until emergency medical services personnel arrive or the person is hospitalized.

(Dec. 15, 1998, P.L.949, No.126, eff. 60 days; July 5, 2012, P.L.1081, No.125, eff. 60 days)

Cross References. Section 8331.2 is referred to in section 5483 of Title 20 (Decedents, Estates and Fiduciaries).

§ 8331.3. Criminal victim aid good Samaritan civil immunity.

(a) General rule.--Any person who provides or obtains or attempts to provide or obtain assistance for a victim of a personal injury crime at the scene of the personal injury crime or attempted personal injury crime shall not be liable for any civil damages as a result of any acts or omissions in providing or obtaining or attempting to provide or obtain assistance, except any acts or omissions intentionally designed to harm or any acts or omissions that constitute gross negligence or willful, wanton or reckless conduct.

(b) Definitions.--The terms "personal injury crime" and "victim" shall have the same meanings given to them in section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

(Dec. 20, 2000, P.L.811, No.113, eff. 60 days; Oct. 31, 2003, P.L.200, No.31, eff. 60 days)

Cross References. Section 8331.3 is referred to in sections 8332.7, 8332.8 of this title.

§ 8332. Emergency response provider and bystander good Samaritan civil immunity.

(a) General rule.--Any person, including an emergency response provider, whether or not trained to practice medicine, who in good faith renders emergency care, treatment, first aid or rescue at the scene of an emergency event or crime or who moves the person receiving such care, first aid or rescue to a hospital or other place of medical care shall not be liable for any civil damages as a result of rendering such care, except in any act or omission intentionally designed to harm or any grossly negligent acts or omissions which result in harm to the person receiving emergency care or being moved to a hospital or other place of medical care.

(b) Exceptions.--(Deleted by amendment).

(b.1) Injured police animals.--A person, including an emergency response provider, whether trained to practice medicine, who, in good faith, renders emergency care, treatment, first aid or rescue to an injured police animal at the scene of an emergency event or crime or who moves an injured police

animal receiving emergency care, treatment, first aid or rescue to a hospital or other place of medical care shall not be liable for any civil damages as a result of rendering aid, except in an act or omission intentionally designed to harm or any grossly negligent acts or omissions which result in harm to the police animal receiving emergency care, treatment, first aid or rescue or while being moved to a hospital or other place of medical care.

(c) Exception.--This section shall not relieve a driver of a vehicle, including an ambulance or other emergency rescue vehicle, from liability arising from an operation or use of such vehicle pursuant to subsection (a).

(d) Definition.--(Deleted by amendment).

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Emergency response provider." The term includes Federal, State and local emergency public safety, law enforcement, emergency response, emergency medical services personnel, response teams, agencies and authorities. The term does not include hospital emergency facilities and related personnel.

"Police animals." As defined in 18 Pa.C.S. § 5531 (relating to definitions).

(July 1, 1978, P.L.697, No.122, eff. 60 days; July 5, 2012, P.L.1081, No.125, eff. 60 days; July 11, 2022, P.L.719, No.60, eff. 60 days)

2022 Amendment. Act 60 added subsecs. (b.1) and (e) and deleted subsec. (d).

Cross References. Section 8332 is referred to in section 5503 of Title 35 (Health and Safety).

§ 8332.1. Manager, coach, umpire or referee and nonprofit association negligence standard.

(a) General rule.--Except as provided otherwise in this section, no person who, without compensation and as a volunteer, renders services as a manager, coach, instructor, umpire or referee or who, without compensation and as a volunteer, assists a manager, coach, instructor, umpire or referee in a sports program of a nonprofit association, and no nonprofit association, or any officer or employee thereof, conducting or sponsoring a sports program, shall be liable to any person for any civil damages as a result of any acts or omissions in rendering such services or in conducting or sponsoring such sports program, unless the conduct of such person or nonprofit association falls substantially below the standards generally practiced and accepted in like circumstances by similar persons or similar nonprofit associations rendering such services or conducting or sponsoring such sports programs, and unless it is shown that such person or nonprofit association did an act or omitted the doing of an act which such person or nonprofit association was under a recognized duty to another to do, knowing or having reason to know that such act or omission created a substantial risk of actual harm to the person or property of another. It shall be insufficient to impose liability to establish only that the conduct of such person or nonprofit association fell below ordinary standards of care.

(b) Exceptions.--

(1) Nothing in this section shall be construed as affecting or modifying the liability of such person or nonprofit association for any of the following:

(i) Acts or omissions relating to the transportation of participants in a sports program or others to or from a game, event or practice.

(ii) Acts or omissions relating to the care and maintenance of real estate unrelated to the practice or playing areas which such persons or nonprofit associations own, possess or control.

(2) Nothing in this section shall be construed as affecting or modifying any existing legal basis for determining the liability, or any defense thereto, of any person not covered by the standard of negligence established by this section.

(c) Assumption of risk or contributory fault.--Nothing in this section shall be construed as affecting or modifying the doctrine of assumption of risk or contributory fault on the part of the participant.

(d) Definitions.--As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Compensation." The term shall not include reimbursement for reasonable expenses actually incurred or to be incurred or, solely in the case of umpires or referees, a modest honorarium.

"Nonprofit association." An entity which is organized as a nonprofit corporation or nonprofit unincorporated association under the laws of this Commonwealth or the United States or any entity which is authorized to do business in this Commonwealth as a nonprofit corporation or unincorporated association under the laws of this Commonwealth, including, but not limited to, youth or athletic associations, volunteer fire, ambulance, religious, charitable, fraternal, veterans, civic, county fair or agricultural associations, or any separately chartered auxiliary of the foregoing, if organized and operated on a nonprofit basis.

"Sports program." Baseball (including softball), football, basketball, soccer and any other competitive sport formally recognized as a sport by the United States Olympic Committee as specified by and under the jurisdiction of the Amateur Sports Act of 1978 (Public Law 95-606, 36 U.S.C. § 371 et seq.), the Amateur Athletic Union or the National Collegiate Athletic Association. The term shall be limited to a program or that portion of a program that is organized for recreational purposes and whose activities are substantially for such purposes and which is primarily for participants who are 18 years of age or younger or whose 19th birthday occurs during the year of participation or the competitive season, whichever is longer. There shall, however, be no age limitation for programs operated for the physically handicapped or mentally retarded.
(May 12, 1986, P.L.183, No.57, eff. imd.)

1986 Amendment. Act 57 added section 8332.1.

Cross References. Section 8332.1 is referred to in section 3124.3 of Title 18 (Crimes and Offenses).

§ 8332.2. Officer, director or trustee of nonprofit organization negligence standard.

(a) General rule.--Except as provided otherwise in this section, no person who serves without compensation, other than reimbursement for actual expenses, as an officer, director or trustee of any nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 501(c)(3)) shall be liable for any civil damages as a result of any acts or omissions relating solely to the performance of his duties as an officer, director or trustee, unless the

conduct of the person falls substantially below the standards generally practiced and accepted in like circumstances by similar persons performing the same or similar duties, and unless it is shown that the person did an act or omitted the doing of an act which the person was under a recognized duty to another to do, knowing or having reason to know that the act or omission created a substantial risk of actual harm to the person or property of another. It shall be insufficient to impose liability to establish only that the conduct of the person fell below ordinary standards of care.

(b) Exception.--Nothing in this section shall be construed as affecting or modifying any existing legal basis for determining the liability, or any defense thereto, of any nonprofit association.

(May 12, 1986, P.L.183, No.57, eff. imd.)

1986 Amendment. Act 57 added section 8332.2.

§ 8332.3. Volunteer firefighter civil immunity.

Volunteer firefighters shall be treated as public employees as defined in section 8501 (relating to definitions). This section shall not be construed to reduce or eliminate any other immunity provided to volunteer firefighters by law.

(Dec. 15, 1986, P.L.1598, No.177, eff. 60 days)

1986 Amendment. Act 177 added section 8332.3.

§ 8332.4. Volunteer-in-public-service negligence standard.

(a) Services covered.--

(1) Except as provided otherwise in this section, no person who, without compensation and as a volunteer, renders public services for a nonprofit organization under section 501(c)(3), (4) or (6) of the Internal Revenue Code of 1986 (68A Stat. 3, 26 U.S.C. § 501(c)(3), (4) or (6)) or for a Commonwealth or local government agency conducting or sponsoring a public service program or project shall be liable to any person for any civil damages as a result of any acts or omissions in rendering such services unless the conduct of such person falls substantially below the standards generally practiced and accepted in like circumstances by similar persons rendering such services and unless it is shown that such person did an act or omitted the doing of an act which such person was under a recognized duty to another to do, knowing or having reason to know that such act or omission created a substantial risk of actual harm to the person or property of another. It shall be insufficient to impose liability to establish only that the conduct of such person fell below ordinary standards of care.

(2) Except as provided otherwise in this section, no design professional who, without compensation and as a volunteer, provides professional services related to a declared national, State or local emergency caused by a major earthquake, hurricane, tornado, explosion, collapse or other similar disaster or catastrophic event at the request of or with the approval of a Federal, State or local public official, law enforcement official, public safety official or building inspection official acting in an official capacity shall be liable to any person for any civil damages as a result of any acts or omissions in rendering such services unless the conduct of such design professional falls substantially below the standards generally practiced and accepted in like circumstances by similar persons rendering such professional services and unless it is shown that such design professional did an act or omitted the doing of an

act which such design professional was under a recognized duty to another to do, knowing or having reason to know that such act or omission created a substantial risk of actual harm to the person or property of another. It shall be insufficient to impose liability to establish only that the conduct of such design professional fell below ordinary standards of care.

(b) Exceptions.--

(1) Nothing in this section shall be construed as affecting or modifying the liability of such person for acts or omissions relating to the transportation of participants in a public service program or project or others to or from a public service program or project.

(2) Nothing in this section shall be construed as affecting or modifying any existing legal basis for determining the liability, or any defense thereto, of any person not covered by the standard of negligence established by this section.

(c) Assumption of risk or contributory fault.--Nothing in this section shall be construed as affecting or modifying the doctrine of assumption of risk or contributory fault on the part of the participant.

(d) Construction.--The negligence standard created by this section shall not be deemed to abrogate or lessen any immunity or other protection against liability granted by statute or court decision.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Compensation." The term shall not include reimbursement for reasonable expenses actually incurred or to be incurred.

"Design professional." An individual licensed by the Commonwealth of Pennsylvania as an architect, geologist, land surveyor, landscape architect or professional engineer.

"Public service program or project." An organized program, or other public service ordinarily conducted or rendered by volunteers.

(Dec. 21, 1988, P.L.1862, No.179, eff. 60 days; Oct. 30, 2001, P.L.824, No.81, eff. 60 days)

2001 Amendment. Act 81 amended subsecs. (a) and (e).

1988 Amendment. Act 179 added section 8332.4.

Cross References. Section 8332.4 is referred to in section 327 of Title 30 (Fish).

§ 8332.5. Corporate representatives.

(a) General rule.--The liability of an individual shall be limited to the extent expressly provided by or pursuant to Title 15 (relating to corporations and unincorporated associations). See 15 Pa.C.S. Ch. 5 Subch. B (relating to fiduciary duty and indemnification), Ch. 17 Subch. B (relating to fiduciary duty) and Ch. 57 Subch. B (relating to fiduciary duty).

(b) Certain governmental corporations.--An individual who is a director, officer or employee of a governmental corporation and who is not entitled to immunity under Chapter 85 (relating to matters affecting government units) may assert any applicable immunity under 15 Pa.C.S. Ch. 57 Subch. B to the same extent as if the governmental corporation were a nonprofit corporation which had elected the maximum immunity available under such subchapter.

(Dec. 19, 1990, P.L.834, No.198, eff. imd.)

1990 Amendment. Act 198 added section 8332.5.

Cross References. Section 8332.5 is referred to in sections 513, 1713, 1735, 5713, 5733.2 of Title 15 (Corporations and Unincorporated Associations).

§ 8332.6. Antidrug and town-watch volunteer civil immunity.

(a) General rule.--An antidrug or town-watch volunteer who acts in good faith and within the scope of the volunteer's role with an antidrug or crime prevention volunteer organization or government agency shall be immune from civil liability for damage caused by acts or omissions unless all of the following apply:

(1) The conduct of the volunteer falls substantially below the standards generally practiced and accepted in like circumstances by similar persons rendering such services.

(2) It is shown that the volunteer performed an act or failed to perform an act which the volunteer was under a recognized duty to another to perform, knowing or having reason to know that such act or omission created a substantial risk or actual harm to the person or property of another. It is insufficient to impose liability under this paragraph to establish only that the conduct of the volunteer fell below ordinary standards of care.

(b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Antidrug or town-watch volunteer." A person performing services for an antidrug or town-watch volunteer organization or government agency without compensation other than reimbursement for actual expenses incurred. The term includes a volunteer serving as a director, officer, trustee or direct service volunteer.

"Antidrug or town-watch volunteer organization." A nonprofit organization, corporate volunteer program, medical facility or substance abuse treatment program that uses volunteers to reduce crime and drug use in the community.

"Corporate volunteer program." A program administered by an entity other than a nonprofit organization or government agency that enlists primarily its own employees, retirees, partners or professional affiliates in a volunteer capacity to achieve objectives that would qualify as charitable under section 501(c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)).

"Nonprofit organization." An organization which is described in section 501(c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)), whether or not it has been certified by the Internal Revenue Service.

(June 25, 2001, P.L.697, No.66, eff. 60 days)

2001 Amendment. Act 66 added section 8332.6. See the preamble to Act 66 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 8332.7. Immunity of State parole officers.

(a) Assistance of law enforcement personnel.--In addition to the provisions of 61 Pa.C.S. § 6181 (relating to status as peace officers) or any other law, any parole officer appointed by the Department of Corrections who, after obtaining permission in advance from a person authorized by the Secretary of Corrections, assists Federal, State or local law enforcement officers or agents or county probation officers in the lawful performance of their duties shall be considered to be acting within the scope of his official duty for all purposes of law and shall enjoy any benefit or immunity conferred upon an employee of the Commonwealth.

(b) Assistance of criminal victims.--In addition to any other immunity provided by law, any parole officer appointed by the Secretary of Corrections who is entitled to immunity under section 8331.3 (relating to criminal victim aid good Samaritan civil immunity) as a result of providing assistance to a victim of a crime shall be considered to be acting within the scope of his official duty while providing assistance to the victim for all purposes of law and shall enjoy any benefit or immunity conferred upon an employee of the Commonwealth.
(Dec. 9, 2002, P.L.1705, No.215, eff. 60 days; Dec. 30, 2003, P.L.432, No.61, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

§ 8332.8. Immunity of county probation officers.

(a) Assistance of law enforcement personnel.--In addition to the provisions of section 1 of the act of August 6, 1963 (P.L.521, No.277), entitled "An act providing that probation officers shall have the power of peace officers in the performance of their duties," or any other law, any probation officer appointed by any court of record of this Commonwealth who, after obtaining permission in advance from a person authorized by the appointing court, assists Federal, State or local law enforcement officers or agents, State parole agents or county probation officers in the lawful performance of their duties shall be considered to be acting within the scope of his official duty for all purposes of law and shall enjoy any benefit or immunity conferred upon an employee of that county.

(b) Assistance of criminal victims.--In addition to any other immunity provided by law, any probation officer appointed by any court of record of this Commonwealth who is entitled to immunity under section 8331.3 (relating to criminal victim aid good Samaritan civil immunity) as a result of providing assistance to a victim of a crime shall be considered to be acting within the scope of his official duty while providing assistance to the victim for all purposes of law and shall enjoy any benefit or immunity conferred upon an employee of that county.
(Dec. 9, 2002, P.L.1705, No.215, eff. 60 days; Dec. 30, 2003, P.L.432, No.61, eff. 60 days)

References in Text. Section 1 of the act of August 6, 1963, P.L.521, No.277, referred to in subsec. (a), was repealed by the act of August 11, 2009, P.L.147, No.33. The subject matter is now contained in Part IV of Title 61 (Prisons and Parole).

§ 8333. Body fluid and tissue limited civil immunity.

(a) General rule.--No person shall be held liable for death, disease or injury resulting from the lawful transfusion of blood, blood components or plasma derivatives, or from the lawful transplantation or insertion of tissue, bone or organs, except upon a showing of negligence on the part of such person. Specifically excluded hereunder is any liability by reason of any rule of strict liability or implied warranty or any other warranty not expressly undertaken by the party to be charged.

(b) Definition.--As used in this section the term "negligence" shall include but not be limited to any failure to observe accepted standards in the collection, testing, processing, handling, storage, transportation, classification, labelling, transfusion, injection, transplantation or other preparation or use of any such blood, blood components, plasma derivatives, tissue, bone or organs.

§ 8334. Civil immunity in mass immunization projects.

(a) General rule.--Any physician who does not receive remuneration for his services in a mass immunization project approved in writing by the Department of Health or its designee under the provisions of the act of September 19, 1974 (P.L.644, No.210), and any registered nurse, or practical nurse licensed to practice in this Commonwealth who shall participate in such project and any State, county or local medical society, medical or health facility, agency or clinic approved by the department shall not be liable, except for gross negligence, to any person for illness, reaction, or adverse effect arising from or out of the use of any drug or vaccine in such project by such physician or such nurse. Neither the department nor its designee shall approve any such project unless the department or its designee finds that the project conforms to good medical and public health practice.

(b) Exception.--This section shall not exempt any drug manufacturer from any liability for any drug or vaccine used in such project.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

References in Text. The act of September 19, 1974, P.L.644, No.210, referred to in subsection (a), was repealed by the act of April 28, 1978, P.L.202, No.53, known as the Judiciary Act Repealer Act.

§ 8335. Damages for conversion of property of fluctuating value.

Damages for the conversion of stocks, bonds, or other like property of fluctuating value shall be limited to the difference between the proceeds of the conversion, or that portion thereof duly paid or credited to the owner, and such higher value as the property may have reached within a reasonable time after he had notice of the conversion. Where the facts are not in dispute, such period shall be fixed by the court as a matter of law.

§ 8336. Civil immunity for assistance upon request in incidents involving the transportation of hazardous substances.

(a) General rule.--During the course of transportation, including the loading and unloading thereof, of hazardous substances, no person shall be liable in civil damages when his conduct consists solely of action or inaction taken or omitted in the course of rendering care, assistance or advice, voluntarily and upon request of any police agency, fire department, rescue or emergency squad, any other governmental agency, the person responsible for preventing, mitigating or cleaning up the danger to person, property or environment or the owner or manufacturer of the hazardous substance involved, with respect to an incident creating a danger to person, property or environment as a result of spillage, leakage, seepage, fire, explosion or other accidental or potential accidental release of hazardous substances.

(b) Exclusions.--The immunities provided in this section shall not apply to any person who:

(1) is under a legal duty to respond to the incident;

(2) received remuneration beyond reimbursement for out of pocket expenses for services in rendering such care, assistance or advice in connection therewith or had the expectation of receiving such remuneration from the recipient of such care, assistance or advice or from someone acting on his behalf; or

(3) does not personally possess or does not provide personnel who possess the skill, training or knowledge with regard to the safe handling of hazardous substances, their

effects and incidents involving the transportation of hazardous substances in order to render the care, assistance or advice requested.

(c) Persons not affected.--This section shall not be construed to affect any immunity otherwise granted by statute to any police agency, fire department, rescue or emergency squad or any other governmental agency.

(d) Gross negligence or willful misconduct.--Nothing in this section shall be construed to limit or otherwise affect or preclude the liability of any person resulting from such person's gross negligence or intentional misconduct. Reckless, willful or wanton misconduct shall constitute gross negligence.

(e) Definitions.--As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Hazardous substances." All substances which are defined as hazardous in the act of November 9, 1965 (P.L.657, No.323), known as the "Hazardous Substances Transportation Act," or any subsequent amendment thereto.

"Person." Any individual, partnership, corporation, association or other entity.

(Dec. 1, 1982, P.L.767, No.220, eff. 60 days)

1982 Amendment. Act 220 added section 8336.

References in Text. The act of November 9, 1965, P.L.657, No.323, known as the Hazardous Substances Transportation Act, referred to in subsec. (e), was repealed by the act of June 30, 1984, P.L.473, No.99. The subject matter is now contained in Chapter 83 of Title 75 (Vehicles).

§ 8337. Civil immunity of school officers or employees relating to drug or alcohol abuse.

(a) General rule.--Any officer or employee of a school who, in the scope of official duty, reports drug or alcohol abuse involving a student to another officer or employee of the school, to a parent, legal guardian or spouse of the student or who refers a student for treatment or counseling or for disciplinary action by school authorities relating to drug or alcohol abuse shall not be liable to the student or the parents, legal guardian or spouse of the student for civil damages as a result of any negligent statements, acts or omissions undertaken in good faith for the purposes set forth in this section. This subsection shall also apply to school authorities who have been designated to handle disciplinary cases for negligent statements, acts or omissions undertaken in good faith in reporting a student for drug or alcohol abuse to a law enforcement officer in accordance with school policy or procedures and based upon a reasonable belief that a crime has been, is being or will be committed. This subsection does not apply to any statement, acts or omissions which are intentionally designed to harm or which are grossly negligent and result in harm to the student.

(b) Definitions.--As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Drug and alcohol abuse." The unauthorized use, possession or distribution of:

(1) Alcohol, as defined in the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

(2) Any controlled substance, drug, drug paraphernalia or counterfeit drug as defined in the act of September 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act, or the

act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act. The term includes any act prohibited under section 8 of the Pharmacy Act or section 13(a)(15) or (16) of The Controlled Substance, Drug, Device and Cosmetic Act.

"Officer or employee of a school." A school director, principal, superintendent, teacher, guidance counselor, support staff member or other educational or medical employee employed in a day or residential school which provides preschool, kindergarten, elementary or secondary education in this Commonwealth, at either a public or nonpublic school.

(c) Political subdivision tort claims.--This section shall not reduce or impair the protections afforded by Subchapter C of Chapter 85 (relating to actions against local parties).
(May 30, 1984, P.L.337, No.67, eff. 30 days)

1984 Amendment. Act 67 added section 8337.

§ 8337.1. Civil immunity of school officers or employees relating to emergency care, first aid and rescue.

(a) General rule.--An officer or employee of a school who in good faith believes that a student needs emergency care, first aid or rescue and who provides such emergency care, first aid or rescue to the student or who removes the student receiving such emergency care, first aid or rescue to a hospital or other place of medical care shall be immune from civil liability as a result of any acts or omissions by the officer or employee, except any acts or omissions intentionally designed to seriously harm or any grossly negligent acts or omissions which result in serious bodily harm to the student receiving emergency care.

(b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Good faith." Includes, but is not limited to, a reasonable nonmedical opinion that the immediacy of the situation is such that the rendering of care should not be postponed.

"Officer or employee of a school." A school director, principal, superintendent, teacher, guidance counselor, support staff member or other educational or medical employee employed in a day or residential school which provides preschool, kindergarten, elementary or secondary education in this Commonwealth at either a public or nonpublic school.
(Nov. 22, 2000, P.L.690, No.93, eff. 60 days)

2000 Amendment. Act 93 added section 8337.1.

§ 8338. Liability for damages from donated food and grocery products.

(a) General rule.--A person is not subject to civil or criminal liability arising from the nature, age, packaging or condition of apparently wholesome food or of grocery products apparently fit for household consumption or use that the person donated in good faith to a nonprofit organization for ultimate free distribution to needy individuals. This section does not apply to an injury or death of the ultimate users or recipients of the food or grocery products that results from an act or omission of the donor constituting gross negligence, recklessness or intentional misconduct.

(b) Recklessness, gross negligence or intentional misconduct.--A person who permits gleaning on property owned or occupied by him is not subject to civil or criminal liability that arises due to the injury or death of any individual involved in the collection or gleaning of donations, unless the

injury or death results from an act or omission of said person constituting gross negligence, recklessness or intentional misconduct.

(c) Nonliability.--This section does not create any liability.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Donate." To give or distribute without requiring anything of monetary value from the ultimate recipient. For purposes of this section, a nonprofit organization may donate to another nonprofit organization, notwithstanding that the donor organization has charged a processing fee to the donee organization, provided the ultimate recipient or user is not required to give anything of monetary value.

"Glean." To harvest for ultimate free distribution to needy individuals an agricultural crop that has been donated by any person.

"Grocery products." Any nonfood grocery products, including, but not limited to, disposable paper and plastic products, household cleaning products, bottled water, laundry detergents and cleaning products and miscellaneous household items.

"Nonprofit organization." An incorporated or unincorporated organization that has been incorporated or established and is operating for religious, charitable or education purposes and that does not distribute any of its income to its members, directors or officers.

"Person." Any individual, corporation, partnership, organization, association or government entity, including, but not limited to, retail grocers, wholesalers, manufacturers, restaurants, caterers, farmers, nonprofit food distributors and hospitals. In the case of a corporation, partnership, organization, association or governmental entity, the term also includes, but is not limited to, the officers, directors, partners, deacons, trustees, council members or other elected or appointed individuals responsible for the governance of such entity.

(Apr. 5, 1990, P.L.113, No.27, eff. 60 days)

1990 Amendment. Act 27 added section 8338.

§ 8338.1. Liability for damages from donated vehicles or equipment to volunteer fire companies.

(a) General rule.--A person is not subject to civil liability arising from the nature or condition of vehicles or equipment which were reasonably believed to be in good condition, donated in good faith to a volunteer fire company and for which all known defects were disclosed by the person to the volunteer fire company. Any person donating vehicles or equipment shall reveal all known defects to the donee. This section does not apply to an injury or death to any person that results from an act or omission of the donor constituting gross negligence, recklessness or intentional misconduct.

(b) Nonliability.--This section shall not be construed as establishing any liability.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Donate." To give or distribute without requiring anything of monetary value from the ultimate recipient. For purposes of this section, a volunteer fire company may donate to another volunteer fire company, notwithstanding that the donor has charged a processing fee to the donee, provided the ultimate

recipient or user is not required to give anything of monetary value.

"Person." An individual, corporation, partnership, organization, association or government entity. In the case of a corporation, partnership, organization, association or governmental entity, the term also includes, but is not limited to, an officer, director, partner, deacon, trustee, council member or other elected or appointed individual responsible for the governance of such entity.

"Volunteer ambulance service." Any nonprofit chartered corporation, association or organization which is located in this Commonwealth and which is regularly engaged in the service of providing emergency medical care and transportation of patients.

"Volunteer fire company." Any nonprofit chartered corporation, association or organization which is located in this Commonwealth and which provides fire protection services and other voluntary emergency services within this Commonwealth. Voluntary emergency services provided by a volunteer fire company may include voluntary ambulance and voluntary rescue services.

"Volunteer rescue service." Any nonprofit chartered corporation, association or organization which is located in this Commonwealth and which provides rescue services in this Commonwealth.

(Dec. 1, 2004, P.L.1747, No.225, eff. 60 days)

2004 Amendment. Act 225 added section 8338.1.

§ 8339. Agricultural immunity.

(a) General rule.--No cause of action shall arise against the owner, tenant or lessee of land or premises for injuries to any person, other than an employee or contractor of the owner, tenant or lessee, who is on the land or premises for the purpose of picking and purchasing agricultural or farm products at a farm or "u-pick" operation, unless the person's injuries were caused by a condition which involved an unreasonable risk of harm and all of the following apply:

(1) The owner, tenant or lessee knew or had reason to know of the condition or risk.

(2) The owner, tenant or lessee failed to exercise reasonable care to make the condition safe or to warn the person of the condition or risk.

(b) Definitions.--As used in this section, the term "agricultural or farm products" means the natural products of the farm, nursery, grove, orchard, vineyard, garden and apiary, including, but not limited to, trees and firewood.

(July 11, 1990, P.L.464, No.112, eff. imd.)

1990 Amendment. Act 112 added section 8339.

§ 8339.1. Railroad civil immunity.

(a) General rule.--A railroad carrier owes no duty of care to keep its railroad property safe for entry or use by any trespasser who enters upon any railroad property or railroad right-of-way or to give any warning to such trespasser entering or going on that railroad property of a dangerous condition, use or activity thereon. Except as set forth in subsection (b), a railroad carrier shall not:

(1) Be presumed to extend any assurance to a trespasser entering or going on railroad property without the railroad carrier's consent that the railroad property is safe for any purpose.

(2) Incur any duty of care toward a trespasser entering or going on railroad property without the railroad carrier's consent.

(3) Become liable for any injury to a trespasser entering or going on railroad property without the railroad carrier's consent caused by an act or omission of such trespasser.

(b) Limitation.--Nothing in this section limits in any way any liability which otherwise exists for willful or wanton failure to guard or warn against a dangerous condition, use or activity.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Trespasser." A person who enters onto railroad property without any right, lawful authority or the express consent of the railroad.

(July 15, 2004, P.L.691, No.74, eff. 60 days)

2004 Amendment. Act 74 added section 8339.1.

§ 8340. Immunity of program administrators and supervisors.

Any probation officer or agent of the Department of Corrections and any public service or charitable agency or organization or political subdivision, or any official or employee thereof, supervising or administering any restitution or community service program approved by the court of common pleas or the Department of Corrections shall be immune from any civil action for damages brought by or on behalf of any person involved in the program or damages caused by any person involved in the program. Nothing in this section shall be construed to limit or otherwise affect or preclude liability resulting from gross negligence or intentional misconduct or reckless misconduct.

(Feb. 12, 1992, P.L.1, No.1, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

§ 8340.1. Employer immunity from liability for disclosure of information regarding former or current employees.

(a) General rule.--An employer who discloses information about a current or former employee's job performance to a prospective employer of the current or former employee, upon request of the prospective employer or the current or former employee, is presumed to be acting in good faith and, unless lack of good faith is demonstrated by clear and convincing evidence, is immune from civil liability for such disclosure or its consequences in any case brought against the employer by the current or former employee. The presumption of good faith may be rebutted only by clear and convincing evidence establishing that the employer disclosed information that:

(1) the employer knew was false or in the exercise of due diligence should have known was false;

(2) the employer knew was materially misleading;

(3) was false and rendered with reckless disregard as to the truth or falsity of the information; or

(4) was information the disclosure of which is prohibited by any contract, civil, common law or statutory right of the current or former employee.

(b) Effect upon immunity.--This section shall not be construed to affect immunities from civil liability or defenses established by law or available at common law to which an employer may be entitled.

(c) Definition.--As used in this section, the term "employer" means a business enterprise of whatever form, a

public or nonprofit entity or any person acting on behalf of the business enterprise or public or nonprofit entity.
(June 15, 2005, P.L.6, No.3, eff. 60 days)

2005 Amendment. Act 3 added section 8340.1.

§ 8340.2. Civil immunity for use of force.

(a) General rule.--An actor who uses force:

(1) in self-protection as provided in 18 Pa.C.S. § 505 (relating to use of force in self-protection);

(2) in the protection of other persons as provided in 18 Pa.C.S. § 506 (relating to use of force for the protection of other persons);

(3) for the protection of property as provided in 18 Pa.C.S. § 507 (relating to use of force for the protection of property);

(4) in law enforcement as provided in 18 Pa.C.S. § 508 (relating to use of force in law enforcement); or

(5) consistent with the actor's special responsibility for care, discipline or safety of others as provided in 18 Pa.C.S. § 509 (relating to use of force by persons with special responsibility for care, discipline or safety of others)

is justified in using such force and shall be immune from civil liability for personal injuries sustained by a perpetrator which were caused by the acts or omissions of the actor as a result of the use of force.

(b) Attorney fees and costs.--If the actor who satisfies the requirements of subsection (a) prevails in a civil action initiated by or on behalf of a perpetrator against the actor, the court shall award reasonable expenses to the actor. Reasonable expenses shall include, but not be limited to, attorney fees, expert witness fees, court costs and compensation for loss of income.

(c) Definition.--As used in this section, the term "perpetrator" shall mean a person against whom an actor is justified in using force as provided by 18 Pa.C.S. § 505, 506, 507, 508 or 509.
(June 28, 2011, P.L.48, No.10, eff. 60 days)

2011 Amendment. Act 10 added section 8340.2. See the preamble to Act 10 in the appendix to this title for special provisions relating to legislative findings.

§ 8340.3. Rescue from motor vehicle.

(a) Rescue of individual.--No person shall be liable for damage to a motor vehicle or the contents thereof caused by entry into the motor vehicle for the purpose of removing an individual from the motor vehicle, if the person:

(1) Has a good faith, reasonable belief that the individual is in imminent danger of suffering harm if not immediately removed from the motor vehicle.

(2) Determines that the individual is unable to exit the motor vehicle without assistance.

(3) Makes a reasonable effort to locate the driver of the motor vehicle and to contact law enforcement, a fire department or other emergency responder prior to entry. If the driver is not located and such contact is not possible prior to entering the motor vehicle, the person shall contact law enforcement, a fire department or other emergency responder as soon as reasonably possible after entering the motor vehicle.

(4) Uses no more force than necessary under the circumstances to enter the motor vehicle.

(5) Makes a good faith effort to leave notice on or in the motor vehicle stating the reason the entry was made, the location of the individual who was removed from the motor vehicle and, if possible, identifying the police or fire department or other emergency responder that is expected to respond.

(6) Remains with the individual in a safe location until law enforcement or emergency responders arrive.

(b) Rescue of dog or cat.--No law enforcement officer, animal control officer, humane society police officer or emergency responder, or the employer of a law enforcement officer, humane society police officer or emergency responder, shall be liable for damage to a motor vehicle or the contents thereof caused by entry into the motor vehicle for the purpose of removing a dog or cat, if the law enforcement officer, humane society police officer or emergency responder does all of the following:

(1) Has a good-faith, reasonable belief that the dog or cat is in imminent danger of suffering harm if not immediately removed from the motor vehicle.

(2) Makes a reasonable effort to locate the driver of the motor vehicle prior to entry.

(3) Takes reasonable steps to ensure or restore the well-being of the dog or cat.

(4) Uses no more force than necessary under the circumstances to enter the motor vehicle.

(5) Leaves notice on or in the motor vehicle stating the reason entry was made, the name of the person and of the person's employer, a telephone number and, if possible, the location where the dog or cat may be retrieved.

(c) Limitation.--A person shall not be immune from civil liability for damage resulting from the entry if the person's actions constitute gross negligence, recklessness or willful or wanton misconduct.

(Oct. 24, 2018, P.L.685, No.104, eff. 60 days; May 15, 2019, P.L.27, No.5, eff. 60 days)

SUBCHAPTER D
DEFAMATION

Sec.

8341. Single publication limitation.
8342. Justification a defense.
8343. Burden of proof.
8344. Malice or negligence necessary to support award of damages.
8345. No liability when without power of censorship.

§ 8341. Single publication limitation.

(a) Short title of section.--This section shall be known and may be cited as the "Uniform Single Publication Act."

(b) General rule.--No person shall have more than one cause of action for damages for libel or slander, or invasion of privacy, or any other tort founded upon any single publication, or exhibition, or utterance, such as any one edition of a newspaper, or book, or magazine, or any one presentation to an audience, or any one broadcast over radio or television, or any one exhibition of a motion picture. Recovery in any action shall include all damages for any such tort suffered by the plaintiff in all jurisdictions.

(c) Bar by judgment.--A judgment in any jurisdiction for or against the plaintiff upon the substantive merits of any

action for damages founded upon a single publication, or exhibition, or utterance, as described in subsection (b), shall bar any other action for damages by the same plaintiff against the same defendant founded upon the same publication, or exhibition, or utterance.

§ 8342. Justification a defense.

In all civil actions for libel, the plea of justification shall be accepted as an adequate and complete defense, when it is pleaded, and proved to the satisfaction of the jury, under the direction of the court as in other cases, that the publication is substantially true and is proper for public information or investigation, and has not been maliciously or negligently made.

§ 8343. Burden of proof.

(a) Burden of plaintiff.--In an action for defamation, the plaintiff has the burden of proving, when the issue is properly raised:

(1) The defamatory character of the communication.

(2) Its publication by the defendant.

(3) Its application to the plaintiff.

(4) The understanding by the recipient of its defamatory meaning.

(5) The understanding by the recipient of it as intended to be applied to the plaintiff.

(6) Special harm resulting to the plaintiff from its publication.

(7) Abuse of a conditionally privileged occasion.

(b) Burden of defendant.--In an action for defamation, the defendant has the burden of proving, when the issue is properly raised:

(1) The truth of the defamatory communication.

(2) The privileged character of the occasion on which it was published.

(3) The character of the subject matter of defamatory comment as of public concern.

§ 8344. Malice or negligence necessary to support award of damages.

In all civil actions for libel, no damages shall be recovered unless it is established to the satisfaction of the jury, under the direction of the court as in other cases, that the publication has been maliciously or negligently made, but where malice or negligence appears such damages may be awarded as the jury shall deem proper.

§ 8345. No liability when without power of censorship.

Liability shall be denied and no recovery shall be allowed against the owners, licensees and operators of any visual or sound radio and television station or network of stations or against the agents, servants or employees of such owner, licensee or operator, for the publication, utterance or broadcasting of any defamatory matter, where the publication, utterance or broadcasting thereof is not subject to their censorship or control by reason of any Federal statute or any regulation, ruling or order of the Federal Communications Commission.

SUBCHAPTER E
WRONGFUL USE OF CIVIL PROCEEDINGS

Sec.

8351. Wrongful use of civil proceedings.
8352. Existence of probable cause.

8353. Damages.
8354. Burden of proof.
8355. Certification of pleadings, motions and other papers.

Enactment. Subchapter E was added December 19, 1980, P.L.1296, No.232, effective in 60 days.

Applicability. Section 2 of Act 232 of 1980 provided that Subchapter E shall be applicable to causes of action accruing after the effective date of Act 232.

Cross References. Subchapter E is referred to in section 62A20 of this title; section 6122 of Title 23 (Domestic Relations).

§ 8351. Wrongful use of civil proceedings.

(a) Elements of action.--A person who takes part in the procurement, initiation or continuation of civil proceedings against another is subject to liability to the other for wrongful use of civil proceedings:

(1) he acts in a grossly negligent manner or without probable cause and primarily for a purpose other than that of securing the proper discovery, joinder of parties or adjudication of the claim in which the proceedings are based; and

(2) the proceedings have terminated in favor of the person against whom they are brought.

(b) Arrest or seizure of person or property not required.--The arrest or seizure of the person or property of the plaintiff shall not be a necessary element for an action brought pursuant to this subchapter.

Cross References. Section 8351 is referred to in section 8353 of this title.

§ 8352. Existence of probable cause.

A person who takes part in the procurement, initiation or continuation of civil proceedings against another has probable cause for doing so if he reasonably believes in the existence of the facts upon which the claim is based, and either:

(1) reasonably believes that under those facts the claim may be valid under the existing or developing law;

(2) believes to this effect in reliance upon the advice of counsel, sought in good faith and given after full disclosure of all relevant facts within his knowledge and information; or

(3) believes as an attorney of record, in good faith that his procurement, initiation or continuation of a civil cause is not intended to merely harass or maliciously injure the opposite party.

§ 8353. Damages.

When the essential elements of an action brought pursuant to this subchapter have been established as provided in section 8351 (relating to wrongful use of civil proceedings), the plaintiff is entitled to recover for the following:

(1) The harm normally resulting from any arrest or imprisonment, or any dispossession or interference with the advantageous use of his land, chattels or other things, suffered by him during the course of the proceedings.

(2) The harm to his reputation by any defamatory matter alleged as the basis of the proceedings.

(3) The expense, including any reasonable attorney fees, that he has reasonably incurred in defending himself against the proceedings.

(4) Any specific pecuniary loss that has resulted from the proceedings.

(5) Any emotional distress that is caused by the proceedings.

(6) Punitive damages according to law in appropriate cases.

Cross References. Section 8353 is referred to in section 8354 of this title.

§ 8354. Burden of proof.

In an action brought pursuant to this subchapter the plaintiff has the burden of proving, when the issue is properly raised, that:

(1) The defendant has procured, initiated or continued the civil proceedings against him.

(2) The proceedings were terminated in his favor.

(3) The defendant did not have probable cause for his action.

(4) The primary purpose for which the proceedings were brought was not that of securing the proper discovery, joinder of parties or adjudication of the claim on which the proceedings were based.

(5) The plaintiff has suffered damages as set forth in section 8353 (relating to damages).

§ 8355. Certification of pleadings, motions and other papers.

Every pleading, motion and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name and his address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion or other paper and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or party constitutes a certification by him that he has read the pleading, motion or other paper; that, to the best of his knowledge, information and belief, it is well-grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not interposed in bad faith or for any improper purpose, such as to harass another, to maliciously injure another or to cause unnecessary delay or increase in the cost of litigation. If a pleading, motion or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other paper is signed in violation of this section, the court shall award to the successful party costs and reasonable attorney fees and may, in addition, impose a civil penalty which shall not exceed $10,000. Such costs, fees and civil penalty shall be in addition to any other judgment awarded to the successful party and shall be imposed upon the person who signed the pleading, motion or other paper, or a represented party, or both. This section is in addition to and shall not be construed to limit any other remedies or sanctions provided by law.

(Feb. 7, 1990, P.L.11, No.6, eff. 60 days)

1990 Amendment. Act 6 added section 8355.

Suspension by Court Rule. Section 8355 was suspended by Pennsylvania Rule of Civil Procedure No. 1023(d), adopted March 11, 1991. Rule 1023 was rescinded April 22, 2002, effective July 1, 2002.

Section 8355 was suspended by Pennsylvania Rule of Civil Procedure No. 1023.1(e), adopted April 22, 2002.

SUBCHAPTER F
CORPORATE DIRECTORS' LIABILITY
(Repealed)

1990 Repeal. Subchapter F (§§ 8361 - 8367) was added November 28, 1986, P.L.1458, No.145, and repealed December 19, 1990, P.L.834, No.198, effective immediately. The subject matter is now contained in Subchapter B of Chapter 5, Subchapter B of Chapter 17 and Subchapter B of Chapter 57 of Title 15 (Corporations and Unincorporated Associations).

SUBCHAPTER F.1
SUCCESSOR BUSINESS ENTITY LIABILITY

Sec.
8368.1. Legislative findings and declaration.
8368.2. Definitions.
8368.3. Liability.
8368.4. Fair market value.
8368.5. Adjustment of fair market value.
8368.6. Applicability and construction.

Enactment. Subchapter F.1 was added July 2, 2014, P.L.1000, No.112, effective immediately.

§ 8368.1. Legislative findings and declaration.

(a) Findings.--The General Assembly finds that:

(1) Asbestos-related claims threaten the continued viability of successor business entities which are formed or organized under the laws of this Commonwealth or another jurisdiction that have never manufactured, sold or distributed asbestos or asbestos-containing products.

(2) It is in the best interest of this Commonwealth to ensure the economic viability of the entities under paragraph (1).

(3) The viability of the domestic and foreign business entities under paragraph (1) is threatened due solely to their status as successor business entities by merger or consolidation based on actions taken prior to the 1972 adoption of asbestos regulations by the Occupational Safety and Health Administration.

(4) The cumulative recovery by all asbestos claimants from innocent successor business entities should be limited.

(b) Intent.--It is the intent of the General Assembly to expand the protections granted in 15 Pa.C.S. § 1929.1 (relating to limitations on asbestos-related liabilities relating to certain mergers or consolidations) to successor business entities which are formed or organized under the laws of this Commonwealth or another jurisdiction.

§ 8368.2. 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:

"Asbestos claim." A claim, wherever or whenever made, for damages, losses, indemnification, contribution or other relief arising out of, based on or in any way related to asbestos, including property damage caused by the installation, presence or removal of asbestos, the health effects of exposure to asbestos, including a claim for personal injury, death, mental or emotional injury, risk of disease or other injury or the costs of medical monitoring or surveillance. The term includes a claim made by or on behalf of any person exposed to asbestos

or a representative, spouse, parent, child or other relative of that individual.

"Asbestos-related liability." Any liability, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated or due or to become due or related in any way to an asbestos claim.

"Business entity." A for-profit corporation, limited liability company, partnership, limited liability partnership or Subchapter S corporation formed or organized under the laws of this Commonwealth or another jurisdiction.

"Successor asbestos-related liability." Any asbestos-related liability that was assumed or incurred by a business entity as a result or in connection with a merger or consolidation, or a plan of merger or consolidation related thereto, with or into another business entity formed or organized under the laws of this Commonwealth or another jurisdiction or which are related in any way to asbestos claims based on the exercise of control or the ownership of stock of the business entity prior to the merger or consolidation. The term shall include liabilities which, after the time of the merger or consolidation with a transferor for which the fair market value of the total gross assets of the successor business entity are determined under section 8368.4 (relating to fair market value), were paid, committed to be paid or discharged by or on behalf of the business entity, successor business entity or transferor in connection with a settlement, judgment or discharge in this Commonwealth or another jurisdiction.

"Successor business entity." Any of the following:

(1) A business entity that has merged or consolidated with a transferor prior to January 1, 1972, and that has assumed or incurred successor asbestos-related liabilities.

(2) A business entity that is a successor of a business entity that has merged or consolidated with a transferor prior to January 1, 1972, and that has assumed or incurred successor asbestos-related liabilities.

"Transferor." A business entity from which successor asbestos-related liabilities are or were assumed or incurred.

§ 8368.3. Liability.

(a) Limitation.--Except as provided under subsection (c), the cumulative successor asbestos-related liability of a successor business entity shall be limited to the fair market value of the total gross assets of the transferor as of the time of the merger or consolidation with the successor business entity.

(b) Responsibility.--A successor business entity shall have no responsibility for successor asbestos-related liabilities in excess of the limitation under subsection (a).

(c) Exception.--If a transferor assumed or incurred successor asbestos-related liability in connection with a prior merger or consolidation with a prior transferor, the fair market value of the total assets of the prior transferor as of the time of the prior merger or consolidation shall be substituted for the limitation under subsection (a) for purposes of determining the liability of the successor business entity.

Cross References. Section 8368.3 is referred to in section 8368.5 of this title.

§ 8368.4. Fair market value.

(a) Establishment.--A successor business entity may establish the fair market value of total gross assets of the transferor as of the time of the merger or consolidation by any

reasonable method under the circumstances, including the following:

(1) By reference to the going-concern value of the assets or to the purchase price of the assets in an arms-length transaction.

(2) In the absence of other readily available information from which fair market value can be determined, by reference to the value of the assets recorded on a balance sheet.

(b) Intangible assets.--Total gross assets under this section shall include intangible assets.

(c) Prima facie evidence.--A showing by the successor business entity of a reasonable determination of the fair market value of total gross assets shall be prima facie evidence of their fair market value.

(d) Burden.--Following a reasonable determination of the fair market value of total gross assets by the successor business entity, a claimant disputing that determination shall have the burden of establishing a different fair market value of the total gross assets.

(e) Insurance settlement.--To the extent that total gross assets include liability insurance, a settlement of a dispute relating to liability insurance coverage entered into by the transferor or successor business entity with the insurer of the transferor prior to the effective date of this section shall be determinative of the total coverage of the liability insurance in the calculation of the transferor's total gross assets.

Cross References. Section 8368.4 is referred to in sections 8368.2, 8368.5 of this title.

§ 8368.5. Adjustment of fair market value.

(a) Annual increase.--Except as provided under subsection (c), the fair market value of total gross assets of a transferor as determined under section 8368.4 (relating to fair market value) shall increase annually until the earlier of:

(1) The date of the settlement, judgment or other discharge to which the limitations under section 8368.3 (relating to liability) are being applied.

(2) The date on which the adjusted fair market value is first exceeded by the cumulative amounts paid or committed to be paid by or on behalf of a successor business entity or a transferor after the time of merger or consolidation for which the fair market value of total assets is determined for purposes of section 8368.3, in connection with settlements, judgments or other discharges of successor asbestos-related liabilities.

(b) Rate.--Any adjustment under subsection (a) shall be at the rate equal to the prime rate listed in the first edition of the Wall Street Journal published for each calendar year since the merger or consolidation plus 1% not compounded.

(c) Exception.--No adjustment of the fair market value of total gross assets may be applied to any liability insurance as determined under section 8368.4.

§ 8368.6. Applicability and construction.

(a) Applicability.--This subchapter shall not apply to any of the following:

(1) An asbestos claim for which the applicable period of limitation commenced on or before the effective date of this section.

(2) Workers' compensation benefits paid to an employee under the act of June 2, 1915 (P.L.736, No.338), known as

the Workers' Compensation Act, or a comparable workers' compensation law of another jurisdiction.

(3) A claim against a business entity that does not constitute a successor asbestos-related liability.

(4) An insurance business entity under 15 Pa.C.S. Ch. 31 (relating to insurance corporations).

(5) Obligations arising under the National Labor Relations Act (49 Stat. 449, 29 U.S.C. § 151 et seq.) or under a collective bargaining agreement.

(6) A claim against a successor business entity that, after a merger or consolidation, continued in the business of mining asbestos, in the business of selling or distributing asbestos fibers or in the business of manufacturing, distributing, removing or installing asbestos-containing products that were the same or substantially the same as those products previously manufactured, distributed, removed or installed by the transferor.

(b) Construction.--Nothing in this subchapter shall affect the scope or effect of 15 Pa.C.S. § 1929.1 (relating to limitations on asbestos-related liabilities relating to certain mergers or consolidations). Limitations under 15 Pa.C.S. § 1929.1 shall continue to apply to all asbestos claims.

SUBCHAPTER G
SPECIAL DAMAGES

Sec.

8371. Actions on insurance policies.

Enactment. Subchapter G was added February 7, 1990, P.L.11, No.6, effective July 1, 1990.

§ 8371. Actions on insurance policies.

In an action arising under an insurance policy, if the court finds that the insurer has acted in bad faith toward the insured, the court may take all of the following actions:

(1) Award interest on the amount of the claim from the date the claim was made by the insured in an amount equal to the prime rate of interest plus 3%.

(2) Award punitive damages against the insurer.

(3) Assess court costs and attorney fees against the insurer.

SUBCHAPTER H
DRUG NUISANCES

Sec.

8381. Short title of subchapter.
8382. Definitions.
8383. Action to abate.
8384. Complaint.
8385. Service of original process.
8386. Preliminary injunction.
8387. Protection of witnesses.
8388. Security.
8389. Judgment and remedies.
8390. Violation of injunctions or abatement order.
8391. Release and cancellation.
8392. Severability.

Enactment. Subchapter H was added December 14, 1992, P.L.872, No.140, effective in 60 days.

§ 8381. Short title of subchapter.

This subchapter shall be known and may be cited as the Drug Nuisance Law.

§ 8382. 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:

"Community-based organization." Any group affiliated with or organized for the benefit of one or more communities or neighborhoods, or any group organized to benefit the quality of life in a residential area.

"Controlled substance act." The act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

"Drug-related nuisance." The use of any property, in whole or in part, which facilitates or is intended to facilitate any violation of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or similar act of the United States or any other state.

"Manufacture" or **"manufacturing."** The production, preparation, propagation, compounding, conversion or processing of a controlled substance, other drug or device or the packaging or repackaging of such substance or article, or the labeling or relabeling of the commercial container of such substance or article, but does not include the activities of a practitioner who, as an incident to his administration or dispensing such substance or article in the course of his professional practice, prepares, compounds, packages or labels such substance or article. The term "manufacturer" means a person who manufactures a controlled substance, other drug or device.

"Owner." An individual, corporation, partnership, trust association, joint venture or any other business entity in whom is vested all or any part of the title to the property alleged to be a drug-related nuisance.

"Property." Any tangible or intangible property, including an interest in any leasehold, license or real estate, such as any house, apartment building, condominium, cooperative, office building, store, restaurant, tavern, nightclub or warehouse, and the land extending to the boundaries of the lot upon which the structure is situated and anything growing on, affixed or found on the land.

"Tenant." A person who resides in or occupies real property belonging to another person pursuant to a lease agreement or common law tenancy.

§ 8383. Action to abate.

Wherever there is reason to believe that a drug-related nuisance exists, the district attorney, the Attorney General, if requested by a district attorney, the solicitor for the county or municipality, a resident within 1,000 feet of the property, including a tenant of the property, the owner of property or any community-based organization may file an action in the court of common pleas to abate, enjoin and prevent the drug-related nuisance. Such actions shall be commenced by the filing of a complaint alleging the facts constituting the drug-related nuisance.

§ 8384. Complaint.

(a) Adverse impact.--The complaint or an affidavit attached thereto shall describe the adverse impact associated with the drug nuisance upon the surrounding neighborhood. Adverse impact

includes, without limitation, the presence of any one or more of the following conditions:

(1) Diminished property value.

(2) Increased fear of residents to walk through and in public areas, including sidewalks and streets, increased volume of vehicular and pedestrian traffic to and from the property.

(3) An increase in the number of ambulance or police calls to the property which are related to the use of drugs or to violence stemming from illegal activity.

(4) Increased noise, bothersome solicitors or approaches by persons wishing to sell drugs or solicit the donation of money on or near the property.

(5) The display of dangerous weapons on or near the property.

(6) The discharge of firearms on or near the property.

(7) Search warrants served on tenants or occupants of the property which resulted in the seizure of drugs.

(8) Investigative purchases of drugs on or near the property by law enforcement officers.

(9) Arrests of person on or near the property for violation of criminal laws.

(10) Housing code violations relating to the property.

(11) Health code violations relating to the property.

(12) Accumulated trash and refuse in common areas on or adjacent to the property.

(13) An unsecured entryway on the property.

(b) Attempts to notify owner.--The complaint shall contain a description of what attempts, if any, have been made by the plaintiff or any other person or entity to notify the owner of the property of the drug-related nuisance or resulting adverse impact.

§ 8385. Service of original process.

(a) General rule.--A copy of the summons and complaint shall be served upon the defendant at least five business days prior to the first hearing in the action. Service of original process shall be made in accordance with the Pennsylvania Rules of Civil Procedure.

(b) Posting at property.--If personal service cannot be made, service may be made by posting the papers at the property. If service is made by posting at the property, a copy of the summons and complaint shall be mailed registered mail to the last known mail address, if any, of the defendant. Actual receipt of the registered mail shall not be required for service.

§ 8386. Preliminary injunction.

Upon the filing of a motion for preliminary injunction to abate the drug-related nuisance, the plaintiff shall be entitled to a hearing on the motion for preliminary injunction within 10 business days of the filing. If it shall be made to appear, by affidavit or otherwise, that there is a substantial likelihood that the plaintiff will show at trial, by a preponderance of the evidence, that drug-related nuisance exists, the court shall enter an order preliminarily enjoining the drug-related nuisance and granting such other relief as the court may deem to be appropriate, including those remedies provided for in section 8389 (relating to judgment and remedies). Whenever possible, the court shall order the trial of the action on the merits advanced and consolidated with the hearing of the motion. This section shall not be construed to prohibit the application for or the granting of a temporary restraining order.

§ 8387. Protection of witnesses.

At the time of an application for the issuance of a restraining order or an injunction if proof of the existence of the drug-related nuisance depends, in whole or part, upon the affidavits of witnesses who are not law enforcement officers, upon a showing of prior threats of violence or acts of violence by any defendant or other person alleged to be involved in the drug-related nuisance, the court may issue orders to protect those witnesses, providing for nondisclosure of the name, address or any other identifying information pertaining to the witnesses, and such other and further relief as the court may deem appropriate.

§ 8388. Security.

No bond shall be required to issue a preliminary injunction or special injunction sought by the district attorney or the solicitor for the county or municipality. A bond in an amount fixed and with security approved by the court may be required to issue a preliminary injunction or special injunction when the plaintiff is not the district attorney, the Attorney General or a solicitor for the county or municipality. Where such relief is issued after an evidentiary hearing at which witnesses are subject to cross examination, the court shall not require a bond in excess of $500.

§ 8389. Judgment and remedies.

(a) Burden of proof.--The plaintiff must establish that a drug-related nuisance exists by a preponderance of the evidence.

(b) Relief.--If the existence of a drug-related nuisance is found, the judgment may include actual damages and a temporary or permanent injunction to restrain, abate and prevent the continuance or recurrence of the drug-related nuisance. The court may grant declaratory relief, mandatory orders or any other relief deemed necessary to accomplish the purposes of the injunction or order and enforce the same, and the court may retain jurisdiction of the case for the purpose of enforcing its orders.

(c) Additional remedies.--If the existence of a drug-related nuisance is found, the court shall have the power additionally to fashion any one or more of the following remedies:

(1) Assess costs of the action against the defendant.

(2) When a governmental agency is a plaintiff in the action, assess a civil penalty against the defendant of not less than $500 nor more than $10,000.

(3) Order the owner to clean up the property and make repairs upon the property.

(4) Suspend or revoke any business, professional, operational or liquor license.

(5) Order the owner to make additional reasonable expenditures upon the property, including, but not limited to, installing secure locks on doors, increasing lighting in common areas and using videotaped surveillance of the property and adjacent alleyways, sidewalks and parking lots.

(6) Order all rental income from the property to be placed in an escrow account with the court for up to 90 days or until the drug-related nuisance is abated.

(7) Order all rental income for the property transferred to a trustee, to be appointed by the court, who shall be empowered to use the rental income to make reasonable expenditures upon the property in order to abate the drug-related nuisance.

(8) Order the suspension of any State, city or local governmental subsidies payable to the owners of the property,

such as tenant assistance payments to landlords, until the nuisance is abated.

(9) Allow the plaintiff to seal the property with the cost of sealing payable by the defendant.

(10) Order the defendant to pay the plaintiff the cost of the suit, including reasonable attorney fees.

(d) Factors to consider.--In making an order under subsection (c), the court shall consider, among others, the following factors:

(1) The number of people residing at the property.

(2) The proximity of the property to other residential structures.

(3) The number of times the property has been cited for housing code or health code violations.

(4) The number of times the owner has been notified of drug-related problems at the property.

(5) The extent and duration of the drug-related nuisance at the time of the order.

(6) Prior efforts or lack of effort by the defendant to abate the drug-related nuisance.

(7) The availability of alternative housing for tenants of the building.

(8) The extent of concern about the drug-related nuisance that has been expressed by nearby residents or visitors to the area.

(9) The owner's involvement in the drug-related nuisance.

(10) The owner's involvement in other drug-related nuisances.

Cross References. Section 8389 is referred to in section 8386 of this title.

§ 8390. Violation of injunctions or abatement order.

(a) Contempt.--A violation of any court order issued under this subchapter is punishable as a contempt of court by a fine of not less than $500 nor more than $75,000. The court may order the sheriff or other proper officer of any county to take into custody and commit to jail any person fined for a contempt until the fine shall be paid or discharged. If unable to pay the fine, the person may be committed to jail by the court for not more than three months. Evidence concerning the duration and repetitive nature of the violations shall be considered by the court in determining the contempt penalties.

(b) Additional orders.--In addition, upon finding that a defendant has willfully violated a court order issued under this subchapter, the court shall be also empowered to issue any additional orders necessary to abate this drug-related nuisance.

§ 8391. Release and cancellation.

(a) No knowledge and abatement.--The court may suspend the effectiveness of an order of abatement for no more than 90 days if the owner of the property establishes that he had no knowledge of the drug-related nuisance and could not reasonably be expected to have such knowledge and the owner avers that he will immediately undertake specified measures to abate the nuisance and prevent it from being a drug-related nuisance for the following two-year period.

(b) Fines and bond.--The courts shall cancel the order of abatement if the owner of the property pays all fines and liens against the property, satisfies the court that the drug-related nuisance has been abated for the past 90 days, corrects all housing code and health code violations and posts a bond in an amount to be determined by the court, which will be immediately

forfeitable if the drug-related nuisance recurs during the following one-year period.

§ 8392. Severability.

If any provision of this subchapter or its application to any person or circumstance is held invalid or unenforceable, the remainder of this subchapter or the application of the provision to other persons or circumstances shall not be affected.

CHAPTER 85
MATTERS AFFECTING GOVERNMENT UNITS

Subchapter

A. General Provisions
B. Actions Against Commonwealth Parties
C. Actions Against Local Parties

Enactment. Present Chapter 85 was added October 5, 1980, P.L.693, No.142, effective in 60 days.

Prior Provisions. Former Chapter 85, which related to matters affecting the Commonwealth, was added April 28, 1978, P.L.202, No.53, and repealed October 5, 1980, P.L.693, No.142, effective in 60 days.

Cross References. Chapter 85 is referred to in sections 761, 5522, 8332.5 of this title; section 7505 of Title 32 (Forests, Waters and State Parks); section 2385 of Title 34 (Game); section 2212 of Title 66 (Public Utilities); section 9117 of Title 74 (Transportation).

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

8501. Definitions.
8502. Enforcement proceedings.

§ 8501. Definitions.

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

"Act." Includes a failure to act.

"Commonwealth party." A Commonwealth agency and any employee thereof, but only with respect to an act within the scope of his office or employment.

"Employee." Any person who is acting or who has acted on behalf of a government unit whether on a permanent or temporary basis, whether compensated or not and whether within or without the territorial boundaries of the government unit, including any volunteer fireman and any elected or appointed officer, member of a governing body or other person designated to act for the government unit. Independent contractors under contract to the government unit and their employees and agents and persons performing tasks over which the government unit has no legal right of control are not employees of the government unit.

"Injury." Includes death.

"Judicial determination." Any determination by a court of competent jurisdiction including any settlement approved by such court.

"Local agency." A government unit other than the Commonwealth government. The term includes, but is not limited to, an intermediate unit; municipalities cooperating in the

exercise or performance of governmental functions, powers or responsibilities under 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation); and councils of government and other entities created by two or more municipalities under 53 Pa.C.S. Ch. 23 Subch. A.
(Dec. 20, 2000, P.L.946, No.129, eff. 60 days)

2000 Amendment. Act 129 amended the def. of "local agency."
Prior Provisions. Former section 8501 was added April 28 1978, P.L.202, No.53, and repealed October 5, 1980, P.L.693, No.142. The subject matter of former section 8501 is now contained in section 8502 of this title.
Cross References. Section 8501 is referred to in sections 1123, 1515, 8332.3 of this title; section 1711 of Title 74 (Transportation).

§ 8502. Enforcement proceedings.

(a) Venue.--Except as otherwise prescribed by general rules the venue of any action or proceeding by a Commonwealth agency to enforce any statute or regulation or order of a government unit may be laid in any court having jurisdiction of the subject matter.

(b) Bond.--Neither a Commonwealth agency nor a district attorney shall be required to give bond in connection with any application for equitable relief incident to the enforcement of any statute or regulation or order of a government unit.

Cross References. Section 8502 is referred to in section 1711 of Title 74 (Transportation).

SUBCHAPTER B
ACTIONS AGAINST COMMONWEALTH PARTIES

Sec.

SOVEREIGN IMMUNITY

8521. Sovereign immunity generally.
8522. Exceptions to sovereign immunity.
8523. Venue and process.
8524. Defenses.
8525. Legal assistance.
8526. Counterclaim by the Commonwealth.
8527. Indemnity relating to inmate health care.

LIMITATIONS ON DAMAGES

8528. Limitations on damages.

References in Repealed Statute. Section 221(j) of Act 142 of 1980 provided that references in the act of September 28, 1978, P.L.788, No.152, to "this act" and to "42 Pa.C.S. § 5110" shall be deemed to be references to Subchapter B.
Cross References. Subchapter B is referred to in section 931 of this title; section 6018 of Title 64 (Public Authorities and Quasi-Public Corporations).

SOVEREIGN IMMUNITY

§ 8521. Sovereign immunity generally.

(a) General rule.--Except as otherwise provided in this subchapter, no provision of this title shall constitute a waiver of sovereign immunity for the purpose of 1 Pa.C.S. § 2310

(relating to sovereign immunity reaffirmed; specific waiver) or otherwise.

(b) Federal courts.--Nothing contained in this subchapter shall be construed to waive the immunity of the Commonwealth from suit in Federal courts guaranteed by the Eleventh Amendment to the Constitution of the United States.

Cross References. Section 8521 is referred to in section 1711 of Title 74 (Transportation); section 6109 of Title 75 (Vehicles).

§ 8522. Exceptions to sovereign immunity.

(a) Liability imposed.--The General Assembly, pursuant to section 11 of Article I of the Constitution of Pennsylvania, does hereby waive, in the instances set forth in subsection (b) only and only to the extent set forth in this subchapter and within the limits set forth in section 8528 (relating to limitations on damages), sovereign immunity as a bar to an action against Commonwealth parties, for damages arising out of a negligent act where the damages would be recoverable under the common law or a statute creating a cause of action if the injury were caused by a person not having available the defense of sovereign immunity.

(b) Acts which may impose liability.--The following acts by a Commonwealth party may result in the imposition of liability on the Commonwealth and the defense of sovereign immunity shall not be raised to claims for damages caused by:

(1) Vehicle liability.--The operation of any motor vehicle in the possession or control of a Commonwealth party. As used in this paragraph, "motor vehicle" means any vehicle which is self-propelled and any attachment thereto, including vehicles operated by rail, through water or in the air.

(2) Medical-professional liability.--Acts of health care employees of Commonwealth agency medical facilities or institutions or by a Commonwealth party who is a doctor, dentist, nurse or related health care personnel.

(3) Care, custody or control of personal property.--The care, custody or control of personal property in the possession or control of Commonwealth parties, including Commonwealth-owned personal property and property of persons held by a Commonwealth agency, except that the sovereign immunity of the Commonwealth is retained as a bar to actions on claims arising out of Commonwealth agency activities involving the use of nuclear and other radioactive equipment, devices and materials.

(4) Commonwealth real estate, highways and sidewalks.--A dangerous condition of Commonwealth agency real estate and sidewalks, including Commonwealth-owned real property, leaseholds in the possession of a Commonwealth agency and Commonwealth-owned real property leased by a Commonwealth agency to private persons, and highways under the jurisdiction of a Commonwealth agency, except conditions described in paragraph (5).

(5) Potholes and other dangerous conditions.--A dangerous condition of highways under the jurisdiction of a Commonwealth agency created by potholes or sinkholes or other similar conditions created by natural elements, except that the claimant to recover must establish that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred and that the Commonwealth agency had actual written notice of the dangerous condition of the highway a sufficient time prior to the event to have taken

measures to protect against the dangerous condition. Property damages shall not be recoverable under this paragraph.

(6) Care, custody or control of animals.--The care, custody or control of animals in the possession or control of a Commonwealth party, including but not limited to police dogs and horses and animals incarcerated in Commonwealth agency laboratories. Damages shall not be recoverable under this paragraph on account of any injury caused by wild animals, including but not limited to bears and deer, except as otherwise provided by statute.

(7) Liquor store sales.--The sale of liquor at Pennsylvania liquor stores by employees of the Pennsylvania Liquor Control Board created by and operating under the act of April 12, 1951 (P.L.90, No.21), known as the "Liquor Code," if such sale is made to any minor, or to any person visibly intoxicated, or to any insane person, or to any person known as an habitual drunkard, or of known intemperate habit.

(8) National Guard activities.--Acts of a member of the Pennsylvania military forces.

(9) Toxoids and vaccines.--The administration, manufacture and use of a toxoid or vaccine not manufactured in this Commonwealth under the following conditions:

(i) The toxoid or vaccine is manufactured in, and available only from, an agency of another state.

(ii) The agency of the other state will not make the toxoid or vaccine available to private persons or corporations, but will only permit its sale to another state or state agency.

(iii) The agency of the other state will make the toxoid or vaccine available to the Commonwealth only if the Commonwealth agrees to indemnify, defend and save harmless that agency from any and all claims and losses which may arise against it from the administration, manufacture or use of the toxoid or vaccine.

(iv) A determination has been made by the appropriate Commonwealth agency, approved by the Governor and published in the Pennsylvania Bulletin, that the toxoid or vaccine is necessary to safeguard and protect the health of the citizens or animals of this Commonwealth.

(v) The toxoid or vaccine is distributed by a Commonwealth agency to qualified persons for ultimate use.

The Commonwealth shall make the toxoid or vaccine available to a qualified person only if the person agrees to indemnify, defend and save harmless the Commonwealth from any and all claims and losses which may arise against the Commonwealth from the manufacture, distribution, administration or use of the toxoid or vaccine.

(10) Sexual abuse.--Conduct which constitutes an offense enumerated under section 5551(7) (relating to no limitation applicable) if the injuries to the plaintiff were caused by actions or omissions of the Commonwealth party which constitute negligence.

(Dec. 11, 1986, P.L.1481, No.151, eff. imd.; Nov. 26, 2019, P.L.641, No.87, eff. Nov. 26, 2019)

2019 Amendment. Act 87 added subsec. (b)(10). See sections 9 and 10(3) of Act 87 in the appendix to this title for special provisions relating to severability and applicability.

1986 Amendment. Act 151 amended subsec. (b).

Cross References. Section 8522 is referred to in sections 5522, 8528 of this title; section 1711 of Title 74 (Transportation); section 6109 of Title 75 (Vehicles).

§ 8523. Venue and process.

(a) Venue.--Actions for claims against a Commonwealth party may be brought in and only in a county in which the principal or local office of the Commonwealth party is located or in which the cause of action arose or where a transaction or occurrence took place out of which the cause of action arose. If venue is obtained in the Twelfth Judicial District (Dauphin County) solely because the principal office of the Commonwealth party is located within it, any judge of the Court of Common Pleas of Dauphin County shall have the power to transfer the action to any appropriate county where venue would otherwise lie.

(b) Process.--Service of process in the case of an action against the Commonwealth shall be made at the principal or local office of the Commonwealth agency that is being sued and at the office of the Attorney General.

Cross References. Section 8523 is referred to in section 1711 of Title 74 (Transportation).

§ 8524. Defenses.

The following common law defenses are available:

(1) An official of a Commonwealth agency, or a member of the General Assembly or the judiciary may assert on his own behalf, or the Commonwealth may assert on his behalf, defenses which have heretofore been available to such officials.

(2) An employee of a Commonwealth agency, or a member of the General Assembly or of the judiciary may assert on his own behalf, or the Commonwealth may assert on his behalf, the defense that the employee was acting pursuant to a duty required by a statute or statutorily authorized regulation.

(3) An employee of a Commonwealth agency, or a member of the General Assembly or of the judiciary may assert on his own behalf, or the Commonwealth may assert on his behalf, the defense that the act was within the discretion granted to the employee by statute or statutorily authorized regulation.

Cross References. Section 8524 is referred to in section 1711 of Title 74 (Transportation).

§ 8525. Legal assistance.

When an action is brought under this subchapter against an employee of the Commonwealth government, and it is alleged that the act of the employee which gave rise to the claim was within the scope of the office or duties of the employee, the Commonwealth through the Attorney General shall defend the action, unless the Attorney General determines that the act did not occur within the scope of the office or duties of the employee. In the latter case, if it is subsequently determined that the act occurred within the scope of the office or duties of the employee, the Commonwealth shall reimburse the employee for the expense of his legal defense in such amounts as shall be determined to be reasonable by the court. If an action is brought against a Commonwealth government employee for damages on account of injury to a person or property and it is not alleged that the act of the employee which gave rise to the claim was within the scope of his office or duties, and he successfully defends the action on the basis that the act was within the scope of his office or duties, and he has given prior notice to the Attorney General and the Attorney General has

refused to defend the action, he shall likewise be entitled to the reasonable expenses of the defense.

Cross References. Section 8525 is referred to in sections 6006, 6018 of Title 64 (Public Authorities and Quasi-Public Corporations); sections 1711, 1722 of Title 74 (Transportation).

§ 8526. Counterclaim by the Commonwealth.

In any action initiated under this subchapter, the Commonwealth may set forth any cause of action or set-off which it has against the plaintiff. A counterclaim need not diminish or defeat the relief demanded by the plaintiff. It may demand relief exceeding in amount or different in kind from that demanded by the plaintiff.

Cross References. Section 8526 is referred to in section 1711 of Title 74 (Transportation).

§ 8527. Indemnity relating to inmate health care.

The Commonwealth shall indemnify against liability a municipal corporation for a claim against the municipal corporation arising from an act or omission of the municipal corporation, its officials, its employees or agents when participating in a program for the provision of medical treatment in a health care facility to inmates from a Commonwealth correctional facility pursuant to a program authorized by the Department of Corrections. This indemnification shall not extend to claims of medical malpractice against any person nor to claims against the health care facility, its employees or agents nor to claims against the municipal corporation that are the result of gross negligence, wanton and reckless acts or intentional misconduct by the municipal corporation, its officials, employees or agents.

(Feb. 12, 1992, P.L.1, No.1, eff. imd.)

1992 Amendment. Act 1 added section 8527.

Cross References. Section 8527 is referred to in section 1711 of Title 74 (Transportation).

LIMITATIONS ON DAMAGES

§ 8528. Limitations on damages.

(a) General rule.--Actions for which damages are limited by reference to this subchapter shall be limited as set forth in this section.

(b) Amount recoverable.--Damages arising from the same cause of action or transaction or occurrence or series of causes of action or transactions or occurrences shall not exceed $250,000 in favor of any plaintiff or $1,000,000 in the aggregate.

(c) Types of damages recoverable.--Damages shall be recoverable only for:

(1) Past and future loss of earnings and earning capacity.

(2) Pain and suffering.

(3) Medical and dental expenses including the reasonable value of reasonable and necessary medical and dental services, prosthetic devices and necessary ambulance, hospital, professional nursing, and physical therapy expenses accrued and anticipated in the diagnosis, care and recovery of the claimant.

(4) Loss of consortium.

(5) Property losses, except that property losses shall not be recoverable in claims brought pursuant to section 8522(b)(5) (relating to exceptions to sovereign immunity).

(d) Exclusions.--This section shall not apply to damages awarded under section 8522(b)(10).

(Nov. 26, 2019, P.L.641, No.87, eff. Nov. 26, 2019)

2019 Amendment. Act 87 amended subsec. (c)(5) and added subsec. (d). See sections 9 and 10(3) of Act 87 in the appendix to this title for special provisions relating to severability and applicability.

Cross References. Section 8528 is referred to in section 8522 of this title; section 1711 of Title 74 (Transportation).

SUBCHAPTER C
ACTIONS AGAINST LOCAL PARTIES

Sec.

GOVERNMENTAL IMMUNITY

8541. Governmental immunity generally.
8542. Exceptions to governmental immunity.

OFFICIAL IMMUNITY

8545. Official liability generally.
8546. Defense of official immunity.
8547. Legal assistance.
8548. Indemnity.
8549. Limitation on damages.
8550. Willful misconduct.

LIMITATIONS ON DAMAGES

8553. Limitations on damages.

JUDGMENTS

8557. Judgment as a bar.
8558. Judgments against insured local agency.
8559. Judgments against self-insured local agency and those not fully insured.

POWERS OF LOCAL AGENCIES

8563. General powers of local agencies.
8564. Liability insurance and self-insurance.

Venue, Interest and Intervention. Section 333 of Act 142 of 1980, which repealed the act of November 26, 1978, P.L.1399, No.330, known as the Political Subdivision Tort Claims Act, provided that actions under Subchapter C for claims against a local agency may be brought in and only in a county in which the local agency is located or in which the cause of action arose or where a transaction or occurrence took place out of which the cause of action arose. Section 333 further provided that no interest shall accrue in any such action prior to any entry of judgment and provided that a local agency may intervene in any action brought against an employee thereof for damages on account of an injury to a person or property based on claims

arising from, or reasonably related to, the office or the performance of the duties of the employee.

Cross References. Subchapter C is referred to in sections 762, 8337 of this title; section 315 of Title 3 (Agriculture); section 5311.1 of Title 35 (Health and Safety); section 3306 of Title 58 (Oil and Gas); section 6345 of Title 75 (Vehicles).

GOVERNMENTAL IMMUNITY

§ 8541. Governmental immunity generally.

Except as otherwise provided in this subchapter, no local agency shall be liable for any damages on account of any injury to a person or property caused by any act of the local agency or an employee thereof or any other person.

Cross References. Section 8541 is referred to in section 8542 of this title; section 9158.5 of Title 18 (Crimes and Offenses).

§ 8542. Exceptions to governmental immunity.

(a) Liability imposed.--A local agency shall be liable for damages on account of an injury to a person or property within the limits set forth in this subchapter if both of the following conditions are satisfied and the injury occurs as a result of one of the acts set forth in subsection (b):

(1) The damages would be recoverable under common law or a statute creating a cause of action if the injury were caused by a person not having available a defense under section 8541 (relating to governmental immunity generally) or section 8546 (relating to defense of official immunity); and

(2) The injury was caused by the negligent acts of the local agency or an employee thereof acting within the scope of his office or duties with respect to one of the categories listed in subsection (b). As used in this paragraph, "negligent acts" shall not include acts or conduct which constitutes a crime, actual fraud, actual malice or willful misconduct.

(b) Acts which may impose liability.--The following acts by a local agency or any of its employees may result in the imposition of liability on a local agency:

(1) Vehicle liability.--The operation of any motor vehicle in the possession or control of the local agency, provided that the local agency shall not be liable to any plaintiff that claims liability under this subsection if the plaintiff was, during the course of the alleged negligence, in flight or fleeing apprehension or resisting arrest by a police officer or knowingly aided a group, one or more of whose members were in flight or fleeing apprehension or resisting arrest by a police officer. As used in this paragraph, "motor vehicle" means any vehicle which is self-propelled and any attachment thereto, including vehicles operated by rail, through water or in the air.

(2) Care, custody or control of personal property.--The care, custody or control of personal property of others in the possession or control of the local agency. The only losses for which damages shall be recoverable under this paragraph are those property losses suffered with respect to the personal property in the possession or control of the local agency.

(3) Real property.--The care, custody or control of real property in the possession of the local agency, except that the local agency shall not be liable for damages on

account of any injury sustained by a person intentionally trespassing on real property in the possession of the local agency. As used in this paragraph, "real property" shall not include:

(i) trees, traffic signs, lights and other traffic controls, street lights and street lighting systems;

(ii) facilities of steam, sewer, water, gas and electric systems owned by the local agency and located within rights-of-way;

(iii) streets; or

(iv) sidewalks.

(4) Trees, traffic controls and street lighting.--A dangerous condition of trees, traffic signs, lights or other traffic controls, street lights or street lighting systems under the care, custody or control of the local agency, except that the claimant to recover must establish that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred and that the local agency had actual notice or could reasonably be charged with notice under the circumstances of the dangerous condition at a sufficient time prior to the event to have taken measures to protect against the dangerous condition.

(5) Utility service facilities.--A dangerous condition of the facilities of steam, sewer, water, gas or electric systems owned by the local agency and located within rights-of-way, except that the claimant to recover must establish that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred and that the local agency had actual notice or could reasonably be charged with notice under the circumstances of the dangerous condition at a sufficient time prior to the event to have taken measures to protect against the dangerous condition.

(6) Streets.--

(i) A dangerous condition of streets owned by the local agency, except that the claimant to recover must establish that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred and that the local agency had actual notice or could reasonably be charged with notice under the circumstances of the dangerous condition at a sufficient time prior to the event to have taken measures to protect against the dangerous condition.

(ii) A dangerous condition of streets owned or under the jurisdiction of Commonwealth agencies, if all of the following conditions are met:

(A) The local agency has entered into a written contract with a Commonwealth agency for the maintenance and repair by the local agency of such streets and the contract either:

(I) had not expired or been otherwise terminated prior to the occurrence of the injury; or

(II) if expired, contained a provision that expressly established local agency responsibility beyond the term of the contract for injuries arising out of the local agency's work.

(B) The injury and dangerous condition were directly caused by the negligent performance of its duties under such contract.

(C) The claimant must establish that the dangerous condition created a reasonably foreseeable

risk of the kind of injury which was incurred and that the local agency had actual notice or could reasonably be charged with notice under the circumstances of the dangerous condition at a sufficient time prior to the event to have taken measures to protect against the dangerous condition.

(7) Sidewalks.--A dangerous condition of sidewalks within the rights-of-way of streets owned by the local agency, except that the claimant to recover must establish that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred and that the local agency had actual notice or could reasonably be charged with notice under the circumstances of the dangerous condition at a sufficient time prior to the event to have taken measures to protect against the dangerous condition. When a local agency is liable for damages under this paragraph by reason of its power and authority to require installation and repair of sidewalks under the care, custody and control of other persons, the local agency shall be secondarily liable only and such other persons shall be primarily liable.

(8) Care, custody or control of animals.--The care, custody or control of animals in the possession or control of a local agency, including but not limited to police dogs and horses. Damages shall not be recoverable under this paragraph on account of any injury caused by wild animals, including but not limited to bears and deer, except as otherwise provided by statute.

(9) Sexual abuse.--Conduct which constitutes an offense enumerated under section 5551(7) (relating to no limitation applicable) if the injuries to the plaintiff were caused by actions or omissions of the local agency which constitute negligence.

(c) Limited definition.--As used in this section the amount of time reasonably required to take protective measures, including inspections required by law, shall be determined with reference to the actual equipment, personnel and facilities available to the local agency and the competing demands therefor.

(d) Evidence.--Whenever any plaintiff claims liability under subsection (b)(1), evidence is admissible to demonstrate that the plaintiff, at any time during the course of the alleged negligence, was engaged or participating in willful misconduct, including, but not limited to, the illegal possession of controlled substances, firearms or ammunition.

(June 10, 1982, P.L.452, No.132, eff. imd.; July 6, 1995, P.L.290, No.43, eff. 60 days; Nov. 26, 2019, P.L.641, No.87, eff. Nov. 26, 2019)

2019 Amendment. Act 87 added subsec. (b)(9). See sections 9 and 10(3) of Act 87 in the appendix to this title for special provisions relating to severability and applicability.

1995 Amendment. Act 43 amended subsec. (b)(1) and added subsec. (d). Section 2 of Act 43 provided that Act 43 shall apply to a cause of action that accrues on or after the effective date of Act 43.

1982 Amendment. Act 132 amended subsec. (b)(6).

Cross References. Section 8542 is referred to in sections 5522, 8553, 8557 of this title.

OFFICIAL IMMUNITY

§ 8545. Official liability generally.

An employee of a local agency is liable for civil damages on account of any injury to a person or property caused by acts of the employee which are within the scope of his office or duties only to the same extent as his employing local agency and subject to the limitations imposed by this subchapter.

Cross References. Section 8545 is referred to in sections 8550, 8557 of this title; section 9158.5 of Title 18 (Crimes and Offenses).

§ 8546. Defense of official immunity.

In any action brought against an employee of a local agency for damages on account of an injury to a person or property based upon claims arising from, or reasonably related to, the office or the performance of the duties of the employee, the employee may assert on his own behalf, or the local agency may assert on his behalf:

(1) Defenses which are available at common law to the employee.

(2) The defense that the conduct of the employee which gave rise to the claim was authorized or required by law, or that he in good faith reasonably believed the conduct was authorized or required by law.

(3) The defense that the act of the employee which gave rise to the claim was within the policymaking discretion granted to the employee by law. For purposes of this subsection, all acts of members of the governing body of a local agency or of the chief executive officer thereof are deemed to be within the policymaking discretion granted to such person by law.

Cross References. Section 8546 is referred to in sections 8542, 8550 of this title.

§ 8547. Legal assistance.

(a) Mandatory provision of legal assistance generally.--When an action is brought against an employee of a local agency for damages on account of an injury to a person or property, and it is alleged that the act of the employee which gave rise to the claim was within the scope of the office or duties of the employee, the local agency shall, upon the written request of the employee, defend the action, unless or until there is a judicial determination that such act was not within the scope of the office or duties of the employee.

(b) Optional provision of legal assistance generally.--When an action is brought against an employee of a local agency for damages on account of an injury to a person or property, and it is not alleged that the act of the employee which gave rise to the claim was within the scope of his office or duties, the local agency may, upon the written request of the employee, defend the action, and such undertaking to defend thereafter may be withdrawn only with the approval of the court. If the local agency has refused a written request to defend the action, and it is judicially determined that the act was, or that the employee in good faith reasonably believed that such act was, within the scope of the office or duties of the employee and did not constitute a crime, actual fraud, actual malice or willful misconduct, the local agency shall reimburse the employee for the expenses of his legal defense in such amounts as shall be determined to be reasonable by the court.

(c) Control of litigation.--When, pursuant to subsection (a) or subsection (b), the local agency defends an action against an employee thereof at the request of the employee, it

may assume exclusive control of the defense of the employee, keeping him advised with respect thereto, and the employee shall cooperate fully with the defense, except that in situations where the legal counsel provided by the local agency determines that the interests of the employee and the local agency conflict, the local agency shall obtain the express written consent of the employee for such interested representation or shall supply independent representation.

§ 8548. Indemnity.

(a) Indemnity by local agency generally.--When an action is brought against an employee of a local agency for damages on account of an injury to a person or property, and he has given timely prior written notice to the local agency, and it is judicially determined that an act of the employee caused the injury and such act was, or that the employee in good faith reasonably believed that such act was, within the scope of his office or duties, the local agency shall indemnify the employee for the payment of any judgment on the suit.

(b) Indemnity by employee generally.--No employee of a local agency shall be liable to the local agency for any surcharge, contribution, indemnity or reimbursement for any liability incurred by the local agency for damages on account of an injury to a person or property caused by an act of the employee which was within the scope of his office or duties or which he in good faith reasonably believed to be within the scope of his office or duties. No employee of a local agency shall be liable to the local agency for any surcharge, contribution, indemnity or reimbursement for any expenses or legal fees incurred by the local agency while defending the employee against a claim for damages on account of an injury to a person or property caused by an act of the employee.

(c) Cooperation.--In any action against a local agency or an employee thereof for damages on account of an injury caused by the act of the employee in which action the employee has not fully cooperated with the local agency in the defense of the action, the provisions of subsection (b) shall not apply.

Cross References. Section 8548 is referred to in section 8550 of this title.

§ 8549. Limitation on damages.

In any action brought against an employee of a local agency for damages on account of an injury to a person or property in which it is judicially determined that the act of the employee caused the injury and that such act was, or that the employee in good faith reasonably believed that such act was, within the scope of his office or duties, damages shall be recoverable only within the limits set forth in this subchapter.

Cross References. Section 8549 is referred to in section 8550 of this title.

§ 8550. Willful misconduct.

In any action against a local agency or employee thereof for damages on account of an injury caused by the act of the employee in which it is judicially determined that the act of the employee caused the injury and that such act constituted a crime, actual fraud, actual malice or willful misconduct, the provisions of sections 8545 (relating to official liability generally), 8546 (relating to defense of official immunity), 8548 (relating to indemnity) and 8549 (relating to limitation on damages) shall not apply.

Cross References. Section 8550 is referred to in section 4352 of Title 23 (Domestic Relations).

LIMITATIONS ON DAMAGES

§ 8553. Limitations on damages.

(a) General rule.--Actions for which damages are limited by reference to this subchapter shall be limited as set forth in this section.

(b) Amounts recoverable.--Damages arising from the same cause of action or transaction or occurrence or series of causes of action or transactions or occurrences shall not exceed $500,000 in the aggregate.

(c) Types of losses recognized.--Damages shall be recoverable only for:

(1) Past and future loss of earnings and earning capacity.

(2) Pain and suffering in the following instances:

(i) death; or

(ii) only in cases of permanent loss of a bodily function, permanent disfigurement or permanent dismemberment where the medical and dental expenses referred to in paragraph (3) are in excess of $1,500.

(3) Medical and dental expenses including the reasonable value of reasonable and necessary medical and dental services, prosthetic devices and necessary ambulance, hospital, professional nursing, and physical therapy expenses accrued and anticipated in the diagnosis, care and recovery of the claimant.

(4) Loss of consortium.

(5) Loss of support.

(6) Property losses.

(d) Insurance benefits.--If a claimant receives or is entitled to receive benefits under a policy of insurance other than a life insurance policy as a result of losses for which damages are recoverable under subsection (c), the amount of such benefits shall be deducted from the amount of damages which would otherwise be recoverable by such claimant.

(e) Exclusions.--This section shall not apply to damages awarded under section 8542(b)(9) (relating to exceptions to governmental immunity).

(Nov. 26, 2019, P.L.641, No.87, eff. Nov. 26, 2019)

2019 Amendment. Act 87 added subsec. (e). See sections 9 and 10(3) of Act 87 in the appendix to this title for special provisions relating to severability and applicability.

JUDGMENTS

§ 8557. Judgment as a bar.

The judgment in an action cognizable under section 8545 (relating to official liability generally) shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the local agency of which the defendant in such action is an employee. The judgment in an action under section 8542 (relating to exceptions to governmental immunity) shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee whose act gave rise to the claim.

§ 8558. Judgments against insured local agency.

If the judgment is obtained against a local agency that has procured a contract or policy of public liability insurance

protection, the holder of the judgment may use the methods of collecting the judgment as are provided by the policy or contract and the laws of the Commonwealth to the extent of the limits of coverage provided.

§ 8559. Judgments against self-insured local agency and those not fully insured.

For the payment of any judgment obtained under the provisions of this subchapter against a local agency that is a self-insurer or not fully covered by liability insurance, the manner of paying a money judgment shall be based upon a proof of indebtedness or evidence of any estimated tax levy necessary for payment of the judgment and any other evidence or statements which the court of original jurisdiction may require. As an alternative to paying the money judgment in this manner, the court may provide for the judgment to be paid over a period of not less than one nor more than ten years. The interest rate on any judgment where payment is extended more than three years shall be at the rate prescribed by law for the first three years and at the rate of 6% for each remaining year.

POWERS OF LOCAL AGENCIES

§ 8563. General powers of local agencies.

(a) Rules and regulations.--A local agency may promulgate rules and regulations not inconsistent with this subchapter in order to implement the intent of this subchapter.

(b) Delegation of duties.--Any duties placed upon a local agency under the provisions of this subchapter may be delegated to an independent contractor by a written agreement.

§ 8564. Liability insurance and self-insurance.

(a) Purchase of liability insurance.--A local agency may purchase insurance on itself or its employees for any liability arising from the performance of their duties within the scope of their employment.

(b) Employment of risk manager.--A local agency may employ a professional risk manager whose responsibility it shall be to administer a public liability insurance program for the local agency and initiate any risk management program for the local agency and its employees.

(c) Joint action by local agency.--Any two or more local agencies may join together, enter into any agreements or jointly contract for the development of a group risk management program either through the provisions of the act of July 12, 1972 (P.L.762, No.180), referred to as the Intergovernmental Cooperation Law, or any other applicable statute. Any two or more local agencies may join together, enter into any agreements or jointly contract for the purchasing of public liability insurance. Any two or more local agencies may pool their public liability insurance risks through the provisions of the act of July 12, 1972 (P.L.762, No.180) or any other applicable statute.

(d) Insurance pooling and coinsurance.--The pooling of insurance risks, reserves, claims or losses shall not be construed to be transacting insurance nor otherwise subject local agencies to the provisions of statutes regulating insurance or insurance companies. Local agencies may be coinsured under a master policy and the total premium may be prorated among the local agencies. Any county may undertake a group risk management program or public liability insurance program on behalf of itself and any other local agencies covered by this subchapter within the county that wish to voluntarily participate in the programs.

(e) Self-insurance.--Any local agency may self-insure which must be funded on an annual basis by appropriations to establish a reserve for self-insurance purposes.

References in Text. The act of July 12, 1972, P.L.762, No.180, referred to as the Intergovernmental Cooperation Law, referred to in subsec. (c), was repealed by the act of December 19, 1996, P.L.1158, No.177. The subject matter is now contained in Subchapter A of Chapter 23 of Title 53 (Municipalities Generally).

Cross References. Section 8564 is referred to in sections 5602, 8002 of Title 53 (Municipalities Generally).

PART VIII
CRIMINAL PROCEEDINGS

Chapter

87. General Provisions
89. Commencement of Proceedings
91. Detainers and Extradition
93. Trial
95. Post-trial Matters
97. Sentencing
98. County Intermediate Punishment
99. Other Criminal Provisions

Enactment. Part VIII was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

CHAPTER 87
GENERAL PROVISIONS

Subchapter

A. In General
B. Availability of Otherwise Confidential Information

Enactment. Chapter 87 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBCHAPTER A
IN GENERAL

Sec.

8701. Interpreters for the deaf (Deleted by amendment).
8702. Impaneling jury from another county.
8703. Arraignment.

Subchapter Heading. The heading of Subchapter A was added October 5, 1980, P.L.693, No.142, effective in 60 days.

§ 8701. Interpreters for the deaf (Deleted by amendment).

2006 Amendment. Section 8701 was deleted by amendment Nov. 29, 2006, P.L.1538, No.172, effective in 60 days.

§ 8702. Impaneling jury from another county.

(a) General rule.--If, upon motion and following a hearing, the court of common pleas determines that a fair and impartial

jury cannot be impaneled in the county where the criminal complaint is filed, as an alternative to issuing an order for a change of venue the court may direct that jurors be impaneled from another county. The order for impanelment of a jury from another county shall be certified forthwith to the Supreme Court which shall designate and notify the county of impanelment.

(b) Impanelment and transportation.--The jury shall be impaneled as in other cases in the county where the jury is to be impaneled and transported to the county where the complaint is filed.

(c) Payment of costs.--All costs incurred under this section shall be paid by the county where the complaint is filed.

(d) Change of venue powers unaffected.--This section does not lessen the power of the court of common pleas to order a change of venue.

(Apr. 1, 1980, P.L.62, No.25, eff. imd.)

1980 Amendment. Act 25 added section 8702.

§ 8703. Arraignment.

(a) General rule.--The arraignment of the defendant may be satisfied, in the discretion of the court, either by the physical appearance of the defendant before the court or by two-way electronic audio-video communication. The audio-video communication must operate so that the defendant and the judge can see each other simultaneously and converse with each other. If the defendant has counsel, the defendant shall be allowed to communicate fully and confidentially with his attorney during the proceeding. A judge may order the defendant to physically appear in court for the arraignment.

(b) Court rules.--Except for the provisions of this section, arraignments shall be in the form and in the manner as provided by court rule.

(June 11, 1998, P.L.463, No.67, eff. 60 days)

1998 Amendment. Act 67 added section 8703.

SUBCHAPTER B
AVAILABILITY OF OTHERWISE CONFIDENTIAL INFORMATION

Sec.

8721. Definitions.
8722. Petition for access to confidential information.
8723. Grounds for access.
8724. Disclosure of confidential information.
8725. Penalties for improper disclosure.

Enactment. Subchapter B was added October 5, 1980, P.L.693, No.142, effective in 60 days.

§ 8721. Definitions.

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

"Confidential information." Any records, files, data or information, withheld as confidential, whether pursuant to statute or otherwise, by any Commonwealth agency from the Attorney General, a district attorney, the Pennsylvania Crime Commission or a committee or subcommittee of either House of the General Assembly having subpoena power to investigate criminal activity. The term shall not include personal income tax information or the investigative or intelligence files of

the State Police, the Attorney General or the Pennsylvania Crime Commission.

"Crime Commission." The Pennsylvania Crime Commission existing under the act of October 4, 1978 (P.L.876, No.169), known as the "Pennsylvania Crime Commission Act."

§ 8722. Petition for access to confidential information.

The Attorney General, a district attorney, the Executive Director of the Crime Commission acting pursuant to a resolution of the Crime Commission or a committee or subcommittee of either House of the General Assembly having subpoena power to investigate criminal activity, may ex parte petition any judge of the Commonwealth Court for an order providing access to confidential information.

Cross References. Section 8722 is referred to in section 8723 of this title.

§ 8723. Grounds for access.

Any judge of the Commonwealth Court shall enter an order providing access to confidential information if, on the basis of a petition under section 8722 (relating to petition for access to confidential information), he finds that:

(1) the petitioner is engaged in an ongoing investigation of criminal activity; and

(2) a Commonwealth agency may have confidential information reasonably related to such an investigation.

Cross References. Section 8723 is referred to in section 8724 of this title.

§ 8724. Disclosure of confidential information.

(a) General rule.--Disclosure of confidential information shall be limited as follows:

(1) disclosure by the Commonwealth agency holding such information shall be limited to persons personally and directly engaged in the ongoing investigation by the petitioner under section 8723 (relating to grounds for access); and

(2) disclosure by the petitioner:

(i) in the case of the Attorney General or a district attorney, shall be limited to judicial or administrative proceedings;

(ii) in the case of the Crime Commission, shall be limited to official reports; and

(iii) in the case of a committee or subcommittee of either House of the General Assembly, shall be limited to regular meetings of the committee or subcommittee or debate on the floor.

(b) Contents of order.--Commonwealth Court orders entered under section 8723 shall specifically limit the disclosure of confidential information as provided in subsection (a).

Cross References. Section 8724 is referred to in section 8725 of this title.

§ 8725. Penalties for improper disclosure.

(a) Criminal penalties.--Any person who discloses any confidential information obtained under this subchapter other than as provided in section 8724 (relating to disclosure of confidential information) or otherwise authorized by law commits a felony of the third degree.

(b) Civil liability.--Any person who discloses any confidential information obtained under this subchapter other than as provided in section 8724 or otherwise authorized by law

shall be liable to any person damaged thereby in an action for invasion of privacy for the following:

(1) Treble the actual damages proved.

(2) Reasonable attorney fees.

(c) Good faith reliance on a court order.--Good faith reliance on a court order entered under this subchapter shall be a complete defense to any criminal liability under subsection (a) or civil liability under subsection (b).

CHAPTER 89
COMMENCEMENT OF PROCEEDINGS

Subchapter

A. General Provisions
B. Interstate Hot Pursuit
C. Indictment and Information
D. Municipal Police Jurisdiction

Enactment. Chapter 89 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

8901. Intrastate hot pursuit (Repealed).
8902. Arrest without warrant.

§ 8901. Intrastate hot pursuit (Repealed).

1982 Repeal. Section 8901 was repealed June 15, 1982, P.L.512, No.141, effective in 60 days.

§ 8902. Arrest without warrant.

(a) General rule.--For any of the following offenses, a police officer shall, upon view, have the right of arrest without warrant upon probable cause when there is ongoing conduct that imperils the personal security of any person or endangers public or private property:

(1) Under Title 18 (relating to crimes and offenses) when such offense constitutes a summary offense:

18 Pa.C.S. § 5503 (relating to disorderly conduct).

18 Pa.C.S. § 5505 (relating to public drunkenness).

18 Pa.C.S. § 5507 (relating to obstructing highways and other public passages).

18 Pa.C.S. § 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages).

(2) Violation of an ordinance of a city of the second class.

(b) Guidelines by governmental body.--The right of arrest without warrant under this section shall be permitted only after the governmental body employing the police officer promulgates guidelines to be followed by a police officer when making a warrantless arrest under this section.

(Nov. 17, 1995, 1st Sp.Sess., P.L.1090, No.25, eff. 60 days)

1995 Amendment. Act 25, 1st Sp.Sess., added section 8902.

SUBCHAPTER B

INTERSTATE HOT PURSUIT

Sec.
8921. Scope of subchapter.
8922. Authority of officers of another state to arrest in this Commonwealth.
8923. Hearing after arrest.
8924. Construction of subchapter.

§ 8921. Scope of subchapter.

(a) General rule.--This subchapter shall apply only to peace officers of any state or political subdivision thereof which by its laws has made similar provision for the arrest and custody of persons closely pursued within the territory thereof.

(b) Transmission of subchapter.--The Department of State shall certify and deliver a copy of this subchapter to the executive authority of each state.

§ 8922. Authority of officers of another state to arrest in this Commonwealth.

Any peace officer of another state who enters this Commonwealth in close pursuit of a person, and continues within this Commonwealth in such close pursuit, in order to arrest him, shall have the same authority to arrest and hold in custody such person on the ground that he has committed a crime in such state which is an indictable offense in this Commonwealth as peace officers of this Commonwealth have to arrest and hold in custody a person on the ground that he has committed a crime in this Commonwealth.

§ 8923. Hearing after arrest.

If an arrest is made in this Commonwealth by an officer of another state, in accordance with the provisions of this subchapter, he shall, without unnecessary delay, take the person arrested before an issuing authority, who shall conduct a hearing for the sole purpose of determining if the arrest was in accordance with the provisions of this subchapter and not of determining the guilt or innocence of the arrested person. If such issuing authority determines that the arrest was in accordance with this subchapter, he shall commit the person arrested to the custody of the officer making the arrest, who shall without unnecessary delay take him to the state from which he fled. If such issuing authority determines that the arrest was unlawful, he shall discharge the person arrested.

§ 8924. Construction of subchapter.

This subchapter shall not be construed so as to make unlawful any arrest in this Commonwealth which would otherwise be lawful.

SUBCHAPTER C
INDICTMENT AND INFORMATION

Sec.
8931. Indictment and information.
8932. Nolle prosequi or settlement.
8933. Dismissal of criminal cases.
8934. Sealing of affidavits.

§ 8931. Indictment and information.

(a) General rule.--Except as provided in subsection (b), no person shall, for any indictable offense, be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger or by leave of court for oppression or misdemeanor in office.

(b) Criminal information.--Each of the courts of common pleas may, with the approval of the Supreme Court, provide for the initiation of criminal proceedings therein by information filed in the manner provided or prescribed by law. The Administrative Office shall cause all orders of the Supreme Court entered under this subsection to be codified in the Pennsylvania Code.

(c) Jurisdiction and duties of courts.--The several courts of common pleas which have obtained the approval of the Supreme Court to provide for the initiation of criminal proceedings by informations instead of by grand jury indictments, shall possess and exercise the same power and jurisdiction as they heretofore possessed in cases of prosecutions upon indictments.

(d) Duties of prosecuting attorneys.--Whenever a transcript of proceedings, complaint and all related papers in a criminal proceeding where the defendant has been held for court have been transmitted to the clerk of court or the officer designated by the court, such officer, after recording the same, shall immediately transmit the documents or a copy thereof to the district attorney. The district attorney or his designee shall have the duty to inquire into and make full examination of all the facts and circumstances connected with each such case to determine if the facts and circumstances warrant the filing of an information or informations premised upon the transcript. No information shall be filed by the district attorney concerning alleged criminal violations where a preliminary hearing has not been held or properly waived except as prescribed by general rules.

(e) Disposition of cases.--The district attorney shall sign all informations. The information shall be filed in the form prescribed by general rules.

(f) Investigating grand juries unaffected.--No grand jury shall be impaneled in any judicial district where this section is applicable for the purpose of considering bills of indictment. This section shall not prohibit the impaneling of grand juries under and with the powers provided in Subchapter D of Chapter 45 (relating to investigating grand juries) or for any other purpose as provided or prescribed by law.

(g) Certain proceedings and statutes unaffected.--This section shall not affect criminal proceedings held before the minor judiciary as now provided or prescribed by law nor, except as provided in this section, shall it affect criminal proceedings subsequent to the filing of the information by a district attorney. Except as otherwise provided in this section or to the extent that they are specifically inconsistent with prosecutions initiated by information, existing statutes applicable to criminal prosecutions initiated by indictment shall be applicable to the information filed under this section by a district attorney.

(h) Applicability of section.--Subsections (c) through (g) shall be applicable only in those judicial districts which have obtained the approval of the Supreme Court to substitute informations for grand jury indictments as the method for initiating criminal prosecutions. Thereafter, all statutes and parts of statutes inconsistent with such subsections shall not apply in such judicial districts.

(i) Definition.--As used in this section "district attorney" includes a special attorney appointed by the Attorney General in the manner provided by statute, an acting district attorney and any assistant district attorney whose authority to act for the district attorney under this section is evidenced by a

written designation executed by the district attorney or acting district attorney and filed with the clerk of the courts.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

1980 Amendment. Act 142 amended subsec. (f).
1978 Amendment. Act 53 amended subsec. (e).
Cross References. Section 8931 is referred to in section 5552 of this title.

§ 8932. Nolle prosequi or settlement.

After the commencement of a criminal matter by the filing of an information or otherwise, the district attorney shall not enter a nolle prosequi or dispose of the matter or discharge a prisoner from custody by means of a proceeding in lieu of a plea or trial without having obtained the approval of the court.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 added section 8932.

§ 8933. Dismissal of criminal cases.

(a) General rule.--In a felony case where no attorney appears on behalf of the Commonwealth at a preliminary hearing or where the victim fails to appear, the issuing authority shall not discharge the defendant for this reason until the issuing authority makes a reasonable attempt to locate the attorney or victim and provides him an opportunity to appear.

(b) Definition.--As used in this section, the term "reasonable attempt" means requiring court personnel to attempt to locate the attorney or victim within the courthouse, office or place of residence.
(Apr. 13, 1988, P.L.336, No.47, eff. imd.)

1988 Amendment. Act 47 added section 8933.

§ 8934. Sealing of affidavits.

Upon a sufficient showing by the attorney for the Commonwealth at an ex parte hearing before a common pleas court judge, the court shall order the district attorney to seal the affidavit or affidavits setting forth probable cause for the issuance of a search warrant until the date of common pleas court arraignment, unless the period is extended by the court for good cause shown. If the case is to be tried in the Philadelphia Municipal Court, the affidavit or affidavits shall be sealed until the time of discovery, unless the period is extended for good cause shown.
(Nov. 21, 1990, P.L.558, No.138, eff. 60 days)

1990 Amendment. Act 138 added section 8934.
Suspension by Court Rule. Section 8934 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(1), amended December 30, 2005, insofar as it is inconsistent with Pennsylvania Rules of Criminal Procedure 205, 206 and 211 relating to contents of search warrant, contents of application for search warrant and sealing search warrant affidavits.

Section 8934 was suspended by Pennsylvania Rule of Criminal Procedure No. 1101(7), adopted March 1, 2000, insofar as it is inconsistent with Rules 205, 206 and 211 relating to contents of search warrant, contents of application for search warrant and sealing search warrant affidavits.

SUBCHAPTER D
MUNICIPAL POLICE JURISDICTION

Sec.

8951. Definitions.
8952. Primary municipal police jurisdiction.
8953. Statewide municipal police jurisdiction.
8953.1. Nonmunicipal police extraterritorial jurisdiction.
8953.2. Agents of the Office of Attorney General.
8954. Noncompliance with mandatory certification requirements.
8955. Interpretation.

Enactment. Subchapter D was added June 15, 1982, P.L.512, No.141, effective in 60 days.

Cross References. Subchapter D is referred to in section 711 of Title 51 (Military and Veterans Affairs).

§ 8951. Definitions.

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

"Chief law enforcement officer." The head of a duly constituted municipal law enforcement agency which regularly provides primary police services to a political subdivision or, in the absence of any such municipal law enforcement agency, the commanding officer of the Pennsylvania State Police installation which regularly provides primary police services to the political subdivision.

"Municipal police officer." Any natural person who is properly employed by a municipality, including a home rule municipality, as a regular full-time or part-time police officer.

"Nonmunicipal police department." The term shall have the same meaning as paragraphs (2), (3), (4), (5) and (6) in the definition of "police department" in 53 Pa.C.S. § 2162 (relating to definitions) and shall include the Office of Attorney General.

"Nonmunicipal police officer." A police officer employed by a nonmunicipal police department as a regular full-time or part-time police officer and an agent of the Office of Attorney General as defined in paragraph (2) of the definition of "enforcement officer" in 71 Pa.C.S. § 5102 (relating to definitions).

"Primary jurisdiction." The geographical area within the territorial limits of a municipality or any lawful combination of municipalities which employs a municipal police officer and, in the case of a county of the third class that has established a county park police force in accordance with the provisions of section 2511 of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, the geographical area designated by ordinance of its board of county commissioners as the jurisdictional area for the county park police.

"Training law." The act of June 18, 1974 (P.L.359, No.120), referred to as the Municipal Police Education and Training Law. (Nov. 24, 2004, P.L.1243, No.152, eff. 60 days; Mar. 14, 2014, P.L.38, No.18, eff. imd.; June 28, 2018, P.L.415, No.57, eff. 60 days)

2018 Amendment. Act 57 added the defs. of "nonmunicipal police department" and "nonmunicipal police officer."

2014 Amendment. Act 18 reenacted the def. of "primary jurisdiction." See section 1 of Act 18 in the appendix to this title for special provisions relating to legislative findings and declarations.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

References in Text. The act of June 18, 1974, P.L.359, No.120, referred to as the Municipal Police Education and Training Law, referred to in the def. of "training law," was repealed by the act of December 19, 1996, P.L.1158, No.177. The subject matter is now contained in Subchapter D of Chapter 21 Title 53 (Municipalities Generally).

Cross References. Section 8951 is referred to in sections 9799.36, 9799.70 of this title; section 1115 of Title 3 (Agriculture); section 6109 of Title 18 (Crimes and Offenses).

§ 8952. Primary municipal police jurisdiction.

Any duly employed municipal police officer shall have the power and authority to enforce the laws of this Commonwealth or otherwise perform the functions of that office anywhere within his primary jurisdiction as to:

(1) Any offense which the officer views or otherwise has probable cause to believe was committed within his jurisdiction.

(2) Any other event that occurs within his primary jurisdiction and which reasonably requires action on the part of the police in order to preserve, protect or defend persons or property or to otherwise maintain the peace and dignity of this Commonwealth.

Cross References. Section 8952 is referred to in section 12005 of Title 11 (Cities).

§ 8953. Statewide municipal police jurisdiction.

(a) General rule.--Any duly employed municipal police officer who is within this Commonwealth, but beyond the territorial limits of his primary jurisdiction, shall have the power and authority to enforce the laws of this Commonwealth or otherwise perform the functions of that office as if enforcing those laws or performing those functions within the territorial limits of his primary jurisdiction in the following cases:

(1) Where the officer is acting pursuant to an order issued by a court of record or an order issued by a district magistrate whose magisterial district is located within the judicial district wherein the officer's primary jurisdiction is situated, or where the officer is otherwise acting pursuant to the requirements of the Pennsylvania Rules of Criminal Procedure, except that the service of an arrest or search warrant shall require the consent of the chief law enforcement officer, or a person authorized by him to give consent, of the organized law enforcement agency which regularly provides primary police services in the municipality wherein the warrant is to be served.

(2) Where the officer is in hot pursuit of any person for any offense which was committed, or which he has probable cause to believe was committed, within his primary jurisdiction and for which offense the officer continues in fresh pursuit of the person after the commission of the offense.

(3) Where the officer:

(i) has been requested to aid or assist a Federal, State or local law enforcement officer or park police officer;

(ii) has probable cause to believe that a Federal, State or local law enforcement officer or park police officer is in need of aid or assistance; or

(iii) has been requested to participate in a Federal, State or local task force and participation has been approved by the police department of the municipality which employs the officer.

(4) Where the officer has obtained the prior consent of the chief law enforcement officer, or a person authorized by him to give consent, of the organized law enforcement agency which provides primary police services to a political subdivision which is beyond that officer's primary jurisdiction to enter the other jurisdiction for the purpose of conducting official duties which arise from official matters within his primary jurisdiction.

(5) Where the officer is on official business and views an offense, or has probable cause to believe that an offense has been committed, and makes a reasonable effort to identify himself as a police officer and which offense is a felony, misdemeanor, breach of the peace or other act which presents an immediate clear and present danger to persons or property.

(6) Where the officer views an offense which is a felony, or has probable cause to believe that an offense which is a felony has been committed, and makes a reasonable effort to identify himself as a police officer.

(b) Limitation.--Nothing contained in subsection (a) shall be deemed to extend or otherwise enlarge a municipal police officer's power and authority to arrest any person for an offense unless specifically authorized by law.

(c) Relinquishing authority.--Whenever a municipal police officer exercises any power or authority over any person or event pursuant to the provisions of subsection (a)(3), (4), (5) or (6), the officer shall relinquish authority and control over any such person or event upon the request of the chief law enforcement officer, or a person authorized by him to make the request, of the organized law enforcement agency which regularly provides primary police services in the municipality.

(d) Immunities and benefits preserved.--Any municipal police officer who exercises any power or authority granted under this section, and the employing municipality of the police officer, shall have the same immunities from liability as would be applicable if the actions were performed within the territorial boundaries of the officer's primary jurisdiction and the police officer shall be entitled to the same benefits of employment as the officer would possess if acting solely within his primary jurisdiction. However, when any municipal police officer is responding to a request for aid or assistance from a State law enforcement officer pursuant to subsection (a)(3) for purposes of workers' compensation and allocation of liability for any death, injury or damage he may cause in the performance of his requested duties, he shall be considered to be an employee of the Commonwealth. All costs incurred by any municipality in the defense of lawsuits arising from the performance of any requested duties shall be borne by the Commonwealth. The Commonwealth shall provide attorneys to defend any lawsuits arising under this section. For purposes of compensation, pension or indemnity fund rights and other rights and benefits to which he may be entitled, the municipal officer shall be considered to be performing his duties in his normal capacity as a municipal law enforcement officer. Nothing in this section shall be construed to restrict the authority of any municipality to limit the exercise of any power or authority conferred on its police by this section.

(e) Existing and future municipal police service agreements preserved.--Nothing in this section shall be construed to

restrict the authority of any municipality to maintain current or to enter into new cooperative police service agreements with another municipality or municipalities for purposes including, but not limited to, describing conditions of mutual aid, assigning liability and determining appropriate costs of these cooperative efforts.
(July 1, 1987, P.L.180, No.21, eff. imd.; Dec. 22, 1989, P.L.730, No.100, eff. 60 days; July 2, 2019, P.L.375, No.58, eff. imd.)

2019 Amendment. Act 58 amended subsec. (a)(3). See sections 4 and 5 of Act 58 in the appendix to this title for special provisions relating to applicability and General Assembly.
1989 Amendment. Act 100 amended subsec. (d).
Cross References. Section 8953 is referred to in sections 8953.1, 8953.2 of this title; section 10A06 of Title 8 (Boroughs and Incorporated Towns); section 12005 of Title 11 (Cities); section 711 of Title 51 (Military and Veterans Affairs); sections 102, 4571 of Title 75 (Vehicles).

§ 8953.1. Nonmunicipal police extraterritorial jurisdiction.

(a) Power and authority.--In addition to a power and authority vested by law, a nonmunicipal police officer who is within this Commonwealth, but beyond the territorial limit of the jurisdiction established for the officer's nonmunicipal police department by law, shall have the power and authority to enforce the laws of this Commonwealth or to perform a function of a municipal police officer in the following circumstances:

(1) If the officer is in hot pursuit of a person for an offense which was committed, or which the officer has probable cause to believe was committed, within the officer's jurisdiction and for which the officer continues in fresh pursuit of the person after the commission of the offense.

(2) If the officer:

(i) has been requested to immediately aid or assist a Federal, State or local law enforcement officer or park police officer;

(ii) has probable cause to believe that a Federal, State or local law enforcement officer or park police officer is in need of aid or assistance; or

(iii) has been requested to participate in a Federal, State or local task force and participation has been approved by the officer's nonmunicipal police department.

(3) If, while on official business, the officer views an offense and makes a reasonable effort to identify himself or herself as a police officer and the offense is:

(i) A felony.

(ii) A misdemeanor.

(iii) A breach of the peace or other act that presents an immediate clear and present danger to a person or property.

(4) If the officer views an offense that is a felony and makes a reasonable effort to identify himself or herself as a police officer.

(b) Applicability.--A nonmunicipal police officer acting in accordance with the authority granted under this section shall be subject to section 8953(b), (c) and (d) (relating to Statewide municipal police jurisdiction) to the same extent as would a municipal police officer.
(June 28, 2018, P.L.415, No.57, eff. 60 days; July 2, 2019, P.L.375, No.58, eff. imd.)

2019 Amendment. Act 58 amended subsec. (a)(2). See sections 4 and 5 of Act 58 in the appendix to this title for special provisions relating to applicability and General Assembly.

2018 Amendment. Act 57 added section 8953.1.

§ 8953.2. Agents of the Office of Attorney General.

(a) Power and authority.--An agent of the Office of Attorney General as defined in paragraph (2) of the definition of "enforcement officer" in 71 Pa.C.S. § 5102 (relating to definitions), in addition to the power and authority vested by law, shall have the power and authority to enforce the laws of this Commonwealth or to perform a function of a municipal police officer in the following circumstances:

(1) If the officer:

(i) has been requested to immediately aid or assist a Federal, State or local law enforcement officer or park police officer;

(ii) has probable cause to believe that a Federal, State or local law enforcement officer or park police officer is in need of aid or assistance; or

(iii) has been requested to participate in a Federal, State or local task force and participation has been approved by the Office of Attorney General.

(2) If, while on official business, the officer views an offense and makes a reasonable effort to identify himself or herself as a police officer and the offense is:

(i) A felony.

(ii) A misdemeanor.

(iii) A breach of the peace or other act that presents an immediate clear and present danger to a person or property.

(3) If the officer views an offense that is a felony and makes a reasonable effort to identify himself or herself as a police officer.

(b) Applicability.--An agent of the Office of Attorney General acting in accordance with the authority granted under this section shall be subject to section 8953(b), (c) and (d) (relating to Statewide municipal police jurisdiction) to the same extent as would a municipal police officer.

(June 28, 2018, P.L.415, No.57, eff. 60 days; July 2, 2019, P.L.375, No.58, eff. imd.)

2019 Amendment. Act 58 amended subsec. (a)(1). See sections 4 and 5 of Act 58 in the appendix to this title for special provisions relating to applicability and General Assembly.

2018 Amendment. Act 57 added section 8953.2.

§ 8954. Noncompliance with mandatory certification requirements.

Any person employed as a municipal police officer who is subject to the mandatory certification requirements of the training law and fails to obtain the required certification from the Commissioner of the Pennsylvania State Police within the time limits provided by law shall cease to be empowered or authorized to function as a municipal police officer for any purpose whatsoever.

§ 8955. Interpretation.

The powers, authorities, duties, obligations and jurisdiction under this subchapter shall not be subject to the requirements of 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).

(July 2, 2019, P.L.375, No.58, eff. imd.)

2019 Amendment. Act 58 added section 8955. See sections 4 and 5 of Act 58 in the appendix to this title for special provisions relating to applicability and General Assembly.

CHAPTER 91
DETAINERS AND EXTRADITION

Subchapter

A. Agreement on Detainers
B. Extradition of Persons Charged with Crime
C. Inter-County Detention
D. Exchange of Offenders Under Treaty

Enactment. Chapter 91 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53.

Cross References. Chapter 91 is referred to in section 6113 of Title 53 (Municipalities Generally).

SUBCHAPTER A
AGREEMENT ON DETAINERS

Sec.

9101. Agreement on detainers.
9102. Appropriate court.
9103. Enforcement and cooperation.
9104. Second and subsequent offenses.
9105. Escape.
9106. Duty of warden or other official.
9107. Administrator and information agent.
9108. Transmission of subchapter.

§ 9101. Agreement on detainers.

The Agreement on Detainers is hereby enacted into law and entered into by this Commonwealth with all other jurisdictions legally joining therein in the form substantially as follows:

Agreement on Detainers

The contracting states solemnly agree that:

Article I

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedure. It is the further purpose of this agreement to provide such cooperative procedures.

Article II

As used in this agreement:

(a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof.

(c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof.

Article III

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within 180 days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint: Provided, That for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

(d) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to

this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purpose of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.

Article IV

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V(a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated: Provided, That the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request: And provided further, That there shall be a period of 30 days after receipt by the appropriate authorities before the request be honored, within which period the Governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the State parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this article, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the

court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V(e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

Article V

(a) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a Federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in Federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given.

(2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order, dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being held shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

Article VI

(a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

Article VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

Article VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such

withdrawal takes effect, nor shall it affect their rights in respect thereof.

Article IX

This agreement shall be liberally construed so as to effectuate its purpose. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the Constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the Constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§ 9102. Appropriate court.

The phrase "appropriate court" as used in the Agreement on Detainers shall mean, with reference to the courts of this Commonwealth, any court of common pleas or the Philadelphia Municipal Court.

§ 9103. Enforcement and cooperation.

All government units of this Commonwealth are hereby directed to enforce the Agreement on Detainers and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purpose.

§ 9104. Second and subsequent offenses.

Nothing in this subchapter or in the Agreement on Detainers shall be construed to require the enhancement of any penalty imposed under the law of this Commonwealth on account of any conviction in another jurisdiction had in a proceeding brought to final disposition by reason of the use of said agreement.

§ 9105. Escape.

Escape from custody while in another state pursuant to the Agreement on Detainers, shall constitute an offense against the laws of this Commonwealth to the same extent and degree as an escape from the institution in which the prisoner was confined immediately prior to having been sent to another state pursuant to the provisions of the Agreement on Detainers, and shall be punishable in the same manner as an escape from such institution.

§ 9106. Duty of warden or other official.

It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this Commonwealth to give over the person of any inmate thereof whenever so required by the operation of the Agreement on Detainers.

§ 9107. Administrator and information agent.

The Department of Justice shall serve as central administrator of and information agent for the Agreement on Detainers.

§ 9108. Transmission of subchapter.

The Department of State shall certify and deliver a copy of this subchapter to the executive authority of each state.

SUBCHAPTER B
EXTRADITION OF PERSONS CHARGED WITH CRIME

Sec.

9121. Short title of subchapter.
9122. Definitions.
9123. Duty of Governor with respect to fugitives from justice.
9124. Form of demand.
9125. Governor may investigate case.
9126. Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion.
9127. Extradition of persons not present in demanding state at time of commission of crime.
9128. Issue by Governor of warrant of arrest.
9129. Manner and place of execution.
9130. Authority of arresting officer.
9131. Rights of accused person.
9132. Penalty for noncompliance.
9133. Confinement in jail.
9134. Arrest prior to requisition.
9135. Arrest without a warrant.
9136. Commitment to await requisition.
9137. Bail.
9138. Extension of time of commitment.
9139. Forfeiture of bail.
9140. Persons under criminal prosecution in this Commonwealth at time of requisition.
9141. Inquiry into guilt or innocence of accused.
9142. Governor may recall warrant or issue another.
9143. Duty of Governor in case of fugitives from this Commonwealth.
9144. Issuance of requisition.
9144.1. Payment of expenses, costs and fees.
9145. Immunity from service of process in certain civil actions.
9146. Written waiver of extradition proceedings.
9146.1. Presigned waiver of extradition.
9147. Nonwaiver by Commonwealth.
9148. Liability to further criminal prosecutions.

§ 9121. Short title of subchapter.

This subchapter shall be known and may be cited as the "Uniform Criminal Extradition Act."

§ 9122. Definitions.

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

"Executive authority." Includes the Governor and any person performing the functions of Governor in a state other than this Commonwealth.

"Governor." Includes any person performing the functions of Governor by authority of the law of this Commonwealth.

"State." Includes, when referring to a state other than this Commonwealth, any other state or territory, organized or unorganized, of the United States of America.

§ 9123. Duty of Governor with respect to fugitives from justice.

Subject to the provisions of this subchapter, the provisions of the Constitution of the United States controlling, and any and all acts of Congress enacted in pursuance thereof, it is the duty of the Governor of this Commonwealth to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony or other crime, who has fled from justice and is found in this Commonwealth.

§ 9124. Form of demand.

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing, alleging, except in cases arising under section 9127 (relating to extradition of persons not present in demanding state at time of commission of crime) that the accused was present in the demanding state at the time of the commission of the alleged crime and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state, and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

Cross References. Section 9124 is referred to in section 9127 of this title.

§ 9125. Governor may investigate case.

When a demand shall be made upon the Governor of this Commonwealth by the executive authority of another state for the surrender of a person so charged with crime, the Governor may call upon the Attorney General or any prosecuting officer in this Commonwealth to investigate or assist in investigating the demand and to report to him the situation and circumstances of the person so demanded and whether he ought to be surrendered.

§ 9126. Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion.

(a) Extradition from another state.--When it is desired to have returned to this Commonwealth a person charged in this Commonwealth with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the Governor of this Commonwealth may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this Commonwealth as soon as the prosecution in this Commonwealth is terminated.

(b) Surrender to another state.--The Governor of this Commonwealth may also surrender on demand of the executive authority of any other state any person in this Commonwealth who is charged, in the manner provided in section 9144 (relating to issuance of requisition), with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

§ 9127. Extradition of persons not present in demanding state at time of commission of crime.

The Governor of this Commonwealth may also surrender on demand of the executive authority of any other state any person in this Commonwealth charged in such other state in the manner provided in section 9124 (relating to form of demand) with committing an act in this Commonwealth or in a third state

intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this subchapter not otherwise inconsistent shall apply to such cases even though the accused was not in that state at the time of the commission of the crime and has not fled therefrom.

Cross References. Section 9127 is referred to in sections 9124, 9134, 9136 of this title.

§ 9128. Issue by Governor of warrant of arrest.

If the Governor decides that the demand should be complied with he shall sign a warrant of arrest which shall be sealed with the State seal and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

Cross References. Section 9128 is referred to in section 9146 of this title.

§ 9129. Manner and place of execution.

Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within this Commonwealth and to command the aid of all peace officers or other persons in the execution of the warrant and to deliver the accused, subject to the provisions of this subchapter, to the duly authorized agent of the demanding state.

Cross References. Section 9129 is referred to in section 9146 of this title.

§ 9130. Authority of arresting officer.

Every such peace officer or other person empowered to make the arrest shall have the same authority in arresting the accused to command assistance therein as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

§ 9131. Rights of accused person.

No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this Commonwealth who shall inform him of the demand made for his surrender and of the crime with which he is charged and that he has the right to demand and procure legal counsel, and, if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof and of the time and place of hearing thereon shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody and to the said agent of the demanding state.

Cross References. Section 9131 is referred to in sections 9132, 9146 of this title.

§ 9132. Penalty for noncompliance.

Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the warrant of the Governor in willful disobedience to section 9131 (relating to rights of accused person) shall commit a misdemeanor of the third degree.

§ 9133. Confinement in jail.

(a) General rule.--The officer or persons executing the Governor's warrant of arrest or the agent of the demanding state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city or borough through which he may pass, and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

(b) Prisoner in transit.--The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this Commonwealth with such a prisoner for the purpose of immediately returning such prisoner to the demanding state, may, when necessary, confine the prisoner in the jail of any county or city or borough through which he may pass, and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping. Such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this Commonwealth.

§ 9134. Arrest prior to requisition.

Whenever any person within this Commonwealth shall be charged on the oath of any credible person before any judge or issuing authority of this Commonwealth with the commission of any crime in any other state, and, except in cases arising under section 9127 (relating to extradition of persons not present in demanding state at time of commission of crime) with having fled from justice or with having been convicted of a crime in that state and having escaped from confinement or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or issuing authority in this Commonwealth, setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 9127, has fled from justice or with having been convicted of a crime in that state and having escaped from confinement or having broken the terms of his bail, probation or parole and is believed to be in this Commonwealth, the judge or issuing authority shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein wherever he may be found in this Commonwealth and to bring him before the same or any other judge or issuing authority who or which may be available in, or convenient of, access to the place where the arrest may be made to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Cross References. Section 9134 is referred to in section 9135 of this title.

§ 9135. Arrest without a warrant.

The arrest of a person may be lawfully made also by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or issuing authority with all practicable speed, and complaint must be made against him under oath setting forth the ground for the arrest as in section 9134 (relating to arrest prior to requisition), and thereafter his answer shall be heard as if he had been arrested on a warrant.

§ 9136. Commitment to await requisition.

If from the examination before the judge or issuing authority it appears that the person held is the person charged with having committed the crime alleged, and, except in cases arising under section 9127 (relating to extradition of persons not present in demanding state at time of commission of crime), that he has fled from justice, the judge or issuing authority must, by a warrant reciting the accusation, commit him to the county jail for such a time, not exceeding 30 days, and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the executive authority of the state having jurisdiction of the offense unless the accused give bail as provided in section 9137 (relating to bail), or until he shall be legally discharged.

§ 9137. Bail.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or issuing authority in this Commonwealth may admit the person arrested to bail by bond with sufficient sureties and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond and for his surrender to be arrested upon the warrant of the Governor of this Commonwealth.

Cross References. Section 9137 is referred to in sections 9136, 9138 of this title.

§ 9138. Extension of time of commitment.

If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant or bond, a judge or issuing authority may discharge him or may recommit him for a further period, not to exceed 60 days, or a judge or issuing authority may again take bail for his appearance and surrender, as provided in section 9137 (relating to bail), but within a period not to exceed 60 days after the date of such new bond.

§ 9139. Forfeiture of bail.

If the prisoner is admitted to bail and fails to appear and surrender himself according to the conditions of his bond, the judge or issuing authority by proper order shall declare the bond forfeited and order his immediate arrest without warrant if he be within this Commonwealth. Recovery may be had on such bond in the name of the Commonwealth as in the case of other bonds given by the accused in criminal proceedings within this Commonwealth.

§ 9140. Persons under criminal prosecution in this Commonwealth at time of requisition.

If a criminal prosecution has been instituted against such person under the laws of this Commonwealth and is still pending, the Governor in his discretion either may surrender him on demand of the executive authority of another state or hold him

until he has been tried and discharged or convicted and punished in this Commonwealth.

§ 9141. Inquiry into guilt or innocence of accused.

The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the Governor, or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as provided in this subchapter shall have been presented to the Governor, except as it may be involved in identifying the person held as the person charged with the crime.

§ 9142. Governor may recall warrant or issue another.

The Governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

§ 9143. Duty of Governor in case of fugitives from this Commonwealth.

Whenever the Governor of this Commonwealth shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this Commonwealth, from the executive authority of any other state, or from the official of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this Commonwealth to some agent commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this Commonwealth in which the offense was committed.

§ 9144. Issuance of requisition.

(a) Return of accused.--When the return to this Commonwealth of a person charged with crime in this Commonwealth is required the prosecuting attorney shall present to the Governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein at the time the application is made, and certifying that in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this Commonwealth for trial, and that the proceeding is not instituted to enforce a private claim.

(b) Return of convict.--When the return to this Commonwealth is required of a person who has been convicted of a crime in this Commonwealth and has escaped from confinement or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the parole board or the warden of the institution or sheriff of the county from which escape was made shall present to the Governor a written application for a requisition for the return of such person in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

(c) Procedure.--The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or issuing authority stating the offense with which the accused is charged, or of the judgment of conviction, or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted

with such application. One copy of the application with the action of the Governor indicated by endorsement thereon and one of the certified copies of the indictment, complaint, information and affidavits, or of the judgment of conviction, or of the sentence, shall be filed in the Department of State to remain of record in that office. The other copies of all papers shall be forwarded with the requisition of the Governor.

Cross References. Section 9144 is referred to in section 9126 of this title.

§ 9144.1. Payment of expenses, costs and fees.

All costs and expenses shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed: Provided, however, That all costs and expenses incurred by a county in extraditing a person who, upon release from a Federal prison, is apprehended on a writ of detainer issued by a state other than Pennsylvania, shall be reimbursed by the Department of Justice. Reimbursable costs and expenses incurred in any extradition proceeding shall include, but not be limited to, apprehending, securing, transmitting and maintaining the prisoner, as well as food, court fees and counsel fees. Any person released from a Federal prison for whom extradition proceedings have been initiated and who is apprehended on a writ of detainer issued by a state other than Pennsylvania, shall be transferred to the Bureau of Correction as soon as possible until such extradition occurs or until he is released by the court. The Commissioner of Correction shall accept such transfer. The Bureau of Correction shall make every effort to be reimbursed for all costs and expenses from the state which is seeking extradition.
(July 2, 1980, P.L.335, No.83, eff. imd.)

1980 Amendment. Act 83 added section 9144.1, retroactive to December 2, 1976.

References in Text. The Bureau of Correction, referred to in this section, is now the Department of Corrections.

§ 9145. Immunity from service of process in certain civil actions.

A person brought into this Commonwealth by or after waiver of extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceedings, to answer which he is being or has been returned, until he has been convicted in the criminal proceeding or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

§ 9146. Written waiver of extradition proceedings.

(a) General rule.--Any person arrested in this Commonwealth charged with having committed any crime in another state or alleged to have escaped from confinement or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in section 9128 (relating to issue by Governor of warrant of arrest) and section 9129 (relating to manner and place of execution) and all other procedure incidental to extradition proceedings by executing or subscribing in the presence of a judge of any court of record within this Commonwealth a writing which states that he consents to return to the demanding state. Before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ

of habeas corpus, as provided in section 9131 (relating to rights of accused person).

(b) Action following waiver.--If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this Commonwealth and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent.

(c) Effect of section.--Nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this Commonwealth.

§ 9146.1. Presigned waiver of extradition.

Notwithstanding any other provision of law, a law enforcement agency in this Commonwealth holding a person who is alleged to have broken the terms of his probation, parole, bail or any other release in the demanding state shall immediately deliver that person to the duly authorized agent of the demanding state without the requirement of a Governor's warrant if all of the following apply:

(1) The person has signed a prior waiver of extradition as a term of his current probation, parole, bail or other release in the demanding state.

(2) The law enforcement agency holding the person has received an authenticated copy of the prior waiver of extradition signed by the person and photographs or fingerprints or other evidence properly identifying the person as the person who signed the waiver.

(3) All open criminal charges in this Commonwealth have been disposed of through trial and sentencing.

(June 25, 1997, P.L.324, No.33, eff. imd.)

1997 Amendment. Act 33 added section 9146.1.

§ 9147. Nonwaiver by Commonwealth.

Nothing in this subchapter contained shall be deemed to constitute a waiver by this Commonwealth of its right, power or privilege to try such demanded person for crime committed within this Commonwealth or of its right, power or privilege to regain custody of such person by extradition proceedings, or otherwise, for the purpose of trial, sentence or punishment for any crime committed within this Commonwealth, nor shall any proceedings had under this subchapter which result in or fail to result in extradition be deemed a waiver by this Commonwealth of any of its rights, privileges or jurisdiction in any way whatsoever.

§ 9148. Liability to further criminal prosecutions.

After a person has been returned to this Commonwealth by or after waiver of extradition proceedings he may be tried in this Commonwealth for other crimes which he may be charged with having committed here, as well as the crimes specified in the requisition for his extradition.

SUBCHAPTER C
INTER-COUNTY DETENTION

Sec.

9161. Arrest prior to requisition.
9162. Arrest without a warrant.

9163. Commitment to await requisition.
9164. Bail.
9165. Payment of costs and expenses.

Enactment. Subchapter C was added July 11, 1991, P.L.76, No.13, effective immediately.

§ 9161. Arrest prior to requisition.

Whenever any person within this Commonwealth shall be charged on the oath of any credible person before any judge or issuing authority of this Commonwealth with the commission of any crime in any other county of this Commonwealth, with having fled from justice or having been convicted of a crime in that county and having escaped from confinement or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or issuing authority in this Commonwealth setting forth on the affidavit of any credible person on information received by way of computer check or other means of electronic communication or upon affidavit of a credible person from the charging county that a crime has been committed in such other county and that the accused has been charged in such county with the commission of the crime and has fled from justice or with having been convicted of a crime in that county and having escaped from confinement or having broken the terms of his bail, probation or parole and is believed to be elsewhere in this Commonwealth, the judge or issuing authority shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein wherever he may be found in this Commonwealth and to bring him before the same or any other judge or issuing authority who or which may be available in, or convenient of, access to the place where the arrest may be made to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Cross References. Section 9161 is referred to in section 9162 of this title.

§ 9162. Arrest without a warrant.

The arrest of a person may be lawfully made by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of another county of this Commonwealth with a crime punishable by death or imprisonment for a term exceeding one year, but, when so arrested, the accused must be taken before a judge or issuing authority with all practicable speed, and complaint must be made against him under oath setting forth the ground for the arrest as in section 9161 (relating to arrest prior to requisition), and, thereafter, his answer shall be heard as if he had been arrested on a warrant.

§ 9163. Commitment to await requisition.

If, from the examination before the judge or issuing authority, it appears that the person held is the person charged with having committed the crime alleged and that he has fled from justice, the judge or issuing authority must, by a warrant reciting the accusation, commit him to the county jail for such a time, not exceeding five days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the charging county unless the accused gives bail as provided in section 9164 (relating to bail) or until he shall be legally discharged.

§ 9164. Bail.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of this Commonwealth, a judge or issuing authority in this Commonwealth may admit the person arrested to bail by bond with sufficient sureties and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond and for his surrender to be arrested upon the warrant of the county in which the offense was committed.

Cross References. Section 9164 is referred to in section 9163 of this title.

§ 9165. Payment of costs and expenses.

All costs and expenses shall be paid out of the county treasury in the county wherein charges were filed in connection with the alleged crime.

SUBCHAPTER D
EXCHANGE OF OFFENDERS UNDER TREATY

Sec.

9171. Exchange of offenders under treaty.

Enactment. Subchapter D was added June 25, 1997, P.L.321, No.32, effective immediately.

§ 9171. Exchange of offenders under treaty.

Whenever a treaty is in force providing for the transfer of convicted offenders between the United States and a foreign country, the Governor or his designee, upon application of the Secretary of Corrections, is authorized to give the approval of the Commonwealth to transfer as provided in the treaty.

CHAPTER 93
TRIAL

Sec.

9301. Procedures, motions and other matters.
9302. Commencement and termination of trial.
9303. Liability for violations of general and specific criminal statutes.

Enactment. The heading of Chapter 93 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53, and the remaining provisions were added December 20, 1982, P.L.1409, No.326, effective in 60 days.

§ 9301. Procedures, motions and other matters.

All procedures, motions and other matters relating to the trial, by jury or otherwise, of any criminal proceeding shall be conducted in the manner, at the times, on the terms and conditions and in the form prescribed by general rules.

§ 9302. Commencement and termination of trial.

The trial of a criminal proceeding shall be deemed to commence and terminate at the times or on the occurrence of events prescribed by general rules.

§ 9303. Liability for violations of general and specific criminal statutes.

Notwithstanding the provisions of 1 Pa.C.S. § 1933 (relating to particular controls general) or any other statute to the contrary, where the same conduct of a defendant violates more

than one criminal statute, the defendant may be prosecuted under all available statutory criminal provisions without regard to the generality or specificity of the statutes.
(Dec. 9, 2002, P.L.1705, No.215, eff. 60 days)

2002 Amendment. Act 215 added section 9303.

CHAPTER 95
POST-TRIAL MATTERS

Subchapter

A. General Provisions
A.1. Victim and Witness Outreach
B. Post Conviction Relief
C. Report by District Attorney
D. Unitary Review in Death Penalty Cases

Enactment. The heading of Chapter 95 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978, P.L.202, No.53, and the remaining provisions were added May 13, 1982, P.L.417, No.122, effective immediately.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

9501. Procedures, motions and other matters.

Enactment. The heading of Subchapter A was added May 13, 1982, P.L.417, No.122, effective immediately, and the remaining provisions were added December 20, 1982, P.L.1409, No.326, effective in 60 days.

§ 9501. Procedures, motions and other matters.

Except as otherwise provided by this chapter all post-trial procedures, motions and other matters relating to any criminal proceeding shall be conducted in the manner, at the times, on the terms and conditions and in the form prescribed by general rules.

SUBCHAPTER A.1
VICTIM AND WITNESS OUTREACH

Sec.

9521. Defense-initiated victim or witness outreach.

Enactment. Subchapter A.1 was added October 24, 2018, P.L.894, No.146, effective in 60 days.

§ 9521. Defense-initiated victim or witness outreach.

(a) Requirements.--A person who engages in defense-initiated victim or witness outreach shall:

(1) Communicate in an honest manner without deception or misrepresentation.

(2) Unambiguously provide the person's identity by name, the person's employer and, if applicable, the name of the defendant convicted of the crime.

(b) Definition.--As used in this section, the term "defense-initiated victim or witness outreach" means any effort

by a criminal defendant's counsel to directly or indirectly contact a victim or witness or a parent, guardian or family member of a victim or witness on behalf of the criminal defendant or the criminal defendant's counsel through any of the following:

(1) A victim liaison.
(2) A victim outreach specialist.
(3) A social worker.
(4) An investigator.
(5) Any other individual designated by the criminal defendant or the criminal defendant's counsel.

SUBCHAPTER B
POST CONVICTION RELIEF

Sec.

9541. Short title of subchapter.
9542. Scope of subchapter.
9543. Eligibility for relief.
9543.1. Postconviction DNA testing.
9544. Previous litigation and waiver.
9545. Jurisdiction and proceedings.
9546. Relief and order.
9547. Amendment and withdrawal of petition (Repealed).
9548. Answer to petition (Repealed).
9549. Hearing on petition (Repealed).
9550. Order of court and final disposition of petition (Repealed).
9551. Pauper petitions (Repealed).

Enactment. Subchapter B was added May 13, 1982, P.L.417, No.122, effective immediately.

Subchapter Heading. The heading of Subchapter B was amended April 13, 1988, P.L.336, No.47, effective immediately.

Cross References. Subchapter B is referred to in section 9578 of this title.

§ 9541. Short title of subchapter.

This subchapter shall be known and may be cited as the Post Conviction Relief Act.

(Apr. 13, 1988, P.L.336, No.47, eff. imd.)

§ 9542. Scope of subchapter.

This subchapter provides for an action by which persons convicted of crimes they did not commit and persons serving illegal sentences may obtain collateral relief. The action established in this subchapter shall be the sole means of obtaining collateral relief and encompasses all other common law and statutory remedies for the same purpose that exist when this subchapter takes effect, including habeas corpus and coram nobis. This subchapter is not intended to limit the availability of remedies in the trial court or on direct appeal from the judgment of sentence, to provide a means for raising issues waived in prior proceedings or to provide relief from collateral consequences of a criminal conviction. Except as specifically provided otherwise, all provisions of this subchapter shall apply to capital and noncapital cases.

(Apr. 13, 1988, P.L.336, No.47, eff. imd.; Nov. 17, 1995, 1st Sp.Sess., P.L.1118, No.32, eff. 60 days; June 25, 1997, P.L.324, No.33, eff. imd.)

§ 9543. Eligibility for relief.

(a) General rule.--To be eligible for relief under this subchapter, the petitioner must plead and prove by a preponderance of the evidence all of the following:

(1) That the petitioner has been convicted of a crime under the laws of this Commonwealth and is at the time relief is granted:

(i) currently serving a sentence of imprisonment, probation or parole for the crime;

(ii) awaiting execution of a sentence of death for the crime;

(iii) serving a sentence which must expire before the person may commence serving the disputed sentence; or

(iv) has completed a sentence of imprisonment, probation or parole for the crime and is seeking relief based upon DNA evidence obtained under section 9543.1(d) (relating to postconviction DNA testing).

(2) That the conviction or sentence resulted from one or more of the following:

(i) A violation of the Constitution of this Commonwealth or the Constitution or laws of the United States which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.

(ii) Ineffective assistance of counsel which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.

(iii) A plea of guilty unlawfully induced where the circumstances make it likely that the inducement caused the petitioner to plead guilty and the petitioner is innocent.

(iv) The improper obstruction by government officials of the petitioner's right of appeal where a meritorious appealable issue existed and was properly preserved in the trial court.

(v) (Deleted by amendment).

(vi) The unavailability at the time of trial of exculpatory evidence that has subsequently become available and would have changed the outcome of the trial if it had been introduced.

(vii) The imposition of a sentence greater than the lawful maximum.

(viii) A proceeding in a tribunal without jurisdiction.

(3) That the allegation of error has not been previously litigated or waived.

(4) That the failure to litigate the issue prior to or during trial, during unitary review or on direct appeal could not have been the result of any rational, strategic or tactical decision by counsel.

(b) Exception.--Even if the petitioner has met the requirements of subsection (a), the petition shall be dismissed if it appears at any time that, because of delay in filing the petition, the Commonwealth has been prejudiced either in its ability to respond to the petition or in its ability to re-try the petitioner. A petition may be dismissed due to delay in the filing by the petitioner only after a hearing upon a motion to dismiss. This subsection does not apply if the petitioner shows that the petition is based on grounds of which the petitioner

could not have discovered by the exercise of reasonable diligence before the delay became prejudicial to the Commonwealth.

(c) Extradition.--If the petitioner's conviction and sentence resulted from a trial conducted in his absence and if the petitioner has fled to a foreign country that refuses to extradite him because a trial in absentia was employed, the petitioner shall be entitled to the grant of a new trial if the refusing country agrees by virtue of this provision to return him and if the petitioner upon such return to this jurisdiction so requests. This subsection shall apply, notwithstanding any other law or judgment to the contrary.

(Apr. 13, 1988, P.L.336, No.47, eff. imd.; Nov. 17, 1995, 1st Sp.Sess., P.L.1118, No.32, eff. 60 days; June 25, 1997, P.L.324, No.33, eff. imd.; Jan. 27, 1998, P.L.20, No.3, eff. imd.; Oct. 24, 2018, P.L.894, No.146, eff. 60 days)

2018 Amendment. Act 146 amended subsec. (a)(1).

1998 Amendment. Act 3 added subsec. (c). Section 3 of Act 3 provided that subsec. (c) shall apply to all existing cases within its provisions.

Suspension by Court Order. Subsec. (a)(4) was suspended August 11, 1997, S.Ct. Order, insofar as it references "unitary review."

Cross References. Section 9543 is referred to in section 9543.1 of this title.

§ 9543.1. Postconviction DNA testing.

(a) Motion.--

(1) An individual convicted of a criminal offense in a court of this Commonwealth may apply by making a written motion to the sentencing court at any time for the performance of forensic DNA testing on specific evidence that is related to the investigation or prosecution that resulted in the judgment of conviction.

(2) The evidence may have been discovered either prior to or after the applicant's conviction. The evidence shall be available for testing as of the date of the motion. If the evidence was discovered prior to the applicant's conviction, the evidence shall not have been subject to the DNA testing requested because the technology for testing was not in existence at the time of the trial or the applicant's counsel did not seek testing at the time of the trial in a case where a verdict was rendered on or before January 1, 1995, or the evidence was subject to the testing, but newer technology could provide substantially more accurate and substantially probative results, or the applicant's counsel sought funds from the court to pay for the testing because his client was indigent and the court refused the request despite the client's indigency.

(3) A request for DNA testing under this section shall be by written petition and shall be filed with the clerk of courts of the judicial district where the sentence is imposed.

(4) DNA testing may be sought at any time if the motion is made in a timely manner and for the purpose of demonstrating the applicant's actual innocence and not to delay the execution of sentence or administration of justice.

(5) Notwithstanding any other provision of law, a plea of guilty to a crime of violence, as defined in section 9714(g) (relating to sentences for second and subsequent offenses), or a confession given by an applicant concerning the offense for which the applicant was convicted, shall not

prohibit the applicant from asserting actual innocence under subsection (c)(2) or the court from making a determination and ordering DNA testing under subsection (d)(2).

(6) The motion shall explain how, after review of the record of the applicant's trial, there is a reasonable possibility if the applicant is under State supervision, or there is a reasonable probability if the applicant is not under State supervision, or after review of the record of the applicant's guilty plea there is a reasonable probability, that the testing would produce exculpatory evidence that would establish:

(i) the applicant's actual innocence of the offense for which the applicant was convicted;

(ii) in a capital case, the applicant's actual innocence of the charged or uncharged conduct constituting an aggravating circumstance under section 9711(d) (relating to sentencing procedure for murder of the first degree) if the applicant's exoneration of the conduct would result in vacating a sentence of death; or

(iii) in a capital case, a mitigating circumstance under section 9711(e)(7) under the circumstances set forth in section 9711(c)(1)(iv).

(b) Notice to the Commonwealth.--

(1) Upon receipt of a motion under subsection (a), the court shall notify the Commonwealth and shall afford the Commonwealth an opportunity to respond to the motion.

(2) Upon receipt of a motion under subsection (a) or notice of the motion, as applicable, the Commonwealth and the court shall take the steps reasonably necessary to ensure that any remaining biological material in the possession of the Commonwealth or the court is preserved pending the completion of the proceedings under this section.

(c) Requirements.--In any motion under subsection (a), under penalty of perjury, the applicant shall:

(1) (i) specify the evidence to be tested;

(ii) state that the applicant consents to provide samples of bodily fluid for use in the DNA testing; and

(iii) acknowledge that the applicant understands that, if the motion is granted, any data obtained from any DNA samples or test results may be entered into law enforcement databases, may be used in the investigation of other crimes and may be used as evidence against the applicant in other cases.

(2) (i) in a sworn statement subject to the penalties under 18 Pa.C.S. §§ 4902 (relating to perjury) and 4903 (relating to false swearing), assert the applicant's actual innocence of the offense for which the applicant was convicted and that the applicant seeks DNA testing for the purpose of demonstrating the applicant's actual innocence; and

(ii) in a capital case:

(A) assert the applicant's actual innocence of the charged or uncharged conduct constituting an aggravating circumstance under section 9711(d) if the applicant's exoneration of the conduct would result in vacating a sentence of death; or

(B) assert that the outcome of the DNA testing would establish a mitigating circumstance under section 9711(e)(7) if that mitigating circumstance was presented to the sentencing judge or jury and

facts as to that issue were in dispute at the sentencing hearing.

(3) present a prima facie case demonstrating that the:

(i) identity of or the participation in the crime by the perpetrator was at issue in the proceedings that resulted in the applicant's conviction and sentencing; and

(ii) DNA testing of the specific evidence, assuming exculpatory results, would establish:

(A) the applicant's actual innocence of the offense for which the applicant was convicted;

(B) in a capital case, the applicant's actual innocence of the charged or uncharged conduct constituting an aggravating circumstance under section 9711(d) if the applicant's exoneration of the conduct would result in vacating a sentence of death; or

(C) in a capital case, a mitigating circumstance under section 9711(e)(7) under the circumstances set forth in section 9711(c)(1)(iv).

(d) Order.--

(1) Except as provided in paragraph (2), the court shall order the testing requested in a motion under subsection (a) under reasonable conditions designed to preserve the integrity of the evidence and the testing process upon a determination, after review of the record of the applicant's trial, that the:

(i) requirements of subsection (c) have been met;

(ii) evidence to be tested has been subject to a chain of custody sufficient to establish that it has not been altered in any material respect; and

(iii) motion is made in a timely manner and for the purpose of demonstrating the applicant's actual innocence and not to delay the execution of sentence or administration of justice.

(2) The court shall not order the testing requested in a motion under subsection (a) if, after review of the record of the applicant's trial, the court determines that there is no reasonable possibility for an applicant under State supervision, or there is no reasonable probability for an applicant not under State supervision, or after review of the record of the applicant's guilty plea, the court determines that there is no reasonable probability, that the testing would produce exculpatory evidence that:

(i) would establish the applicant's actual innocence of the offense for which the applicant was convicted;

(ii) in a capital case, would establish the applicant's actual innocence of the charged or uncharged conduct constituting an aggravating circumstance under section 9711(d) if the applicant's exoneration of the conduct would result in vacating a sentence of death; or

(iii) in a capital case, would establish a mitigating circumstance under section 9711(e)(7) under the circumstances set forth in section 9711(c)(1)(iv).

(3) Any DNA testing order under this section shall constitute a final order. An applicant or the Commonwealth may appeal a decision denying or granting a DNA testing order in accordance with the Pennsylvania Rules of Appellate Procedure.

(4) Any decision granting or denying a DNA testing order shall include an explanation by the court of how the testing

requested in a motion under subsection (a) has met or fails to have met the requirements under paragraphs (1), (2) and (3).

(5) Upon determining the petitioner has met the applicable burden established in paragraph (1) or (2), the court may require the Commonwealth to prepare an inventory of evidence related to the case and serve a copy of the inventory to the prosecution, the applicant, the applicant's attorney, if applicable, and the court. The inventory may include, but not be limited to, a list of evidence collected and forensic testing previously done relating to the evidence and the names of agencies that conducted the forensic testing.

(e) Testing procedures.--

(1) Any DNA testing ordered under this section shall be conducted by:

(i) a laboratory mutually selected by the Commonwealth and the applicant;

(ii) a laboratory selected by the court that ordered the testing if the Commonwealth and the applicant are unable to agree on a laboratory; or

(iii) if the applicant is indigent, the testing shall be conducted by the Pennsylvania State Police or, at the Pennsylvania State Police's sole discretion, by a laboratory designated by the Pennsylvania State Police.

(2) The costs of any testing ordered under this section shall be paid:

(i) by the applicant; or

(ii) in the case of an applicant who is indigent, by the Commonwealth of Pennsylvania.

(3) To the extent possible and not inconsistent with best laboratory practices, the testing shall be conducted in a manner that ensures that some portion of the sample is preserved for replication of testing. If the laboratory determines it may be necessary to consume the entirety of any sample during testing, the laboratory shall inform the prosecution, the applicant and the applicant's attorney, if applicable, of its recommendation and obtain the prosecution and the applicant's consent before proceeding. If the prosecution and the applicant do not consent, the court may issue any appropriate order before testing proceeds.

(4) If testing is performed by a private laboratory and a DNA database search is anticipated, the applicant shall ensure that the chosen laboratory is accredited by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement that is designated by the Federal Bureau of Investigation in accordance with 34 U.S.C. § 12591 (relating to quality assurance and proficiency testing standards), that requires conformance to forensic science requirements and that the accreditation include DNA testing, and is compliant with Federal Bureau of Investigation quality assurance standards.

(5) When testing is performed by a private laboratory, the public laboratory shall take all reasonable measures before the testing is conducted to ensure that the results of the testing may be entered into CODIS so that a comparison to known offender or crime scene profiles may be made if the laboratory and test results otherwise satisfy the criteria for database entry.

(6) Testing conducted by the Pennsylvania State Police shall be carried out in accordance with the protocols and procedures established by the Pennsylvania State Police.

(7) To the extent possible, if communication with the parties regarding the testing process and test results is necessary, the testing laboratory shall communicate with counsel for petitioner and the Commonwealth simultaneously.

(8) No direct communication involving the testing laboratory without the inclusion of a representative of each party shall occur.

(f) Posttesting procedures.--

(1) After the DNA testing conducted under this section has been completed, the applicant may, pursuant to section 9545(b)(2) (relating to jurisdiction and proceedings), during the one-year period beginning on the date on which the applicant is notified of the test results, petition to the court for postconviction relief pursuant to section 9543(a)(2)(vi) (relating to eligibility for relief).

(2) Upon receipt of a petition filed under paragraph (1), the court shall consider the petition along with any answer filed by the Commonwealth and shall conduct a hearing thereon.

(3) In any hearing on a petition for postconviction relief filed under paragraph (1), the court shall determine whether the exculpatory evidence resulting from the DNA testing conducted under this section would have changed the outcome of the trial as required by section 9543(a)(2)(vi).

(4) If testing complies with Federal Bureau of Investigation requirements and the data meets NDIS criteria, profiles obtained from the testing shall be searched or uploaded to CODIS.

(5) When testing is conducted by a private laboratory, a court may order a public laboratory with access to CODIS to take the necessary measures to ensure the DNA profile obtained from probative biological material from crime scene evidence can be uploaded to CODIS by the public laboratory. Necessary measures may include requiring the public laboratory to conduct a review of the private laboratory's facilities or records to ensure that the private laboratory complies with Federal Bureau of Investigation requirements regarding CODIS. If the private laboratory meets Federal Bureau of Investigation and CODIS requirements, the court may order the public laboratory to upload the DNA profile to determine whether the profile matches a profile of a known individual or a profile from an unsolved crime. The DNA profile submitted to the databases must comply with the Federal Bureau of Investigation requirements for the uploading of DNA profiles to CODIS, and the Commonwealth shall take all reasonable measures to ensure that the testing complies with the requirements.

(6) If DNA testing conclusively identifies the DNA profile of the applicant on probative and inculpatory evidence, the court shall dismiss the petition and may make any further orders that are appropriate. An order under this paragraph may:

(i) direct that the Pennsylvania Parole Board be notified of the test results; or

(ii) mandate that the applicant's DNA profile be added to the Commonwealth's convicted offender database.

(g) Effect of motion.--The filing of a motion for forensic DNA testing pursuant to subsection (a) shall have the following effect:

(1) The filing of the motion shall constitute the applicant's consent to provide samples of bodily fluid for use in the DNA testing.

(2) The data from any DNA samples or test results obtained as a result of the motion may be entered into law enforcement databases, may be used in the investigation of other crimes and may be used as evidence against the applicant in other cases.

(h) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Applicant." The individual who files a motion under subsection (a).

"CODIS." The Combined DNA Index System administered by the Federal Bureau of Investigation that allows for the storage and exchange of DNA records submitted by Federal, State and local forensic DNA laboratories.

"DNA." Deoxyribonucleic acid.

"NDIS." The National DNA Index System which is the national DNA database system of DNA records and meets Federal quality assurance and privacy standards.

"Public laboratory." The Pennsylvania State Police Forensic DNA Division, the Philadelphia Police Department Forensic Science Bureau, the Allegheny County Medical Examiner's Office or any other laboratory maintained by the Commonwealth with access to CODIS.

(July 10, 2002, P.L.745, No.109, eff. 60 days; Oct. 24, 2018, P.L.896, No.147, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (f)(6).

2018 Amendment. See the Preamble to Act 147 in the appendix to this title for special provisions relating to findings and declarations.

Cross References. Section 9543.1 is referred to in section 9543 of this title.

§ 9544. Previous litigation and waiver.

(a) Previous litigation.--For purposes of this subchapter, an issue has been previously litigated if:

(1) (Deleted by amendment).

(2) the highest appellate court in which the petitioner could have had review as a matter of right has ruled on the merits of the issue; or

(3) it has been raised and decided in a proceeding collaterally attacking the conviction or sentence.

(b) Issues waived.--For purposes of this subchapter, an issue is waived if the petitioner could have raised it but failed to do so before trial, at trial, during unitary review, on appeal or in a prior state postconviction proceeding.

(Apr. 13, 1988, P.L.336, No.47, eff. imd.; Nov. 17, 1995, 1st Sp.Sess., P.L.1118, No.32, eff. 60 days)

Suspension by Court Order. Subsec. (b) was suspended August 11, 1997, S.Ct. Order, insofar as it references "unitary review."

§ 9545. Jurisdiction and proceedings.

(a) Original jurisdiction.--Original jurisdiction over a proceeding under this subchapter shall be in the court of common pleas. No court shall have authority to entertain a request for any form of relief in anticipation of the filing of a petition under this subchapter.

(b) Time for filing petition.--

(1) Any petition under this subchapter, including a second or subsequent petition, shall be filed within one year of the date the judgment becomes final, unless the petition alleges and the petitioner proves that:

(i) the failure to raise the claim previously was the result of interference by government officials with the presentation of the claim in violation of the Constitution or laws of this Commonwealth or the Constitution or laws of the United States;

(ii) the facts upon which the claim is predicated were unknown to the petitioner and could not have been ascertained by the exercise of due diligence; or

(iii) the right asserted is a constitutional right that was recognized by the Supreme Court of the United States or the Supreme Court of Pennsylvania after the time period provided in this section and has been held by that court to apply retroactively.

(2) Any petition invoking an exception provided in paragraph (1) shall be filed within one year of the date the claim could have been presented.

(3) For purposes of this subchapter, a judgment becomes final at the conclusion of direct review, including discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking the review.

(4) For purposes of this subchapter, "government officials" shall not include defense counsel, whether appointed or retained.

(c) Stay of execution.--

(1) No court shall have the authority to issue a stay of execution in any case except as allowed under this subchapter.

(2) Except for first petitions filed under this subchapter by defendants whose sentences have been affirmed on direct appeal by the Supreme Court of Pennsylvania between January 1, 1994, and January 1, 1996, no stay may be issued unless a petition for postconviction relief which meets all the requirements of this subchapter has been filed and is pending and the petitioner makes a strong showing of likelihood of success on the merits.

(3) If a stay of execution is granted, all limitations periods set forth under sections 9574 (relating to answer to petition), 9575 (relating to disposition without evidentiary hearing) and 9576 (relating to evidentiary hearing) shall apply to the litigation of the petition.

(d) Evidentiary hearing.--

(1) The following apply:

(i) Where a petitioner requests an evidentiary hearing, the petition shall include a certification signed by each intended witness stating the witness's name, address, date of birth and substance of testimony and shall include any documents material to that witness's testimony.

(ii) If a petitioner is unable to obtain the signature of a witness under subparagraph (i), the petitioner shall include a certification, signed by the petitioner or counsel, stating the witness's name, address, date of birth and substance of testimony. In lieu of including the witness's name and address in the certification under this subparagraph, counsel may provide the witness's name and address directly to the Commonwealth. The certification under this subparagraph

shall include any documents material to the witness's testimony and specify the basis of the petitioner's information regarding the witness and the petitioner's efforts to obtain the witness's signature. Nothing in this subparagraph shall be construed to contravene any applicable attorney-client privilege between the petitioner and postconviction counsel.

(iii) Failure to substantially comply with the requirements of this paragraph shall render the proposed witness's testimony inadmissible.

(2) No discovery, at any stage of proceedings under this subchapter, shall be permitted except upon leave of court with a showing of exceptional circumstances.

(3) When a claim for relief is based on an allegation of ineffective assistance of counsel as a ground for relief, any privilege concerning counsel's representation as to that issue shall be automatically terminated.

(Apr. 13, 1988, P.L.336, No.47, eff. imd.; Nov. 17, 1995, 1st Sp.Sess., P.L.1118, No.32, eff. 60 days; Oct. 24, 2018, P.L.894, No.146, eff. 60 days)

2018 Amendment. Act 146 amended subsecs. (b)(2) and (d)(1). Section 3 of Act 146 provided that the amendment of subsec. (b)(2) shall apply only to claims arising one year before the effective date of section 3 or thereafter.

Suspension by Court Order. Subsecs. (c)(3) and (d)(2) were suspended August 11, 1997, S.Ct. Order.

Cross References. Section 9545 is referred to in section 9543.1 of this title.

§ 9546. Relief and order.

(a) General rule.--If the court rules in favor of the petitioner, it shall order appropriate relief and issue supplementary orders as to rearraignment, retrial, custody, bail, discharge, correction of sentence or other matters that are necessary and proper.

(b) Grounds to be stated.--(Deleted by amendment).

(c) Status of order.--(Deleted by amendment).

(d) Review of order in death penalty cases.--An order under this subchapter granting the petitioner final relief in a case in which the death penalty has been imposed shall be directly appealable by the Commonwealth to the Supreme Court pursuant to its rules. An order under this subchapter denying a petitioner final relief in a case in which the death penalty has been imposed shall not be reviewable in the Superior Court but shall be reviewable only by petition for allowance of appeal to the Supreme Court.

(Apr. 13, 1988, P.L.336, No.47, eff. imd.; Nov. 17, 1995, 1st Sp.Sess., P.L.1118, No.32, eff. 60 days; June 25, 1997, P.L.324, No.33, eff. imd.)

1997 Amendment. Act 33 amended subsec. (d).

Suspension by Court Order. The 1995 and 1997 amendments to section 9546 were suspended August 11, 1997, S.Ct. Order.

Cross References. Section 9546 is referred to in section 722 of this title.

§ 9547. Amendment and withdrawal of petition (Repealed).

1988 Repeal. Section 9547 was repealed April 13, 1988, P.L.336, No.47, effective immediately. Section 6 of Act 47 provided that the repeal of section 9547 shall apply to all actions for collateral relief, whether statutory or common law,

instituted on or after the effective date of Act 47, irrespective of the date of conviction or sentence.

§ 9548. Answer to petition (Repealed).

1988 Repeal. Section 9548 was repealed April 13, 1988, P.L.336, No.47, effective immediately. Section 6 of Act 47 provided that the repeal of section 9548 shall apply to all actions for collateral relief, whether statutory or common law, instituted on or after the effective date of Act 47, irrespective of the date of conviction or sentence.

§ 9549. Hearing on petition (Repealed).

1988 Repeal. Section 9549 was repealed April 13, 1988, P.L.336, No.47, effective immediately. Section 6 of Act 47 provided that the repeal of section 9549 shall apply to all actions for collateral relief, whether statutory or common law, instituted on or after the effective date of Act 47, irrespective of the date of conviction or sentence.

§ 9550. Order of court and final disposition of petition (Repealed).

1988 Repeal. Section 9550 was repealed April 13, 1988, P.L.336, No.47, effective immediately. Section 6 of Act 47 provided that the repeal of section 9550 shall apply to all actions for collateral relief, whether statutory or common law, instituted on or after the effective date of Act 47, irrespective of the date of conviction or sentence.

§ 9551. Pauper petitions (Repealed).

1988 Repeal. Section 9551 was repealed April 13, 1988, P.L.336, No.47, effective immediately. Section 6 of Act 47 provided that the repeal of section 9551 shall apply to all actions for collateral relief, whether statutory or common law, instituted on or after the effective date of Act 47, irrespective of the date of conviction or sentence.

SUBCHAPTER C
REPORT BY DISTRICT ATTORNEY

Sec.

9561. Report by district attorney.

Enactment. Subchapter C was added February 21, 1986, P.L.41, No.14, effective in 60 days.

§ 9561. Report by district attorney.

(a) Reports by district attorneys of felony convictions against health care professionals.--Whenever a health care professional has been found guilty, has pleaded guilty or has entered a plea of nolo contendere to a felony in this Commonwealth, the district attorney of the county in which the case was prosecuted shall notify the appropriate State board within 30 days of the court's entry of a finding of guilt, acceptance of a guilty plea or acceptance of a plea of nolo contendere.

(b) Definitions.--The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Health care professional." A person licensed, certified or registered by any of the State boards as defined in this section.

"State board." Includes the following departmental administrative boards within the Department of State: the State Board of Medicine, the State Board of Osteopathic Medicine, the State Board of Dentistry, the State Board of Podiatry, the State Board of Pharmacy, the State Board of Nursing, the State Board of Physical Therapy, the State Board of Occupational Therapy Education and Licensure, the State Board of Optometry, the State Board of Examiners of Nursing Home Administrators, the State Board of Chiropractic, the State Board of Psychology, the State Board of Massage Therapy, the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, the State Board of Examiners in Speech-Language and Hearing and any other health-related administrative board which issues professional or occupational licenses within the Department of State.
(Dec. 18, 2013, P.L.1181, No.109, eff. 60 days)

2013 Amendment. Act 109 amended subsec. (b).

SUBCHAPTER D
UNITARY REVIEW IN DEATH PENALTY CASES

Sec.
9570. Short title of subchapter.
9571. Scope of subchapter.
9572. Representation of counsel.
9573. Time for petition; contents of petition.
9574. Answer to petition.
9575. Disposition without evidentiary hearing.
9576. Evidentiary hearing.
9577. Disposition and appeal.
9578. Subsequent petitions.
9579. Certification.

Enactment. Subchapter D was added November 17, 1995, 1st Sp.Sess., P.L.1118, No.32, effective in 60 days.
Applicability. Section 3(2) of Act 32 of 1995, 1st Sp.Sess, provided that Subchapter D shall apply in all cases in which the death penalty is imposed on or after January 1, 1996.

§ 9570. Short title of subchapter.
This subchapter shall be known and may be cited as the Capital Unitary Review Act.

Suspension by Court Order. Section 9570 was suspended August 11, 1997, S.Ct. Order.

§ 9571. Scope of subchapter.
(a) Capital unitary review.--This subchapter establishes the sole means of challenging proceedings that resulted in a sentence of death. The unitary review proceeding provided by this subchapter shall replace postappeal collateral review of death penalty cases with preappeal collateral review.
(b) Appointment of collateral counsel.--Under the action provided in this subchapter, a person sentenced to death shall be immediately entitled to new counsel for purposes of collateral review. The collateral proceeding shall occur in the trial court after the imposition of sentence and before appeal. The petitioner may raise any claim that could not have been raised previously, including claims of ineffective assistance of counsel.
(c) Capital appeal.--Direct appeal shall occur after the trial court has concluded collateral review. Claims raised on

direct appeal shall be limited to those claims that were preserved at trial and that may be resolved on the basis of the record created up to and including sentencing. Collateral appeal shall occur simultaneously with direct appeal. Claims raised on collateral appeal shall be limited to claims that were preserved in the collateral proceeding in the trial court and to any other claim that could not have been raised previously, including claims of ineffective assistance of counsel on direct appeal.

(d) Limitation on subsequent petitions.--No further review shall be available except as provided in this subchapter.

(e) Capital case in which death penalty not imposed.--This subchapter does not apply to capital cases in which the death penalty was not imposed.

Suspension by Court Order. Section 9571 was suspended August 11, 1997, S.Ct. Order.

§ 9572. Representation of counsel.

(a) Collateral counsel.--Immediately after the formal imposition of sentence on all charges or within 30 days of the verdict of the death penalty, whichever occurs later, the court shall appoint new counsel for the purposes of collateral review, unless:

(1) the petitioner has elected to proceed pro se and the court finds, after a colloquy on the record, that the petitioner's election is knowing, intelligent and voluntary; or

(2) the petitioner retains counsel for the unitary review proceeding.

(b) Prior attorney.--No petitioner may be represented on collateral review, either in the trial court or on appeal, by an attorney, whether retained or appointed, who has represented the petitioner at any other stage of the proceedings, including direct appeal, unless the court finds, after a colloquy on the record, that the petitioner has knowingly, intelligently and voluntarily waived his right to challenge the effectiveness of that attorney's representation.

(c) Standards for appointment of counsel.--The Supreme Court shall adopt standards for the appointment of counsel in capital cases. These standards shall apply for the appointment of trial counsel, collateral review counsel and appellate counsel. When adopting the standards, the Supreme Court shall consider, where practicable, the following criteria:

(1) Counsel is admitted to practice in Pennsylvania.

(2) Counsel is an experienced and active trial practitioner with at least five years' litigation experience in the field of criminal law.

(3) Counsel has prior experience as counsel in a specified number of trials or other relevant proceedings.

(4) Counsel is familiar with the practice and procedure of the appropriate courts, including Federal courts of the jurisdiction.

(5) Counsel has demonstrated the necessary proficiency and commitment which exemplify the quality of representation appropriate to capital cases.

(6) Local practice for the appointment of counsel in capital cases.

Absent standards established under this subsection, the court may appoint such counsel as it deems qualified, in accordance with any local rules or practices. The existence or applicability of or failure to comply with such standards shall not provide a basis for relief.

Suspension by Court Order. Section 9572 was suspended August 11, 1997, S.Ct. Order.

§ 9573. Time for petition; contents of petition.

(a) Filing date.--Any petition under this subchapter shall be filed within 120 days of the date the trial transcript is filed with the court. The court may, for good cause shown, grant extensions of time totaling no more than 90 days.

(b) Subsequent or untimely claims.--Any claim raised after the time specified in subsection (a) shall be dismissed unless it satisfies section 9578 (relating to subsequent petitions).

(c) Evidentiary hearing.--Where the petitioner requests an evidentiary hearing, the petition shall include a signed certification as to each intended witness stating the witness's name, address, date of birth and substance of testimony and shall include any documents material to that witness's testimony. Failure to substantially comply with the requirements of this subsection shall render the proposed witness's testimony inadmissible.

(d) Discovery.--Discovery shall be permitted, and no reasonable discovery request of the petitioner shall be denied except upon demonstration of exceptional circumstances justifying denial of the discovery requests.

(e) Claim for relief.--When a claim for relief is based on an allegation of ineffective assistance of counsel as a ground for relief, any privilege concerning counsel's representation as to that issue shall be automatically terminated.

Suspension by Court Order. Section 9573 was suspended August 11, 1997, S.Ct. Order.

§ 9574. Answer to petition.

The Commonwealth may file a written answer to the petition within 120 days of the filing and service of the petition. For good cause shown, the court may grant an extension of time of up to 90 days. Failure to file an answer shall not constitute an admission of any facts alleged in the petition.

Suspension by Court Order. Section 9574 was suspended August 11, 1997, S.Ct. Order.

Cross References. Section 9574 is referred to in section 9545 of this title.

§ 9575. Disposition without evidentiary hearing.

(a) Evidentiary hearing.--No more than 20 days after the Commonwealth answers the petition or, if no answer is filed, 20 days after the deadline for answering, the court shall determine whether or not an evidentiary hearing is warranted. An evidentiary hearing shall not be warranted unless controverted, previously unresolved factual issues material to petitioner's conviction or sentence exist.

(b) Written order.--Failure of the court to issue a written order within the period prescribed under subsection (a) shall constitute a determination that an evidentiary hearing is warranted on any controverted, previously unresolved factual issues material to petitioner's conviction or sentence.

(c) Disposing of petition.--If the determination is made that no evidentiary hearing is warranted, the court shall, no later than 90 days from the date of that determination, dispose of the petition, after oral argument if requested, and any postsentence motions filed under the Pennsylvania Rules of Criminal Procedure.

Suspension by Court Order. Section 9575 was suspended August 11, 1997, S.Ct. Order.

Cross References. Section 9575 is referred to in section 9545 of this title.

§ 9576. Evidentiary hearing.

(a) Order.--If the court determines that an evidentiary hearing is warranted, the court shall enter an order no more than 20 days after the Commonwealth answers the petition or, if no answer is filed, 20 days after the deadline for answering, setting a date for the hearing.

(b) Date.--The hearing shall be scheduled to occur not less than ten days and not more than 45 days from the date of the order setting the hearing. The court may, for good cause shown, grant leave to continue the hearing.

(c) Disposing of petition.--Not later than 90 days after the evidentiary hearing, the court shall dispose of the petition and any postsentence motions filed under the Pennsylvania Rules of Criminal Procedure.

Suspension by Court Order. Section 9576 was suspended August 11, 1997, S.Ct. Order.

Cross References. Section 9576 is referred to in section 9545 of this title.

§ 9577. Disposition and appeal.

(a) Capital unitary review.--Review by the Supreme Court under section 9711(h) (relating to review of death sentence) shall comprise direct appeal and collateral appeal. The common pleas court order disposing of the petition under this subchapter shall constitute the final judgment for purposes of this review.

(b) Briefs for petitioner.--Unless the petitioner has waived the right to new counsel on collateral review, separate briefs shall be filed for direct appeal and collateral appeal. The time for filing the collateral appeal brief shall begin to run from service of the petitioner's brief on direct appeal.

(c) Brief for the Commonwealth.--The Commonwealth shall file a brief in response to the petitioner's direct and collateral appeal briefs. The time for filing the Commonwealth's brief shall begin to run from service of the petitioner's brief on collateral appeal.

Suspension by Court Order. Section 9577 was suspended August 11, 1997, S.Ct. Order.

§ 9578. Subsequent petitions.

(a) Further review.--No further review shall be available unless a petition is filed under Subchapter B (relating to post conviction relief) alleging that:

(1) the failure to raise the claim previously was the result of interference by government officials with the presentation of the claim in violation of the Constitution of the United States or laws of the United States or the Constitution of Pennsylvania or laws of this Commonwealth;

(2) the facts upon which the claim is predicated were unknown to the petitioner and could not have been ascertained in the exercise of due diligence; or

(3) the right asserted is a constitutional right that was recognized by the Supreme Court of the United States or the Supreme Court of Pennsylvania after the time period provided in this section and has been held by that court to apply retroactively.

(b) Exception petition.--Any petition invoking an exception provided in subsection (a) shall be filed within 60 days of the date the claim could have been presented.

Suspension by Court Order. Section 9578 was suspended August 11, 1997, S.Ct. Order.

Cross References. Section 9578 is referred to in section 9573 of this title.

§ 9579. Certification.

(a) General rule.--By presenting to the court, whether by signing, filing, submitting or later advocating, a pleading, written motion or other papers regarding a petition for collateral relief, an attorney or unrepresented party is certifying that, to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the following:

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claims and other legal contentions in it are warranted by existing law or by a nonfrivolous argument for extension, modification or reversal of existing law or the establishment of new law; and

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation.

(b) Sanctions.--If, after notice and a reasonable opportunity to respond, the court determines that this section has been violated, the court may impose an appropriate sanction on the attorneys, law firms or parties that have violated this section.

Suspension by Court Order. Section 9579 was suspended August 11, 1997, S.Ct. Order.

CHAPTER 97
SENTENCING

Subchapter

A. General Provisions
B. Sentencing Authority
C. Sentencing Alternatives
D. Informational Basis of Sentence
E. Imposition of Sentence
F. Further Judicial Action
G. Appellate Review of Sentence
H. Registration of Sexual Offenders
I. Continued Registration of Sexual Offenders

Enactment. Chapter 97 was transferred from Chapter 13 of Title 18 (Crimes and Offenses) October 5, 1980, P.L.693, No.142, effective in 60 days.

Prior Provisions. The number and heading of former Chapter 13 of Title 18 were added December 6, 1972, P.L.1482, No.334, effective in six months. Unless otherwise noted, the remaining provisions of former Chapter 13 of Title 18 were added December 30, 1974, P.L.1052, No.345, effective in 90 days.

Cross References. Chapter 97 is referred to in section 2153 of this title.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.
9701. Short title of chapter.
9702. Definitions.
9703. Scope of chapter.

§ 9701. Short title of chapter.

This chapter shall be known and may be cited as the "Sentencing Code."

§ 9702. Definitions.

As used in this chapter "court" and "judge" include (when exercising criminal or quasi-criminal jurisdiction pursuant to section 1515 (relating to jurisdiction and venue)) a magisterial district judge.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 9703. Scope of chapter.

Except as otherwise specifically provided in this chapter, in all cases the sentence to be imposed shall be determined by the court as authorized by law.

(Mar. 8, 1982, P.L.169, No.54, eff. 90 days)

1982 Amendment. Act 54 added section 9703.

SUBCHAPTER B
SENTENCING AUTHORITY

Sec.
9711. Sentencing procedure for murder of the first degree.
9711.1. Sentencing for certain murders of infant persons.
9712. Sentences for offenses committed with firearms.
9712.1. Sentences for certain drug offenses committed with firearms.
9713. Sentences for offenses committed on public transportation.
9714. Sentences for second and subsequent offenses.
9715. Life imprisonment for homicide.
9716. Two or more mandatory minimum sentences applicable.
9717. Sentences for offenses against elderly persons.
9718. Sentences for offenses against infant persons.
9718.1. Sexual offender treatment.
9718.2. Sentences for sexual offenders.
9718.3. Sentence for failure to comply with registration of sexual offenders (Expired).
9718.4. Sentence for failure to comply with registration of sexual offenders.
9718.5. Mandatory period of probation for certain sexual offenders.
9719. Sentences for offenses committed while impersonating a law enforcement officer.
9719.1. Sentences for offenses committed against law enforcement officer.
9720. Sentencing for criminal mischief.
9720.1. Restitution for identity theft (Repealed).
9720.2. Sentencing for trafficking of persons.

9720.3. Sentencing for certain paroled offenders.
9720.4. Sentencing for offenses committed in association with a criminal gang.
9720.5. Sentencing for offenses involving sexual abuse of children.
9720.6. Sentencing for arson offenses.
9720.7. Sentencing for burglary.
9720.8. Sentencing for offenses involving domestic violence in the presence of a minor.

§ 9711. Sentencing procedure for murder of the first degree.

(a) Procedure in jury trials.--

(1) After a verdict of murder of the first degree is recorded and before the jury is discharged, the court shall conduct a separate sentencing hearing in which the jury shall determine whether the defendant shall be sentenced to death or life imprisonment.

(2) In the sentencing hearing, evidence concerning the victim and the impact that the death of the victim has had on the family of the victim is admissible. Additionally, evidence may be presented as to any other matter that the court deems relevant and admissible on the question of the sentence to be imposed. Evidence shall include matters relating to any of the aggravating or mitigating circumstances specified in subsections (d) and (e), and information concerning the victim and the impact that the death of the victim has had on the family of the victim. Evidence of aggravating circumstances shall be limited to those circumstances specified in subsection (d).

(3) After the presentation of evidence, the court shall permit counsel to present argument for or against the sentence of death. The court shall then instruct the jury in accordance with subsection (c).

(4) Failure of the jury to unanimously agree upon a sentence shall not impeach or in any way affect the guilty verdict previously recorded.

(b) Procedure in nonjury trials and guilty pleas.--If the defendant has waived a jury trial or pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose unless waived by the defendant with the consent of the Commonwealth, in which case the trial judge shall hear the evidence and determine the penalty in the same manner as would a jury as provided in subsection (a).

(c) Instructions to jury.--

(1) Before the jury retires to consider the sentencing verdict, the court shall instruct the jury on the following matters:

(i) The aggravating circumstances specified in subsection (d) as to which there is some evidence.

(ii) The mitigating circumstances specified in subsection (e) as to which there is some evidence.

(iii) Aggravating circumstances must be proved by the Commonwealth beyond a reasonable doubt; mitigating circumstances must be proved by the defendant by a preponderance of the evidence.

(iv) The verdict must be a sentence of death if the jury unanimously finds at least one aggravating circumstance specified in subsection (d) and no mitigating circumstance or if the jury unanimously finds one or more aggravating circumstances which outweigh any mitigating circumstances. The verdict must be a sentence of life imprisonment in all other cases.

(v) The court may, in its discretion, discharge the jury if it is of the opinion that further deliberation will not result in a unanimous agreement as to the sentence, in which case the court shall sentence the defendant to life imprisonment.

(2) The court shall instruct the jury that if it finds at least one aggravating circumstance and at least one mitigating circumstance, it shall consider, in weighing the aggravating and mitigating circumstances, any evidence presented about the victim and about the impact of the murder on the victim's family. The court shall also instruct the jury on any other matter that may be just and proper under the circumstances.

(d) Aggravating circumstances.--Aggravating circumstances shall be limited to the following:

(1) The victim was a firefighter, peace officer, public servant concerned in official detention, as defined in 18 Pa.C.S. § 5121 (relating to escape), judge of any court in the unified judicial system, the Attorney General of Pennsylvania, a deputy attorney general, district attorney, assistant district attorney, member of the General Assembly, Governor, Lieutenant Governor, Auditor General, State Treasurer, State law enforcement official, local law enforcement official, Federal law enforcement official or person employed to assist or assisting any law enforcement official in the performance of his duties, who was killed in the performance of his duties or as a result of his official position.

(2) The defendant paid or was paid by another person or had contracted to pay or be paid by another person or had conspired to pay or be paid by another person for the killing of the victim.

(3) The victim was being held by the defendant for ransom or reward, or as a shield or hostage.

(4) The death of the victim occurred while defendant was engaged in the hijacking of an aircraft.

(5) The victim was a prosecution witness to a murder or other felony committed by the defendant and was killed for the purpose of preventing his testimony against the defendant in any grand jury or criminal proceeding involving such offenses.

(6) The defendant committed a killing while in the perpetration of a felony.

(7) In the commission of the offense the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense.

(8) The offense was committed by means of torture.

(9) The defendant has a significant history of felony convictions involving the use or threat of violence to the person.

(10) The defendant has been convicted of another Federal or State offense, committed either before or at the time of the offense at issue, for which a sentence of life imprisonment or death was imposable or the defendant was undergoing a sentence of life imprisonment for any reason at the time of the commission of the offense.

(11) The defendant has been convicted of another murder committed in any jurisdiction and committed either before or at the time of the offense at issue.

(12) The defendant has been convicted of voluntary manslaughter, as defined in 18 Pa.C.S. § 2503 (relating to voluntary manslaughter), or a substantially equivalent crime

in any other jurisdiction, committed either before or at the time of the offense at issue.

(13) The defendant committed the killing or was an accomplice in the killing, as defined in 18 Pa.C.S. § 306(c) (relating to liability for conduct of another; complicity), while in the perpetration of a felony under the provisions of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, and punishable under the provisions of 18 Pa.C.S. § 7508 (relating to drug trafficking sentencing and penalties).

(14) At the time of the killing, the victim was or had been involved, associated or in competition with the defendant in the sale, manufacture, distribution or delivery of any controlled substance or counterfeit controlled substance in violation of The Controlled Substance, Drug, Device and Cosmetic Act or similar law of any other state, the District of Columbia or the United States, and the defendant committed the killing or was an accomplice to the killing as defined in 18 Pa.C.S. § 306(c), and the killing resulted from or was related to that association, involvement or competition to promote the defendant's activities in selling, manufacturing, distributing or delivering controlled substances or counterfeit controlled substances.

(15) At the time of the killing, the victim was or had been a nongovernmental informant or had otherwise provided any investigative, law enforcement or police agency with information concerning criminal activity and the defendant committed the killing or was an accomplice to the killing as defined in 18 Pa.C.S. § 306(c), and the killing was in retaliation for the victim's activities as a nongovernmental informant or in providing information concerning criminal activity to an investigative, law enforcement or police agency.

(16) The victim was a child under 12 years of age.

(17) At the time of the killing, the victim was in her third trimester of pregnancy or the defendant had knowledge of the victim's pregnancy.

(18) At the time of the killing the defendant was subject to a court order restricting in any way the defendant's behavior toward the victim pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) or any other order of a court of common pleas or of the minor judiciary designed in whole or in part to protect the victim from the defendant.

(e) Mitigating circumstances.--Mitigating circumstances shall include the following:

(1) The defendant has no significant history of prior criminal convictions.

(2) The defendant was under the influence of extreme mental or emotional disturbance.

(3) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.

(4) The age of the defendant at the time of the crime.

(5) The defendant acted under extreme duress, although not such duress as to constitute a defense to prosecution under 18 Pa.C.S. § 309 (relating to duress), or acted under the substantial domination of another person.

(6) The victim was a participant in the defendant's homicidal conduct or consented to the homicidal acts.

(7) The defendant's participation in the homicidal act was relatively minor.

(8) Any other evidence of mitigation concerning the character and record of the defendant and the circumstances of his offense.

(f) Sentencing verdict by the jury.--

(1) After hearing all the evidence and receiving the instructions from the court, the jury shall deliberate and render a sentencing verdict. In rendering the verdict, if the sentence is death, the jury shall set forth in such form as designated by the court the findings upon which the sentence is based.

(2) Based upon these findings, the jury shall set forth in writing whether the sentence is death or life imprisonment.

(g) Recording sentencing verdict.--Whenever the jury shall agree upon a sentencing verdict, it shall be received and recorded by the court. The court shall thereafter impose upon the defendant the sentence fixed by the jury.

(h) Review of death sentence.--

(1) A sentence of death shall be subject to automatic review by the Supreme Court of Pennsylvania pursuant to its rules.

(2) In addition to its authority to correct errors at trial, the Supreme Court shall either affirm the sentence of death or vacate the sentence of death and remand for further proceedings as provided in paragraph (4).

(3) The Supreme Court shall affirm the sentence of death unless it determines that:

(i) the sentence of death was the product of passion, prejudice or any other arbitrary factor; or

(ii) the evidence fails to support the finding of at least one aggravating circumstance specified in subsection (d).

(4) If the Supreme Court determines that the death penalty must be vacated because none of the aggravating circumstances are supported by sufficient evidence, then it shall remand for the imposition of a life imprisonment sentence. If the Supreme Court determines that the death penalty must be vacated for any other reason, it shall remand for a new sentencing hearing pursuant to subsections (a) through (g).

(i) Record of death sentence to Governor.--Where a sentence of death is upheld by the Supreme Court, the prothonotary of the Supreme Court shall transmit to the Governor a full and complete record of the trial, sentencing hearing, imposition of sentence, opinion and order by the Supreme Court within 30 days of one of the following, whichever occurs first:

(1) the expiration of the time period for filing a petition for writ of certiorari or extension thereof where neither has been filed;

(2) the denial of a petition for writ of certiorari; or

(3) the disposition of the appeal by the United States Supreme Court, if that court grants the petition for writ of certiorari.

Notice of this transmission shall contemporaneously be provided to the Secretary of Corrections.

(j) Issuance of warrant.--(Repealed).

(k) Terms of confinement.--(Repealed).

(l) Witnesses to execution.--(Repealed).

(m) Certification of superintendent.--(Repealed).

(n) Postmortem examination.--(Repealed).

(o) Costs of execution and examination.--(Repealed).

(Mar. 26, 1974, P.L.213, No.46, eff. imd.; Dec. 30, 1974, P.L.1052, No.345, eff. 90 days; Sept. 13, 1978, P.L.756, No.141, eff. imd.; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; July 7, 1986, P.L.400, No.87, eff. 60 days; Dec. 21, 1988, P.L.1862, No.179, eff. imd.; Dec. 22, 1989, P.L.727, No.99, eff. imd.; Mar. 15, 1995, 1st Sp.Sess., P.L.966, No.4, eff. imd.; Oct. 11, 1995, 1st Sp.Sess., P.L.1064, No.22, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess., P.L.1117, No.31, eff. 60 days; Apr. 25, 1997, P.L.84, No.6, eff. 60 days; June 25, 1997, P.L.293, No.28, eff. imd.; June 18, 1998, P.L.622, No.80, eff. 60 days; Oct. 12, 1999, P.L.420, No.38, eff. 60 days)

1999 Amendment. Act 38 amended subsec. (i).

1998 Repeal. Act 80 repealed subsecs. (j), (k), (l), (m), (n) and (o).

1997 Amendments. Act 6 added subsec. (d)(18) and Act 28 amended subsec. (h).

1995 Amendments. Act 4, 1st Sp.Sess., amended subsecs. (d) and (i) and added subsecs. (j), (k), (l), (m), (n) and (o), Act 22, 1st Sp.Sess., amended subsecs. (a)(2), (b) and (c)(2) and Act 31, 1st Sp.Sess., added subsec. (d)(17). Section 4 of Act 4, 1st Sp.Sess., provided that Act 4 shall apply to cases in which the Governor has, as of the effective date of Act 4, not yet received the transcript of the record. Section 2 of Act 22, 1st Sp.Sess., provided that the amendment of subsecs. (a)(2), (b) and (c)(2) shall apply to sentences imposed for offenses which take place on or after the effective date of Act 22.

1980 Amendment. Act 142 amended subsecs. (d)(1) and (e)(5).

1978 Amendment. Act 141 added present section 9711 (as section 1311 of Title 18) and repealed former section 1311 relating to the same subject matter.

Cross References. Section 9711 is referred to in sections 722, 9543.1, 9577, 9738 of this title; section 1102 of Title 18 (Crimes and Offenses); section 4302 of Title 61 (Prisons and Parole).

§ 9711.1. Sentencing for certain murders of infant persons.

(a) Sentence enhancement.--The Pennsylvania Commission on Sentencing, pursuant to section 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentencing enhancement for an offense under 18 Pa.C.S. § 2502(c) (relating to murder) when the victim was less than 13 years of age at the time of the commission of the offense.

(b) Applicability.--The applicability of this section shall be determined at sentencing. The court shall consider any evidence presented at trial and shall determine, by preponderance of the evidence, if this section is applicable.

(c) Consecutive sentence.--A sentence imposed upon a person to whom this section applies shall be served consecutively to any other sentence the person is serving and to any other sentence being then imposed by the court.

(Oct. 25, 2012, P.L.1655, No.204, eff. 60 days)

2012 Amendment. Act 204 added section 9711.1.

§ 9712. Sentences for offenses committed with firearms.

(a) Mandatory sentence.--Except as provided under section 9716 (relating to two or more mandatory minimum sentences applicable), any person who is convicted in any court of this Commonwealth of a crime of violence as defined in section 9714(g) (relating to sentences for second and subsequent offenses), shall, if the person visibly possessed a firearm or a replica of a firearm, whether or not the firearm or replica was loaded or functional, that placed the victim in reasonable

fear of death or serious bodily injury, during the commission of the offense, be sentenced to a minimum sentence of at least five years of total confinement notwithstanding any other provision of this title or other statute to the contrary. Such persons shall not be eligible for parole, probation, work release or furlough.

(b) Proof at sentencing.--Provisions of this section shall not be an element of the crime and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The court shall consider any evidence presented at trial and shall afford the Commonwealth and the defendant an opportunity to present any necessary additional evidence and shall determine, by a preponderance of the evidence, if this section is applicable.

(c) Authority of court in sentencing.--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(d) Appeal by Commonwealth.--If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Firearm." Any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive or the expansion of gas therein.

"Replica of a firearm." An item that can reasonably be perceived to be a firearm.

(Mar. 8, 1982, P.L.169, No.54, eff. 90 days; June 13, 1995, 1st Sp.Sess., P.L.1024, No.17, eff. 120 days; Oct. 11, 1995, 1st Sp.Sess., P.L.1058, No.21, eff. 60 days)

1995 Amendments. Act 17, 1st Sp.Sess., amended subsecs. (a) and (e) and Act 21, 1st Sp.Sess., amended subsec. (a). See the preamble to Act 17, 1st Sp.Sess., in the appendix to this title for special provisions relating to legislative purpose. Section 6 of Act 21, 1st Sp.Sess., provided that the amendment of subsec. (a) shall apply to all offenses committed on or after the effective date of Act 21.

Cross References. Section 9712 is referred to in sections 9712.1, 9715 of this title; sections 505, 2702.1 of Title 18 (Crimes and Offenses); section 6137 of Title 61 (Prisons and Parole).

§ 9712.1. Sentences for certain drug offenses committed with firearms.

(a) Mandatory sentence.--Any person who is convicted of a violation of section 13(a)(30) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,

Device and Cosmetic Act, when at the time of the offense the person or the person's accomplice is in physical possession or control of a firearm, whether visible, concealed about the person or the person's accomplice or within the actor's or accomplice's reach or in close proximity to the controlled substance, shall likewise be sentenced to a minimum sentence of at least five years of total confinement.

(b) Limitation on aggregate sentences.--Where a defendant is subject to a mandatory minimum sentence under 18 Pa.C.S. § 7508(a) (relating to drug trafficking sentencing and penalties) and is also subject to an additional penalty under subsection (a) and where the court elects to aggregate these penalties, the combined minimum sentence may not exceed the statutory maximum sentence of imprisonment allowable under The Controlled Substance, Drug, Device and Cosmetic Act.

(c) Proof at sentencing.--Provisions of this section shall not be an element of the crime, and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The court shall consider any evidence presented at trial and shall afford the Commonwealth and the defendant an opportunity to present any necessary additional evidence and shall determine, by a preponderance of the evidence, if this section is applicable.

(d) Authority of court in sentencing.--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(e) Appeal by Commonwealth.--If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(f) Definition.--As used in this section, the term "firearm" shall have the same meaning as that given to it in section 9712 (relating to sentences for offenses committed with firearms). (Dec. 1, 2004, P.L.1747, No.225, eff. 60 days)

2004 Amendment. Act 225 added section 9712.1. See section 2 of Act 225 in the appendix to this title for special provisions relating to public information campaign.

Cross References. Section 9712.1 is referred to in sections 4503, 4601, 6137.1 of Title 61 (Prisons and Parole).

§ 9713. Sentences for offenses committed on public transportation.

(a) Mandatory sentence.--Except as provided under section 9716 (relating to two or more mandatory minimum sentences applicable), any person who is convicted in any court of this Commonwealth of a crime of violence as defined in section 9714(g) (relating to sentences for second and subsequent offenses), shall be sentenced to a minimum sentence of at least five years of total confinement if the crime occurs in or near public transportation as defined in subsection (b),

notwithstanding any other provision of this title or other statute to the contrary.

(b) Site of commission of crime.--For the purposes of subsection (a), a crime shall be deemed to have occurred in or near public transportation if it is committed in whole or in part in a vehicle, station, terminal, waiting area or other facility used by a person, firm, corporation, municipality, municipal authority or port authority in rendering passenger transportation services to the public or a segment of the public or if it is committed in whole or in part on steps, passageways or other areas leading to or from or in the immediate vicinity of such a public transportation vehicle, station, terminal, waiting area or other facility.

(c) Proof at sentencing.--Provisions of this section shall not be an element of the crime and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The court shall consider any evidence presented at trial and shall afford the Commonwealth and the defendant an opportunity to present any necessary additional evidence and shall determine, by a preponderance of the evidence, if this section is applicable.

(d) Authority of court in sentencing.--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(e) Appeal by Commonwealth.--If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(Mar. 8, 1982, P.L.169, No.54, eff. 90 days; Oct. 11, 1995, 1st Sp.Sess., P.L.1058, No.21, eff. 60 days)

1995 Amendment. Act 21, 1st Sp.Sess., amended subsec. (a). Section 6 of Act 21, 1st Sp.Sess., provided that the amendment of subsec. (a) shall apply to all offenses committed on or after the effective date of Act 21.

1982 Amendment. Act 54 added section 9713.

Cross References. Section 9713 is referred to in section 9715 of this title.

§ 9714. Sentences for second and subsequent offenses.

(a) Mandatory sentence.--

(1) Any person who is convicted in any court of this Commonwealth of a crime of violence shall, if at the time of the commission of the current offense the person had previously been convicted of a crime of violence, be sentenced to a minimum sentence of at least ten years of total confinement, notwithstanding any other provision of this title or other statute to the contrary. Upon a second conviction for a crime of violence, the court shall give the person oral and written notice of the penalties under this section for a third conviction for a crime of violence.

Failure to provide such notice shall not render the offender ineligible to be sentenced under paragraph (2).

(2) Where the person had at the time of the commission of the current offense previously been convicted of two or more such crimes of violence arising from separate criminal transactions, the person shall be sentenced to a minimum sentence of at least 25 years of total confinement, notwithstanding any other provision of this title or other statute to the contrary. Proof that the offender received notice of or otherwise knew or should have known of the penalties under this paragraph shall not be required. Upon conviction for a third or subsequent crime of violence the court may, if it determines that 25 years of total confinement is insufficient to protect the public safety, sentence the offender to life imprisonment without parole.

(a.1) Mandatory maximum.--An offender sentenced to a mandatory minimum sentence under this section shall be sentenced to a maximum sentence equal to twice the mandatory minimum sentence, notwithstanding 18 Pa.C.S. § 1103 (relating to sentence of imprisonment for felony) or any other provision of this title or other statute to the contrary.

(b) Presumption of high risk dangerous offender.--(Deleted by amendment).

(c) High risk dangerous offender.--(Deleted by amendment).

(d) Proof at sentencing.--Provisions of this section shall not be an element of the crime and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The sentencing court, prior to imposing sentence on an offender under subsection (a), shall have a complete record of the previous convictions of the offender, copies of which shall be furnished to the offender. If the offender or the attorney for the Commonwealth contests the accuracy of the record, the court shall schedule a hearing and direct the offender and the attorney for the Commonwealth to submit evidence regarding the previous convictions of the offender. The court shall then determine, by a preponderance of the evidence, the previous convictions of the offender and, if this section is applicable, shall impose sentence in accordance with this section. Should a previous conviction be vacated and an acquittal or final discharge entered subsequent to imposition of sentence under this section, the offender shall have the right to petition the sentencing court for reconsideration of sentence if this section would not have been applicable except for the conviction which was vacated.

(e) Authority of court in sentencing.--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsections (a) and (a.1) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(f) Appeal by Commonwealth.--If a sentencing court shall refuse to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for the imposition

of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(g) Definition.--As used in this section, the term "crime of violence" means murder of the third degree, voluntary manslaughter, manslaughter of a law enforcement officer as defined in 18 Pa.C.S. § 2507(c) or (d) (relating to criminal homicide of law enforcement officer), murder of the third degree involving an unborn child as defined in 18 Pa.C.S. § 2604(c) (relating to murder of unborn child), aggravated assault of an unborn child as defined in 18 Pa.C.S. § 2606 (relating to aggravated assault of unborn child), aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault), assault of law enforcement officer as defined in 18 Pa.C.S. § 2702.1(a)(1) (relating to assault of law enforcement officer), use of weapons of mass destruction as defined in 18 Pa.C.S. § 2716(b) (relating to weapons of mass destruction), terrorism as defined in 18 Pa.C.S. § 2717(b)(2) (relating to terrorism), strangulation when the offense is graded as a felony as defined in 18 Pa.C.S. § 2718 (relating to strangulation), trafficking of persons when the offense is graded as a felony of the first degree as provided in 18 Pa.C.S. § 3011 (relating to trafficking in individuals), rape, involuntary deviate sexual intercourse, aggravated indecent assault, incest, sexual assault, arson endangering persons or aggravated arson as defined in 18 Pa.C.S. § 3301(a) or (a.1) (relating to arson and related offenses), ecoterrorism as classified in 18 Pa.C.S. § 3311(b)(3) (relating to ecoterrorism), kidnapping, burglary as defined in 18 Pa.C.S. § 3502(a)(1) (relating to burglary), robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery), or robbery of a motor vehicle, drug delivery resulting in death as defined in 18 Pa.C.S. § 2506(a) (relating to drug delivery resulting in death), or criminal attempt, criminal conspiracy or criminal solicitation to commit murder or any of the offenses listed above, or an equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense or an equivalent crime in another jurisdiction.
(Mar. 8, 1982, P.L.169, No.54, eff. 90 days; June 15, 1982, P.L.512, No.141, eff. imd.; Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Oct. 11, 1995, 1st Sp.Sess., P.L.1058, No.21, eff. 60 days; May 10, 2000, P.L.74, No.18, eff. 60 days; Dec. 20, 2000, P.L.811, No.113, eff. 60 days; July 7, 2011, P.L.220, No.40, eff. 60 days; July 5, 2012, P.L.1050, No.122, eff. 60 days; Oct. 25, 2012, P.L.1655, No.204, eff. 60 days; Feb. 25, 2014, P.L.33, No.16, eff. 60 days; June 5, 2020, P.L.246, No.32, eff. 60 days; Nov. 3, 2022, P.L.1634, No.99, eff. 60 days)

2022 Amendment. Act 99 amended subsec. (g).

2000 Amendments. Act 18 amended subsec. (g) and Act 113 amended subsec. (a) and deleted subsecs. (b) and (c). Section 5(1) of Act 18 provided that Act 18 shall apply to proceedings initiated on or after the effective date of Act 18.

1995 Amendment. Section 6 of Act 21, 1st Sp.Sess., provided that the amendment of subsec. (a) shall apply to all offenses committed on or after the effective date of Act 21.

Cross References. Section 9714 is referred to in sections 5750, 9543.1, 9712, 9713, 9715, 9720.4, 9774.1, 9799.24, 9799.58 of this title; section 1103 of Title 18 (Crimes and Offenses); sections 3903, 4103, 4503, 6101, 6135, 6137, 6137.1, 7301 of Title 61 (Prisons and Parole); section 3113 of Title 63 (Professions and Occupations (State Licensed)).

§ 9715. Life imprisonment for homicide.

(a) Mandatory life imprisonment.--Notwithstanding the provisions of section 9712 (relating to sentences for offenses committed with firearms), 9713 (relating to sentences for offenses committed on public transportation) or 9714 (relating to sentences for second and subsequent offenses), any person convicted of murder of the third degree in this Commonwealth who has previously been convicted at any time of murder or voluntary manslaughter in this Commonwealth or of the same or substantially equivalent crime in any other jurisdiction shall be sentenced to life imprisonment, notwithstanding any other provision of this title or other statute to the contrary.

(b) Proof at sentencing.--Provisions of this section shall not be an element of the crime and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The sentencing court, prior to imposing sentence on an offender under subsection (a), shall have a complete record of the previous convictions of the offender, copies of which shall be furnished to the offender. If the offender or the attorney for the Commonwealth contests the accuracy of the record, the court shall schedule a hearing and direct the offender and the attorney for the Commonwealth to submit evidence regarding the previous convictions of the offender. The court shall then determine, by a preponderance of the evidence, the previous convictions of the offender and, if this section is applicable, shall impose sentence in accordance with this section. Should a previous conviction be vacated and an acquittal or final discharge entered subsequent to imposition of sentence under this section, the offender shall have the right to petition the sentencing court for reconsideration of sentence if this section would not have been applicable except for the conviction which was vacated.

(c) Authority of court in sentencing.--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(d) Appeal by Commonwealth.--If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(Mar. 8, 1982, P.L.169, No.54, eff. 90 days; June 15, 1982, P.L.512, No.141, eff. imd.)

1982 Amendments. Act 54 added section 9715 and Act 141 amended subsec. (b). Section 4 of Act 54 provided that the mandatory sentences provided in section 9715 shall be applicable to offenses committed after the effective date of Act 54.

§ 9716. Two or more mandatory minimum sentences applicable.

Where two or more sections requiring mandatory minimum sentences are applicable, the court shall be bound by that section requiring the greater penalty.

(Mar. 8, 1982, P.L.169, No.54, eff. 90 days)

1982 Amendment. Act 54 added section 9716.

Cross References. Section 9716 is referred to in sections 9712, 9713 of this title.

§ 9717. Sentences for offenses against elderly persons.

(a) Mandatory sentence.--A person under 60 years of age convicted of the following offenses when the victim is over 60 years of age and not a police officer shall be sentenced to a mandatory term of imprisonment as follows:

18 Pa.C.S. § 2702(a)(1) and (4) (relating to aggravated assault) - not less than two years.

18 Pa.C.S. § 3121 (relating to rape) - not less than five years.

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse) - not less than five years.

18 Pa.C.S. § 3922 (relating to theft by deception) - not less than 12 months, but the imposition of the minimum sentence shall be discretionary with the court where the court finds justifiable cause and that finding is written in the opinion.

(b) Eligibility for parole.--Parole shall not be granted until the minimum term of imprisonment has been served.

(Dec. 30, 1982, P.L.1472, No.334, eff. 60 days)

1982 Amendment. Act 334 added section 9717.

§ 9718. Sentences for offenses against infant persons.

(a) Mandatory sentence.--

(1) A person convicted of the following offenses when the victim is less than 16 years of age shall be sentenced to a mandatory term of imprisonment as follows:

18 Pa.C.S. § 2702(a)(1) and (4) (relating to aggravated assault) - not less than two years.

18 Pa.C.S. § 3121(a)(1), (2), (3), (4) and (5) (relating to rape) - not less than ten years.

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse) - not less than ten years.

18 Pa.C.S. § 3125(a)(1) through (6) (relating to aggravated indecent assault) - not less than five years.

(2) A person convicted of the following offenses when the victim is less than 13 years of age shall be sentenced to a mandatory term of imprisonment as follows:

18 Pa.C.S. § 2502(c) (relating to murder) - not less than 15 years.

18 Pa.C.S. § 2702(a)(1) - not less than five years.

(3) A person convicted of the following offenses shall be sentenced to a mandatory term of imprisonment as follows:

18 Pa.C.S. § 3121(c) and (d) - not less than ten years.

18 Pa.C.S. § 3125(a)(7) - not less than five years.

18 Pa.C.S. § 3125(b) - not less than ten years.

(b) Eligibility for parole.--Parole shall not be granted until the minimum term of imprisonment has been served.

(c) Application of mandatory minimum penalty.--With the exception of prior convictions, any provision of this section that requires imposition of a mandatory minimum sentence shall constitute an element enhancing the underlying offense. Any enhancing element must be proven beyond a reasonable doubt at trial on the underlying offense and must be submitted to the fact-finder for deliberation together with the underlying offense. If the fact-finder finds the defendant guilty of the underlying offense, the fact-finder shall also decide whether any enhancing element has been proven.

(c.1) Notice.--Notice to the defendant of the applicability of this section shall be required prior to conviction.

(d) Authority of court in sentencing.--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place the offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(e) Appeal by Commonwealth.--If the fact-finder has found any enhancing element and a sentencing court imposes a sentence below the mandatory minimum sentence, the Commonwealth shall have the right to appellate review of the sentence. If the appellate court finds that the mandatory sentencing provision was applicable, the court shall vacate the sentence and remand the case for resentencing in accordance with that provision. (Dec. 30, 1982, P.L.1472, No.334, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; Nov. 30, 2004, P.L.1703, No.217, eff. imd.; June 18, 2014, P.L.741, No.56, eff. 60 days; Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2006 Amendment. See the preamble for Act 178 in the appendix to this title for special provisions relating to legislative intent.

2004 Amendment. Section 6 of Act 217 provided that subsec. (a)(3) shall apply to individuals sentenced on or after the effective date of section 6.

§ 9718.1. Sexual offender treatment.

(a) General rule.--A person, including an offender designated as a "sexually violent predator" as defined in section 9799.12 (relating to definitions) or 9799.53 (relating to definitions), shall attend and participate in a Department of Corrections program of counseling or therapy designed for incarcerated sex offenders if the person is incarcerated in a State institution for any of the following provisions under 18 Pa.C.S. (relating to crimes and offenses):

(1) Any of the offenses enumerated in Chapter 31 (relating to sexual offenses) if the offense involved a minor under 18 years of age.

(1.1) Any of the offenses enumerated under Chapter 30 (relating to human trafficking) if the victim is a minor under 18 years of age and the offense involved sexual servitude.

(2) Section 4304(a)(1) (relating to endangering welfare of children) if the offense involved sexual contact with the victim.

(3) Section 6301(a)(1)(i) (relating to corruption of minors) if the offense involved sexual contact with the victim.

(3.1) Section 6301(a)(1)(ii).

(4) Open lewdness, as defined in section 5901 (relating to open lewdness), if the offense involved a minor under 18 years of age.

(5) Prostitution, as defined in section 5902(b.1) (relating to prostitution and related offenses).

(6) Obscene and other sexual materials and performances, as defined in section 5903 (relating to obscene and other sexual materials and performances), if the offense involved a minor under 18 years of age.

(7) Sexual abuse of children, as defined in section 6312 (relating to sexual abuse of children).

(8) Section 6318 (relating to unlawful contact with minor).

(9) Section 6320 (relating to sexual exploitation of children).

(10) Section 4302(b) (relating to incest).

(11) An attempt, solicitation or conspiracy to commit any of the offenses listed in this subsection.

(b) Eligibility for parole.--For an offender required to participate in the program under subsection (a), all of the following apply:

(1) The offender shall not be eligible for parole unless the offender has:

(i) served the minimum term of imprisonment;

(ii) participated in the program under subsection (a); and

(iii) agreed to comply with any special conditions of parole imposed for therapy or counseling for sex offenders, including sexually violent predators.

(2) Notwithstanding paragraph (1)(iii), an offender who is a sexually violent predator is subject to section 9799.36 (relating to counseling of sexually violent predators).

(c) Department.--The department shall develop and provide the program of counseling or therapy for offenders as provided in subsection (a). The department shall have the sole discretion with respect to counseling or therapy program contents and administration, including the scheduling of an offender's attendance and participation.

(d) No right of action created.--Notwithstanding any other provision of law to the contrary, this section shall not be construed to confer any legal right upon any individual, including an individual required to participate in the department's programs of counseling or therapy for incarcerated offenders, seeking to:

(1) participate and attend the program provided in subsection (a) at a time of the individual's own choosing;

(2) modify the contents of the program provided in subsection (a);

(3) be paroled; or

(4) file any other cause of action in any court regarding the program provided in subsection (a).

(Dec. 20, 2000, P.L.721, No.98, eff. imd.; Nov. 20, 2002, P.L.1104, No.134, eff. 60 days; Dec. 20, 2011, P.L.446, No.111, eff. one year; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.223, No.45, eff. 60 days)

2021 Amendment. Act 45 amended subsec. (a).

2011 Amendment. Act 111 amended subsecs. (a) intro. par. and (b)(2).

2000 Amendment. Act 98 added section 9718.1. See the preamble and section 3 of Act 98 in the appendix to this title for special provisions relating to legislative intent and applicability.

§ 9718.2. Sentences for sexual offenders.

(a) Mandatory sentence.--

(1) Any person who is convicted in any court of this Commonwealth of an offense set forth in section 9799.14 (relating to sexual offenses and tier system) shall, if at the time of the commission of the current offense the person had previously been convicted of an offense set forth in

section 9799.14 or an equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense or an equivalent crime in another jurisdiction, be sentenced to a minimum sentence of at least 25 years of total confinement, notwithstanding any other provision of this title or other statute to the contrary. Upon such conviction, the court shall give the person oral and written notice of the penalties under paragraph (2) for a third conviction. Failure to provide such notice shall not render the offender ineligible to be sentenced under paragraph (2).

(2) Where the person had at the time of the commission of the current offense previously been convicted of two or more offenses arising from separate criminal transactions set forth in section 9799.14 or equivalent crimes under the laws of this Commonwealth in effect at the time of the commission of the offense or equivalent crimes in another jurisdiction, the person shall be sentenced to a term of life imprisonment, notwithstanding any other provision of this title or other statute to the contrary. Proof that the offender received notice of or otherwise knew or should have known of the penalties under this paragraph shall not be required.

(b) Mandatory maximum.--An offender sentenced to a mandatory minimum sentence under this section shall be sentenced to a maximum sentence equal to twice the mandatory minimum sentence, notwithstanding 18 Pa.C.S. § 1103 (relating to sentence of imprisonment for felony) or any other provision of this title or other statute to the contrary.

(c) Proof of sentencing.--The provisions of this section shall not be an element of the crime, and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The sentencing court, prior to imposing sentence on an offender under subsection (a), shall have a complete record of the previous convictions of the offender, copies of which shall be furnished to the offender. If the offender or the attorney for the Commonwealth contests the accuracy of the record, the court shall schedule a hearing and direct the offender and the attorney for the Commonwealth to submit evidence regarding the previous convictions of the offender. The court shall then determine, by a preponderance of the evidence, the previous convictions of the offender and, if this section is applicable, shall impose sentence in accordance with this section. Should a previous conviction be vacated and an acquittal or final discharge entered subsequent to imposition of sentence under this section, the offender shall have the right to petition the sentencing court for reconsideration of sentence if this section would not have been applicable except for the conviction which was vacated.

(d) Authority of court in sentencing.--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsections (a) and (b) or to place the offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(e) Appeal by Commonwealth.--If a sentencing court shall refuse to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for the imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.
(Nov. 29, 2006, P.L.1567, No.178, eff. Jan. 1, 2007; Dec. 20, 2011, P.L.446, No.111)

2011 Amendment. Act 111 amended the section heading and subsecs. (a) and (d), effective in 60 days as to the heading and one year as to subsecs. (a) and (d).

2006 Amendment. Act 178 added section 9718.2. See the preamble for Act 178 in the appendix to this title for special provisions relating to legislative intent.

§ 9718.3. Sentence for failure to comply with registration of sexual offenders (Expired).

2012 Expiration. Section 9718.3 expired December 20, 2012. See Act 111 of 2011.

§ 9718.4. Sentence for failure to comply with registration of sexual offenders.

(a) Mandatory sentence.--Mandatory sentencing shall be as follows:

(1) Sentencing upon conviction for a first offense shall be as follows:

(i) Not less than two years for an individual who:

(A) is subject to section 9799.13 (relating to applicability) and must register for a period of 15 years under section 9799.15 (relating to period of registration) or a similar provision from another jurisdiction; and

(B) violated 18 Pa.C.S. § 4915.1(a)(1) or (2) (relating to failure to comply with registration requirements).

(ii) Not less than three years for an individual who:

(A) is subject to section 9799.13 and must register for a period of 15 years under section 9799.15 or a similar provision from another jurisdiction; and

(B) violated 18 Pa.C.S. § 4915.1(a)(3).

(iii) Not less than three years for an individual who:

(A) is subject to section 9799.13 and must register for a period of 25 years or life under section 9799.15 or a similar provision from another jurisdiction; and

(B) violated 18 Pa.C.S. § 4915.1(a)(1) or (2).

(iv) Not less than five years for an individual who:

(A) is subject to section 9799.13 and must register for a period of 25 years or life under section 9799.15 or a similar provision from another jurisdiction; and

(B) violated 18 Pa.C.S. § 4915.1(a)(3).

(2) Sentencing upon conviction for a second or subsequent offense shall be as follows:

(i) Not less than five years for an individual who:

(A) is subject to section 9799.13 and must register for a period of 15 or 25 years or life under

section 9799.15 or a similar provision from another jurisdiction; and

(B) violated 18 Pa.C.S. § 4915.1(a)(1) or (2).

(ii) Not less than seven years for an individual who:

(A) is subject to section 9799.13 and must register for a period of 15 or 25 years or life under section 9799.15 or a similar provision from another jurisdiction; and

(B) violated 18 Pa.C.S. § 4915.1(a)(3).

(a.1) Transients and mandatory sentence.--Mandatory sentencing shall be as follows:

(1) Sentencing upon conviction for a first offense shall be as follows:

(i) Not less than two years for an individual who:

(A) is subject to section 9799.13 and must register for a period of 15 years under section 9799.15 or a similar provision from another jurisdiction and is a transient; and

(B) violated 18 Pa.C.S. § 4915.1(a.1)(1) or (2).

(ii) Not less than three years for an individual who:

(A) is subject to section 9799.13 and must register for a period of 15 years under section 9799.15 or a similar provision from another jurisdiction and is transient; and

(B) violated 18 Pa.C.S. § 4915.1(a.1)(3).

(iii) Not less than three years for an individual who:

(A) is subject to section 9799.13 and must register for a period of 25 years or life under section 9799.15 or a similar provision from another jurisdiction and is transient; and

(B) violated 18 Pa.C.S. § 4915.1(a.1)(1) or (2).

(iv) Not less than five years for an individual who:

(A) is subject to section 9799.13 and must register for a period of 25 years or life under section 9799.15 or a similar provision from another jurisdiction and is a transient; and

(B) violated 18 Pa.C.S. § 4915.1(a.1)(3).

(2) Sentencing upon conviction for a second or subsequent offense shall be as follows:

(i) Not less than five years for an individual who:

(A) is subject to section 9799.13 and must register for a period of 15 or 25 years or life under section 9799.15 or a similar provision from another jurisdiction and is transient; and

(B) violated 18 Pa.C.S. § 4915.1(a.1)(1) or (2).

(ii) Not less than seven years for an individual who:

(A) is subject to section 9799.13 and must register for a period of 15 or 25 years or life under section 9799.15 or a similar provision from another jurisdiction and is a transient; and

(B) violated 18 Pa.C.S. § 4915.1(a.1)(3).

(b) Proof at sentencing.--The provisions of this section shall not be an element of the crime, and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be

determined at sentencing. The court shall consider any evidence presented at trial and shall afford the Commonwealth and the defendant an opportunity to present any necessary additional evidence and shall determine by a preponderance of the evidence if this section is applicable.

(c) Authority of court in sentencing.--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(d) Appeal by Commonwealth.--If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(Dec. 20, 2011, P.L.446, No.111, eff. one year)

2011 Amendment. Act 111 added section 9718.4.

§ 9718.5. Mandatory period of probation for certain sexual offenders.

(a) Mandatory probation supervision after release from confinement.--A person who is convicted in a court of this Commonwealth of an offense under section 9799.14(d) (relating to sexual offenses and tier system) shall be sentenced to a mandatory period of probation of three years consecutive to and in addition to any other lawful sentence issued by the court.

(b) Imposition.--The court may impose the term of probation required under subsection (a) in addition to the maximum sentence permitted for the offense for which the defendant was convicted.

(c) Authority of court in sentencing.--There shall be no authority in a court to impose on an offender to which this section is applicable a lesser period of probation than provided for under subsection (a). Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory period of probation provided under this section.

(d) Direct supervision.--Nothing under this section shall limit the court's authority to direct supervision by the Department of Corrections by special order as provided under 61 Pa.C.S. § 6172(a) (relating to probation services).

(Feb. 21, 2018, P.L.27, No.10, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (d).

2018 Amendment. Act 10 added section 9718.5.

Cross References. Section 9718.5 is referred to in section 6137.2 of Title 61 (Prisons and Parole).

§ 9719. Sentences for offenses committed while impersonating a law enforcement officer.

(a) Mandatory sentence.--A person convicted of murder of the third degree, voluntary manslaughter, rape, involuntary deviate sexual intercourse, aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) (relating to aggravated assault), robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery) or kidnapping or who is convicted of

attempt to commit any of these crimes shall, if the person was impersonating a law enforcement officer during the commission of the offense, be sentenced to a minimum sentence of at least three years of total confinement notwithstanding any other provision of this title or other statute to the contrary.

(b) Proof at sentencing.--Provisions of this section shall not be an element of the crime and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The sentencing court shall consider evidence presented at trial and shall afford the Commonwealth and the defendant an opportunity to present necessary additional evidence and shall determine, by a preponderance of the evidence, if this section is applicable.

(c) Authority of court in sentencing.--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(d) Appeal by Commonwealth.--If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(e) Definition.--As used in this section, the term "law enforcement officer" means a law enforcement officer or employee of the United States, a state, a political subdivision of a state or the District of Columbia.

(Apr. 13, 1988, P.L.336, No.47, eff. 60 days)

1988 Amendment. Act 47 added section 9719.

§ 9719.1. Sentences for offenses committed against law enforcement officer.

(a) Mandatory sentence.--A person convicted of the following offense shall be sentenced to a mandatory term of imprisonment as follows:

18 Pa.C.S. § 2702.1(a)(1) (relating to assault of law enforcement officer) - not less than 20 years.

(b) Authority of court in sentencing.--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(c) Appeal by Commonwealth.--If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Law enforcement officer." The term shall have the same meaning as the term "peace officer" is given under 18 Pa.C.S. § 501 (relating to definitions).

(Oct. 17, 2008, P.L.1628, No.131, eff. 60 days; Nov. 3, 2022, P.L.1634, No.99, eff. 60 days)

2022 Amendment. Act 99 amended subsec. (a).

2008 Amendment. Act 131 added section 9719.1.

§ 9720. Sentencing for criminal mischief.

(a) Sentencing.--A person convicted of an offense under 18 Pa.C.S. §§ 3304(a)(4) (relating to criminal mischief) and 3307(a.1) (relating to institutional vandalism), and who in the opinion of the sentencing court would benefit, shall be sentenced to a term of supervised community service, including repairing or restoring damaged property, in accordance with the following:

(1) If the damage to the property is less than $200, the term of community service shall not be less than 50 days nor more than 74 days.

(2) If the damage to the property is at least $200 but less than $1,000, the term of community service shall not be less than 75 days nor more than 99 days.

(3) If the damage to the property is $1,000 or more, the term of community service shall not be less than 100 days nor more than 200 days.

(b) Satisfactory completion of community service program.--Satisfactory completion of the community service program under subsection (a) shall result in a dismissal of charges and expungement of the record of the person sentenced under subsection (a). The court shall follow procedures similar to those established for the Accelerated Rehabilitative Disposition Program.

(Apr. 21, 1994, P.L.131, No.17, eff. 60 days)

1994 Amendment. Act 17 added section 9720. See the preamble to Act 17 of 1994 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 9720.1. Restitution for identity theft (Repealed).

2009 Repeal. Section 9720.1 was repealed September 18, 2009, P.L.391, No.42, effective in 60 days.

§ 9720.2. Sentencing for trafficking of persons.

Notwithstanding any other provision of law, a person who commits a violation of 18 Pa.C.S. § 3011 (relating to trafficking in individuals) or 3012 (relating to involuntary servitude) while violating:

(1) 18 Pa.C.S. § 2901 (relating to kidnapping);

(2) 18 Pa.C.S. § 3121 (relating to rape); or

(3) 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);

shall be sentenced up to a maximum term of life imprisonment.

(Nov. 9, 2006, P.L.1340, No.139, eff. 60 days; July 2, 2014, P.L.945, No.105, eff. 60 days)

§ 9720.3. Sentencing for certain paroled offenders.

A person unlawfully present in the United States who is convicted in a court of this Commonwealth of an offense committed subsequent to being paroled under 61 Pa.C.S. § 6143 (relating to early parole of inmates subject to Federal removal order) may be imprisoned for a term up to twice the term of

sentence otherwise authorized, fined an amount equal to twice the fine otherwise authorized or both.
(July 5, 2012, P.L.1050, No.122, eff. 60 days)

2012 Amendment. Act 122 added section 9720.3.
Cross References. Section 9720.3 is referred to in section 6143 of Title 61 (Prisons and Parole).

§ 9720.4. Sentencing for offenses committed in association with a criminal gang.

(a) Sentencing enhancement.--In addition to any minimum term of imprisonment authorized or established by law for the offense, the Pennsylvania Commission on Sentencing, in accordance with section 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentence enhancement within its guidelines for a crime of violence, as defined in section 9714(g) (relating to sentences for second and subsequent offenses) or a violation of section 13(a)(30) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, if the offense was knowingly committed at the direction of or for the purpose of benefiting, promoting or furthering the interests of a criminal gang.

(b) Definition.--As used in this section, the term "criminal gang" has the meaning given in 18 Pa.C.S. § 5131(e) (relating to recruiting criminal gang members).
(Oct. 25, 2012, P.L.1628, No.200, eff. 60 days)

2012 Amendment. Act 200 added section 9720.4.

§ 9720.5. Sentencing for offenses involving sexual abuse of children.

(a) General rule.--The Pennsylvania Commission on Sentencing, in accordance with section 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentence enhancement within its guidelines for an offense under 18 Pa.C.S. § 6312 (relating to sexual abuse of children), specifying variations from the range of sentences applicable based on such aggravating circumstances as the age of the child or a determination of prepubescence, the number of images possessed by the defendant, if the child depicted is known to the defendant and the nature and character of the abuse depicted in the images.

(b) Other circumstances.--When a person commits an offense to which the grading provisions under 18 Pa.C.S. § 6312(d.1)(3) apply, the Pennsylvania Commission on Sentencing shall, in accordance with section 2154, provide for a sentence enhancement within its guidelines if indecent contact with the child as defined in 18 Pa.C.S. § 3101 (relating to definitions) is depicted and the child depicted is under 10 years of age or prepubescent.
(Dec. 18, 2013, P.L.1163, No.105, eff. Jan. 1, 2014; June 30, 2021, P.L.249, No.53, eff. 60 days)

§ 9720.6. Sentencing for arson offenses.

The Pennsylvania Commission on Sentencing shall provide for a sentencing enhancement for arson offenses if any of the following factors are present:

(1) bodily injury results to a firefighter, police officer or other person actively engaged in fighting the fire;

(2) serious bodily injury results to a civilian;

(3) more than three people were present inside the property at the time of the offense;

(4) the fire caused more than $1,000,000 in property damage; or

(5) the actor used, attempted to use or possessed an explosive or incendiary device as defined in 18 Pa.C.S. § 5515(a) (relating to prohibiting of paramilitary training).

(Feb. 25, 2014, P.L.33, No.16, eff. 60 days)

2014 Amendment. Act 16 added section 9720.6.

§ 9720.7. Sentencing for burglary.

The Pennsylvania Commission on Sentencing, in accordance with section 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentence enhancement within its guidelines for an offense under 18 Pa.C.S. § 3502(a)(1)(i)(relating to burglary).

(Nov. 4, 2016, P.L.1194, No.158, eff. 60 days)

2016 Amendment. Act 158 added section 9720.7.

§ 9720.8. Sentencing for offenses involving domestic violence in the presence of a minor.

(a) Sentencing enhancement.--The Pennsylvania Commission on Sentencing, in accordance with section 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentence enhancement within its guidelines for an offense under 18 Pa.C.S. § 2701 (relating to simple assault) or 2702 (relating to aggravated assault), specifying variations from the range of sentences applicable based on such aggravating circumstances as the assault was committed against a family or household member and the defendant knew the crime was witnessed, either through sight or sound, by a minor who is also a family or household member of the defendant or the victim.

(b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Family or household member." The term shall have the same meaning as "family or household members" under 23 Pa.C.S. § 6102 (relating to definitions).

(Oct. 24, 2018, P.L.1145, No.157, eff. 60 days)

2018 Amendment. Act 157 added section 9720.8.

SUBCHAPTER C
SENTENCING ALTERNATIVES

Sec.

9721. Sentencing generally.
9722. Order of probation.
9723. Determination of guilt without further penalty.
9724. Partial confinement.
9725. Total confinement.
9726. Fine.
9727. Disposition of persons found guilty but mentally ill.
9728. Collection of restitution, reparation, fees, costs, fines and penalties.
9729. Intermediate punishment (Repealed).
9730. Payment of court costs, restitution and fines.
9730.1. Collection of court costs, restitution and fines by private collection agency.
9730.2. Sentence of community service.
9730.3. Counseling services for victims of sexual abuse (Repealed).

§ 9721. Sentencing generally.

(a) General rule.--In determining the sentence to be imposed the court shall, except as provided in subsection (a.1), consider and select one or more of the following alternatives, and may impose them consecutively or concurrently:

(1) An order of probation.
(2) A determination of guilt without further penalty.
(3) Partial confinement.
(4) Total confinement.
(5) A fine.
(6) (Deleted by amendment).
(7) (Deleted by amendment).

(a.1) Exception.--

(1) Unless specifically authorized under section 9763 (relating to conditions of probation), subsection (a) shall not apply where a mandatory minimum sentence is otherwise provided by law.

(2) A person may be eligible for the State drug treatment program or State motivational boot camp as described in 61 Pa.C.S. Ch. 39 (relating to motivational boot camp), even if a mandatory minimum sentence would otherwise be provided by law.

(3) An eligible person may be sentenced to total confinement pursuant to subsection (a)(4) and a recidivism risk reduction incentive minimum sentence pursuant to section 9756(b.1) (relating to sentence of total confinement), even if a mandatory minimum sentence would otherwise be provided by law.

(b) General standards.--In selecting from the alternatives set forth in subsection (a), the court shall follow the general principle that the sentence imposed should call for total confinement that is consistent with section 9725 (relating to total confinement) and the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and on the community, and the rehabilitative needs of the defendant. The court shall also consider any guidelines for sentencing and resentencing adopted by the Pennsylvania Commission on Sentencing and taking effect under section 2155 (relating to publication of guidelines for sentencing, resentencing and parole, risk assessment instrument and recommitment ranges following revocation). In every case in which the court imposes a sentence for a felony or misdemeanor, modifies a sentence, resentences a person following revocation of probation or resentences following remand, the court shall make as a part of the record, and disclose in open court at the time of sentencing, a statement of the reason or reasons for the sentence imposed. In every case where the court imposes a sentence or resentence outside the guidelines adopted by the Pennsylvania Commission on Sentencing under sections 2154 (relating to adoption of guidelines for sentencing), 2154.1 (relating to adoption of guidelines for restrictive conditions), 2154.3 (relating to adoption of guidelines for fines), 2154.4 (relating to adoption of guidelines for resentencing) and 2154.5 (relating to adoption of guidelines for parole) and made effective under section 2155, the court shall provide a contemporaneous written statement of the reason or reasons for the deviation from the guidelines to the commission, as established under section 2153(a)(14) (relating to powers and duties). Failure to comply shall be grounds for vacating the sentence or resentence and resentencing the defendant.

(c) Mandatory restitution.--In addition to the alternatives set forth in subsection (a) of this section the court shall order the defendant to compensate the victim of his criminal

conduct for the damage or injury that he sustained. For purposes of this subsection, the term "victim" shall be as defined in section 479.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(c.1) Mandatory payment of costs.--Notwithstanding the provisions of section 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties) or any provision of law to the contrary, in addition to the alternatives set forth in subsection (a), the court shall order the defendant to pay costs. In the event the court fails to issue an order for costs pursuant to section 9728, costs shall be imposed upon the defendant under this section. No court order shall be necessary for the defendant to incur liability for costs under this section. The provisions of this subsection do not alter the court's discretion under Pa.R.Crim.P. No. 706(C) (relating to fines or costs).

(d) Detailed criteria.--With respect to each alternative the criteria to be considered by the court are set forth in this subchapter.

(e) Term of imprisonment.--All sentences of imprisonment imposed under this chapter shall be for a definite term. (Nov. 26, 1978, P.L.1316, No.319, eff. Jan. 1, 1979; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 19, 1990, P.L.1196, No.201, eff. July 1, 1991; July 11, 1991, P.L.76, No.13, eff. imd.; May 3, 1995, 1st Sp.Sess., P.L.999, No.12, eff. 60 days; Nov. 19, 2004, P.L.855, No.112, eff. 180 days; Sept. 25, 2008, P.L.1026, No.81, eff. 60 days; Oct. 27, 2010, P.L.931, No.95, eff. 60 days; Oct. 27, 2010, P.L.949, No.96, eff. 60 days; July 5, 2012, P.L.1050, No.122, eff. 60 days; Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 amended subsecs. (a), (a.1) and (b).

2010 Amendments. Act 95 amended subsec. (a.1) and Act 96 added subsec. (c.1). Section 4(1) of Act 96 provided that subsec. (c.1) shall apply to costs imposed on or after the effective date of section 4(1).

1995 Amendment. Act 12, 1st Sp.Sess., amended subsec. (c).

References in Text. Section 479.1 of the act of April 9, 1929, P.L.177, No.175, known as The Administrative Code of 1929, referred to in subsec. (c), was repealed by the act of November 24, 1998, P.L.882, No.111, known as the Crime Victims Act. The subject matter is now contained in Act 111.

Cross References. Section 9721 is referred to in sections 9728, 9775, 9802 of this title; sections 910, 2706, 2715, 2716, 3926, 5516 of Title 18 (Crimes and Offenses); section 3111.1 of Title 75 (Vehicles).

§ 9722. Order of probation.

The following grounds, while not controlling the discretion of the court, shall be accorded weight in favor of an order of probation:

(1) The criminal conduct of the defendant neither caused nor threatened serious harm.

(2) The defendant did not contemplate that his conduct would cause or threaten serious harm.

(3) The defendant acted under a strong provocation.

(4) There were substantial grounds tending to excuse or justify the criminal conduct of the defendant, though failing to establish a defense.

(5) The victim of the criminal conduct of the defendant induced or facilitated its commission.

(6) The defendant has compensated or will compensate the victim of his criminal conduct for the damage or injury that he sustained.

(7) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present crime.

(8) The criminal conduct of the defendant was the result of circumstances unlikely to recur.

(9) The character and attitudes of the defendant indicate that he is unlikely to commit another crime.

(10) The defendant is particularly likely to respond affirmatively to probationary treatment.

(11) The confinement of the defendant would entail excessive hardship to him or his dependents.

(12) Such other grounds as indicate the desirability of probation.

Cross References. Section 9722 is referred to in section 9723 of this title.

§ 9723. Determination of guilt without further penalty.

If in the light of all the circumstances, probation would be appropriate under section 9722 (relating to order of probation), but it appears that probation is unnecessary, the court may impose a sentence of guilty without further penalty.
(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

§ 9724. Partial confinement.

If in the light of all the circumstances, and when facilities are available, probation would be inappropriate, but it further appears that a sentence of total confinement would not be required in accordance with the criteria established in section 9725 (relating to total confinement), the court may impose a sentence involving partial confinement.
(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

Cross References. Section 9724 is referred to in section 9802 of this title.

§ 9725. Total confinement.

The court shall impose a sentence of total confinement if, having regard to the nature and circumstances of the crime and the history, character, and condition of the defendant, it is of the opinion that the total confinement of the defendant is necessary because:

(1) there is undue risk that during a period of probation or partial confinement the defendant will commit another crime;

(2) the defendant is in need of correctional treatment that can be provided most effectively by his commitment to an institution; or

(3) a lesser sentence will depreciate the seriousness of the crime of the defendant.

Cross References. Section 9725 is referred to in sections 9721, 9724, 9802 of this title.

§ 9726. Fine.

(a) Fine only.--The court may, as authorized by law, sentence the defendant only to pay a fine, when, having regard to the nature and circumstances of the crime and to the history and character of the defendant, it is of the opinion that the fine alone suffices.

(b) Fine as additional sentence.--The court may sentence the defendant to pay a fine in addition to another sentence,

either involving total or partial confinement or probation, when:

(1) the defendant has derived a pecuniary gain from the crime; or

(2) the court is of the opinion that a fine is specially adapted to deterrence of the crime involved or to the correction of the defendant.

(c) Exception.--The court shall not sentence a defendant to pay a fine unless it appears of record that:

(1) the defendant is or will be able to pay the fine; and

(2) the fine will not prevent the defendant from making restitution or reparation to the victim of the crime.

(d) Financial resources.--In determining the amount and method of payment of a fine, the court shall take into account the financial resources of the defendant and the nature of the burden that its payment will impose.

§ 9727. Disposition of persons found guilty but mentally ill.

(a) Imposition of sentence.--A defendant found guilty but mentally ill or whose plea of guilty but mentally ill is accepted under the provisions of 18 Pa.C.S. § 314 (relating to guilty but mentally ill) may have any sentence imposed on him which may lawfully be imposed on any defendant convicted of the same offense. Before imposing sentence, the court shall hear testimony and make a finding on the issue of whether the defendant at the time of sentencing is severely mentally disabled and in need of treatment pursuant to the provisions of the act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act.

(b) Treatment.--

(1) An offender who is severely mentally disabled and in need of treatment at the time of sentencing shall, consistent with available resources, be provided such treatment as is psychiatrically or psychologically indicated for his mental illness. Treatment may be provided by the Department of Corrections, by the county or by the Department of Human Services in accordance with the Mental Health Procedures Act.

(2) The cost for treatment of offenders found guilty but mentally ill, committed to the custody of the Bureau of Correction and transferred to a mental health facility, shall be borne by the Commonwealth.

(c) Discharge report.--When a treating facility designated by either the Department of Corrections or the Department of Human Services discharges such a defendant from treatment prior to the expiration of his maximum sentence, that treating facility shall transmit to the Pennsylvania Parole Board, the correctional facility or county jail to which the offender is being returned and the sentencing judge a report on the condition of the offender together with the reasons for its judgments, which describes:

(1) The defendant's behavior.

(2) The course of treatment.

(3) The potential for recurrence of the behavior.

(4) The potential for danger to himself or the public.

(5) Recommendations for future treatment.

(d) Parole conditions.--An offender who is discharged from treatment may be placed on parole status under the same terms and laws applicable to any other offender. Psychological and psychiatric counseling and treatment may be required as a condition of such status. Failure to continue treatment, except

by agreement of the supervising authority, shall be a basis for instituting parole violation hearings.

(e) Parole procedure.--The paroling authority may consider the offender for parole pursuant to other law or administrative rules. When the paroling authority considers the offender for parole, it shall consult with the treating facility at which the offender is being treated or from which he was discharged.

(f) Probation.--

(1) If an offender who is found guilty but mentally ill is placed on probation, the court may, upon recommendation of the district attorney or upon its own initiative, make treatment a condition of probation.

(2) Reports as specified by the trial judge shall be filed with the probation officer and the sentencing court. Failure to continue treatment, including the refusal to take such drugs as may be prescribed, except by agreement of the sentencing court, shall be a basis for the institution of probation violation hearings. The period of probation shall be the maximum permitted by law and shall not be reduced without receipt and consideration by the court of a mental health status report like that required in subsection (c).

(3) Treatment shall be provided by an agency approved by the Department of Human Services or, with the approval of the sentencing court and at individual expense, by private agencies, private physicians or other mental health personnel. A mental health status report, containing the information set forth in subsection (c), shall be filed with the probation officer and the sentencing court every three months during the period of probation. If a motion on a petition to discontinue probation is made by the defendant, the probation officer shall request a report as specified from the treating facility.

(Dec. 15, 1982, P.L.1262, No.286, eff. 90 days; July 5, 2012, P.L.1050, No.122, eff. July 1, 2013; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsecs. (a), (b)(1), (c) and (f)(3).

2012 Amendment. Act 122 amended subsec. (d).

1982 Amendment. Act 286 added section 9727. Section 4 of Act 286 provided that Act 286 shall apply to all indictments or informations filed on or after the effective date of Act 286.

Cross References. Section 9727 is referred to in section 314 of Title 18 (Crimes and Offenses).

§ 9728. Collection of restitution, reparation, fees, costs, fines and penalties.

(a) General rule.--

(1) Except as provided in subsection (b)(5), all restitution, reparation, fees, costs, fines and penalties shall be collected by the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge of the county for that purpose in any manner provided by law. However, such restitution, reparation, fees, costs, fines and penalties are part of a criminal action or proceeding and shall not be deemed debts. A sentence, pretrial disposition order or order entered under section 6352 (relating to disposition of delinquent child) for restitution, reparation, fees, costs, fines or penalties shall, together with interest and any additional costs that may accrue, be a judgment in

favor of the probation department upon the person or the property of the person sentenced or subject to the order.

(2) In accordance with section 9730.1 (relating to collection of court costs, restitution and fines by private collection agency), the collection of restitution, reparation, fees, costs, fines and penalties under this section may be referred to a private collection agency. Any county that does not engage the services of a private collection agency shall operate a collections enforcement unit consistent with the provisions of paragraph (1) and dedicated to carrying out the duties therein provided. Statistical information relating to the amount of restitution collected by the county probation department or any agent designated by the county commissioners of the county with the approval of the president judge of the county shall be provided to the Pennsylvania Commission on Crime and Delinquency and Pennsylvania Commission on Sentencing on an annual basis. The statistical information shall be sufficiently detailed so as to show compliance with the requirements of this section, including subsection (g.1).

(b) Procedure.--

(1) The county clerk of courts shall, upon sentencing, pretrial disposition or other order, transmit to the prothonotary certified copies of all judgments for restitution, reparation, fees, costs, fines and penalties which, in the aggregate, exceed $1,000, and it shall be the duty of each prothonotary to enter and docket the same of record in his office and to index the same as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof.

(2) The clerk of courts, in consultation with other appropriate governmental agencies, may transmit to the prothonotary of the respective county certified copies of all judgments for restitution, reparation, fees, costs, fines and penalties which, in the aggregate, do not exceed $1,000, and, if so transmitted, it shall be the duty of each prothonotary to enter and docket the same of record in his office and to index the same as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof.

(3) The county clerk of courts shall, upon sentencing, pretrial disposition or other order, transmit to the Department of Probation of the respective county or other agent designated by the county commissioners of the county with the approval of the president judge of the county and to the county correctional facility to which the offender has been sentenced or to the Department of Corrections, whichever is appropriate, copies of all orders for restitution and amendments or alterations thereto, reparation, fees, costs, fines and penalties. This paragraph also applies in the case of costs imposed under section 9721(c.1) (relating to sentencing generally).

(4) The total amount for which the person is liable pursuant to this section may be entered as a judgment upon the person or the property of the person sentenced or ordered, regardless of whether the amount has been ordered to be paid in installments.

(5) Deductions shall be as follows:

(i) The Department of Corrections shall make monetary deductions of at least 25% of deposits made to inmate wages and personal accounts for the purpose of collecting restitution, costs imposed under section

9721(c.1), filing fees to be collected under section 6602(c) (relating to prisoner filing fees) and any other court-ordered obligation.

(ii) The county correctional facility to which the offender has been sentenced shall:

(A) Be authorized to make monetary deductions from inmate wages and personal accounts for the purpose of collecting restitution, costs imposed under section 9721(c.1), filing fees to be collected under section 6602(c) and any other court-ordered obligation or fees owed to the county jail or prison related to the inmate's incarceration.

(B) Deduct an amount sufficient to satisfy any outstanding restitution, costs imposed under section 9721(c.1), filing fees to be collected under section 6602(c) or other court-ordered obligations before releasing funds on deposit.

(iii) Any amount deducted under this paragraph shall be in addition to the full amount authorized to be collected pursuant to any order for support. Any amount deducted shall be transmitted to the probation department of the county or other agent designated by the county commissioners with the approval of the president judge of the county in which the offender was convicted.

(iv) The Department of Corrections and each county correctional facility shall develop guidelines relating to its responsibilities under this paragraph. The guidelines shall be incorporated into any contract entered into with a correctional facility.

(b.1) Restitution file.--Upon receipt of each order from the clerk of courts as provided in subsection (b)(3), the department of probation of the respective county or other agent designated by the county commissioners of the county with the approval of the president judge of the county shall open a restitution file for the purposes of recording the amounts of restitution deducted by the Department of Corrections or county correctional facility or collected by the department of probation or the agent designated by the county commissioners of the county with the approval of the president judge of the county.

(b.2) Mandatory payment of costs.--Notwithstanding any provision of law to the contrary, in the event the court fails to issue an order under subsection (a) imposing costs upon the defendant, the defendant shall nevertheless be liable for costs, as provided in section 9721(c.1), unless the court determines otherwise pursuant to Pa.R.Crim.P. No. 706(C) (relating to fines or costs). The absence of a court order shall not affect the applicability of the provisions of this section.

(c) Period of time.--Notwithstanding section 6353 (relating to limitation on and change in place of commitment) or 18 Pa.C.S. § 1106(c)(2) (relating to restitution for injuries to person or property), the period of time during which such judgments shall have full effect may exceed the maximum term of imprisonment to which the offender could have been sentenced for the crimes of which he was convicted or the maximum term of confinement to which the offender was committed.

(d) Priority.--Notwithstanding any other statutory provisions in this or any other title, any lien obtained under this section shall maintain its priority indefinitely and no writ of revival need be filed.

(e) Preservation of assets subject to restitution.--Upon application of the Commonwealth, the court may enter a

restraining order or injunction, require the execution of a satisfactory performance bond or take any other action to preserve the availability of property which may be necessary to satisfy an anticipated restitution order under this section:

(1) upon the filing of a criminal complaint, information or indictment charging a criminal violation or a petition alleging delinquency for which restitution may be ordered and alleging that the property with respect to which the order is sought appears to be necessary to satisfy such restitution order and judgment; and

(2) if, after notice to persons appearing to have an interest in the property and an opportunity for a hearing, the court determines that:

(i) there is a substantial probability that:

(A) the Commonwealth will prevail on the underlying criminal charges or allegation of delinquency;

(B) restitution will be ordered exceeding $10,000 in value;

(C) the property appears to be necessary to satisfy such restitution order; and

(D) failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court or otherwise made unavailable for payment of the anticipated restitution order; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

(f) Temporary restraining order.--A temporary restraining order under subsection (e) may be entered upon application of the Commonwealth without notice or opportunity for a hearing, whether or not a complaint, information, indictment or petition alleging delinquency has been filed with respect to the property, if the Commonwealth demonstrates that there is probable cause to believe that the property with respect to which the order is sought appears to be necessary to satisfy an anticipated restitution order under this section and that provision of notice will jeopardize the availability of the property to satisfy such restitution order and judgment. Such a temporary order shall expire not more than ten days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this subsection shall be held at the earliest possible time and prior to the expiration of the temporary order.

(g) Costs, etc.--Any sheriff's costs, filing fees and costs of the county probation department, clerk of courts or other appropriate governmental agency, including, but not limited to, any reasonable administrative costs associated with the collection of restitution, transportation costs and other costs associated with the prosecution, shall be borne by the defendant and shall be collected by the county probation department or other appropriate governmental agency along with the total amount of the judgment and remitted to the appropriate agencies at the time of or prior to satisfaction of judgment.

(g.1) Payment.--No less than 50% of all moneys collected by the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge of the county pursuant to subsection (b)(1)

and deducted pursuant to subsection (b)(5) shall, until the satisfaction of the defendant's restitution obligation, be used to pay restitution to victims. Any remaining moneys shall be used to pay fees, costs, fines, penalties and other court-ordered obligations.

(h) Effect on contempt proceedings.--This section shall not affect contempt proceedings mandated by 18 Pa.C.S. § 1106(f). (Dec. 17, 1990, P.L.726, No.181, eff. 60 days; May 3, 1995, 1st Sp.Sess., P.L.999, No.12, eff. 60 days; May 12, 1995, 1st Sp.Sess., P.L.1006, No.13, eff. 60 days; Feb. 7, 1996, P.L.7, No.3, eff. 60 days; June 18, 1998, P.L.640, No.84, eff. 120 days; Nov. 9, 2006, P.L.1352, No.143, eff. imd.; Oct. 27, 2010, P.L.949, No.96, eff. 60 days; Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 amended subsecs. (a)(2) and (b)(5).

2010 Amendment. Act 96 amended subsec. (b)(3) and (5) and added subsec. (b.2). Section 4(1) of Act 96 provided that the amendment of subsec. (b)(3) and (5) and the addition of subsec. (b.2) shall apply to costs imposed on or after the effective date of section 4(1).

2006 Amendment . Act 134 amended subsec. (g).

Cross References. Section 9728 is referred to in sections 2154.1, 6352, 9721, 9730 of this title; section 3020 of Title 18 (Crimes and Offenses).

§ 9729. Intermediate punishment (Repealed).

2000 Repeal. Section 9729 was repealed June 22, 2000, P.L.345, No.41, effective in 60 days.

§ 9730. Payment of court costs, restitution and fines.

(a) Method of payment.--The treasurer of each county shall allow the use of credit cards, debit cards and bank cards in the payment of court costs, restitution and fines and may provide for automatic periodic deductions from a bank account, subject to the agreement of the owner of the account.

(a.1) Wage attachment.--A court may, at sentencing, assign an amount not greater than 25% of the defendant's gross salary, wages or other earnings to be used for the payment of court costs, restitution or fines.

(b) Procedures regarding default.--

(1) If a defendant defaults in the payment of court costs, restitution or fines after imposition of sentence, the issuing authority or a senior judge or senior magisterial district judge appointed by the president judge for the purposes of this section may conduct a hearing to determine whether the defendant is financially able to pay.

(2) If the issuing authority, senior judge or senior magisterial district judge determines that the defendant is financially able to pay the costs, restitution or fine, the issuing authority, senior judge or senior magisterial district judge may enter an order for wage attachment, turn the delinquent account over to a private collection agency or impose imprisonment for nonpayment, as provided by law.

(2.1) (i) If the issuing authority, senior judge or senior magisterial district judge schedules a financial determination hearing for the defendant and provides notice to the defendant of the hearing, but the defendant fails to appear at the financial determination hearing, the issuing authority, senior judge or senior magisterial district judge may turn the delinquent account over to a private collection agency or the county's collection enforcement unit as set forth under section 9728

(relating to collection of restitution, reparation, fees, costs, fines and penalties), as provided by law.

(ii) In each communication with the defendant, the private collection agency or the county's collection enforcement unit shall notify the defendant of the defendant's right to request a new financial determination hearing under paragraph (2.2).

(2.2) (i) If the defendant has a delinquent account turned over to a private collection agency or the county's collection enforcement unit under paragraph (2.1), the defendant may request a new financial determination hearing on the defendant's financial ability to pay the court costs, restitution or fines.

(ii) Upon receipt of the request for a new financial determination hearing under this paragraph, the issuing authority, senior judge or senior magisterial district judge shall schedule and conduct the hearing in accordance with this subsection.

(iii) Upon notice that the defendant has requested a new financial determination hearing under this paragraph, the private collection agency or the county's collection enforcement unit shall cease all collections activities pending the conclusion of the financial determination hearing.

(iv) If the defendant fails to appear at the financial determination hearing under this paragraph, the private collection agency or county's collection enforcement unit may resume collection activities.

(v) If the defendant requests a new financial determination hearing after failing to appear at a hearing previously requested under this paragraph, the private collection agency or county collection enforcement unit's collection activities may continue unless stayed by court order.

(3) (i) If the issuing authority, senior judge or senior magisterial district judge determines that the defendant is without the financial means to pay the costs, restitution or fines immediately or in a single remittance, the issuing authority, senior judge or senior magisterial district judge may provide for payment in installments or, in the case of costs or fines, reduce or waive the costs or fines, except costs imposed under section 1101 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act. In determining the appropriate installments, reduction or waiver, the issuing authority, senior judge or senior magisterial district judge shall consider the defendant's financial resources, the defendant's ability to make restitution and reparations and the nature of the burden the payment will impose on the defendant.

(ii) If the defendant is in default of a payment or advises the issuing authority, senior judge or senior magisterial district judge that default is imminent, the issuing authority, senior judge or senior magisterial district judge may schedule a rehearing on the payment schedule. At the rehearing the defendant has the burden of proving changes of financial condition such that the defendant is without the means to meet the payment schedule. The issuing authority, senior judge or senior magisterial district judge may extend or accelerate the schedule, leave it unaltered, reduce or waive the costs or fines, except costs imposed under section 1101 of the

Crime Victims Act, or sentence the defendant to a period of community service as the issuing authority, senior judge or senior magisterial district judge finds to be just and practicable under the circumstances.

(iii) If the issuing authority, senior judge or senior magisterial district judge determines that the defendant is without the financial means to pay the costs, restitution or fines under this paragraph, the issuing authority, senior judge or senior magisterial district judge shall waive an existing collection fee under section 9730.1(b) (relating to collection of court costs, restitution and fines by private collection agency) that was not previously collected from the defendant who is determined to be without the financial means to pay the costs, restitution or fines under this paragraph.

(4) A decision of the issuing authority, senior judge or senior magisterial district judge under paragraph (2), (2.1) or (3) is subject to section 5105 (relating to right to appellate review).

(Dec. 18, 1992, P.L.1269, No.167, eff. imd.; July 11, 1996, P.L.607, No.104, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Dec. 18, 2019, P.L.776, No.115, eff. imd.; Nov. 3, 2022, P.L.2175, No.163, eff. 120 days)

2022 Amendment. Act 163 amended subsecs. (a) and (b)(3) and (4) and added subsec. (b)(2.1) and (2.2).

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Cross References. Section 9730 is referred to in section 9730.1 of this title; section 3020 of Title 18 (Crimes and Offenses).

§ 9730.1. Collection of court costs, restitution and fines by private collection agency.

(a) Generally.--In accordance with section 9730(b) (relating to payment of court costs, restitution and fines), an issuing authority may refer the collection of costs, fines and restitution of a defendant to a private collection agency whether or not the defendant's maximum sentence or probationary term has expired with or without holding a hearing pursuant to this section. Such collection agency shall adhere to accepted practices in accordance with applicable Federal and State law to collect such costs, fines and restitution.

(b) Contracts with private collection agencies.--

(1) The president judge of the judicial district, county commissioner or designee of either may contract with private collection agencies for the collection of fines, costs and restitution in accordance with the provisions of this section.

(2) The amount of the collection fee as negotiated between the president judge of the judicial district, county commissioner or designee of either and private collection agencies shall be added to the bill of costs to be paid by the defendant and shall not exceed 25% of the amount collected.

(3) The funds secured from the defendant by the private collection agency in connection with the collection of fines, costs and restitution shall be distributed as follows:

(i) The fee due the private collection agency shall be paid.

(ii) The balance shall be distributed in accordance with the original distribution of fines, costs and restitution as set forth in the order of the court sentencing the defendant.

(c) Limitations on private collection agencies.--For the purposes of this section, a private collection agency shall cease its efforts designed to collect fines, costs and restitution and so inform the court or the county commissioners upon the occurrence of any of the following:

(1) the private collection agency considers the amount owing noncollectible;

(2) a period of 48 months has elapsed since referral of the amount owing to the private collection agency and there has been no response by the defendant or collection of moneys; or

(3) upon demand of a judge of the court of common pleas having jurisdiction over the defendant.

(c.1) Credit reporting.--A private collection agency may not share information with a consumer reporting agency regarding a defendant's failure to pay costs, fines and restitution unless a financial determination hearing has been conducted in accordance with section 9730(b) and the issuing authority, senior judge or senior magisterial district judge has determined that the defendant is financially able to pay the costs, fines and restitution.

(d) Imprisonment.--Nothing in this subchapter limits the ability of a judge to imprison a person for nonpayment, as provided by law; however, imprisonment for nonpayment shall not be imposed without a public hearing under section 9730(b)(1).

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Amount owing." The total amount owed by a defendant on fines, costs or restitution in accordance with the order of court sentencing the defendant and this section.

"Consumer reporting agency." As defined in section 603(f) of the Fair Credit Reporting Act (Public Law 91-508, 15 U.S.C. § 1681a(f)).

"Private collection agency." A person, company, partnership or other entity that uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another under the applicable laws of the United States and of this Commonwealth.

(July 11, 1996, P.L.607, No.104, eff. 60 days; June 18, 1998, P.L.640, No.84, eff. 120 days; May 17, 2012, P.L.260, No.41, eff. 60 days; Nov. 3, 2022, P.L.2175, No.163, eff. 120 days)

2022 Amendment. Act 163 amended subsecs. (a) and (e) and added subsec. (c.1).

2012 Amendment. Act 41 amended subsec. (c).

1996 Amendment. Act 104 added section 9730.1.

Cross References. Section 9730.1 is referred to in sections 9728, 9730 of this title; section 3020 of Title 18 (Crimes and Offenses).

§ 9730.2. Sentence of community service.

A person sentenced to a term of supervised community service or required by a court or a paroling authority to participate in a public or nonprofit community service program may not purchase credit in lieu of performing the community service in any form, including:

(1) United States or foreign currency.
(2) A money order.
(3) A check.
(4) A prepaid debit or credit card.
(5) A gift card or certificate.
(6) Any other means of remuneration.
(Dec. 4, 2015, P.L.435, No.72, eff. 60 days)

2015 Amendment. Act 72 added section 9730.2.

§ 9730.3. Counseling services for victims of sexual abuse (Repealed).

2022 Repeal. Section 9730.3 was repealed July 11, 2022, P.L.775, No.77, effective in 270 days.

SUBCHAPTER D
INFORMATIONAL BASIS OF SENTENCE

Sec.
9731. Requirement for presentence investigation and report.
9732. Contents of presentence report.
9733. General principles of disclosure of presentence report.
9734. Disclosure of presentence report to the parties.
9735. Objections to contents of presentence report.
9736. Report of psychiatric evaluation.
9737. Report of outstanding charges and sentences.
9738. Victim impact statements.

§ 9731. Requirement for presentence investigation and report.

Before sentencing any defendant to one year or longer, a presentence investigation and report shall be made, unless the sentence is death or a mandatory sentence to life imprisonment, or unless the court specifically orders to the contrary. The report shall be made within 30 days from the date of conviction of defendant or within such greater period of time as the court shall direct.

Suspension by Court Rule. Section 9731 was suspended by Pennsylvania Rule of Criminal Procedure No. 1101(6), adopted March 1, 2000, as being inconsistent with the rules of Chapter 7 relating to post-trial procedures in court cases.

§ 9732. Contents of presentence report.

The presentence report shall include a summary of the circumstances attending the commission of the crime, the history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation and personal habits of the defendant, any history of drug or alcohol abuse or addiction and any other matters that the person preparing the report deems relevant or that the court directs be included.
(June 18, 1998, P.L.640, No.84, eff. 60 days)

Suspension by Court Rule. Section 9732 was suspended by Pennsylvania Rule of Criminal Procedure No. 1101(6), adopted March 1, 2000, as being inconsistent with the rules of Chapter 7 relating to post-trial procedures in court cases.

§ 9733. General principles of disclosure of presentence report.

The presentence report shall not be a public record. It shall be available only to the following persons or agencies under the conditions stated:

(1) The report shall be available to the court for the purpose of assisting it in determining the sentence.

(2) The report shall be available on court order to persons or agencies having a legitimate professional interest in the information likely to be contained in the report, as, for example:

(i) A physician or psychiatrist appointed to assist the court in sentencing.

(ii) An examining facility.

(iii) A correctional institution except that no court order is necessary under section 9759(c) (relating to documents transmitted to prison and parole authorities).

(iv) A department of probation or parole except that no court order is necessary under section 9759(c).

(3) The report shall be available to reviewing courts when relevant to an issue on which a request for review or an appeal has been taken.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

1980 Amendment. Act 142 amended par. (2)(iii) and (iv).

Suspension by Court Rule. Section 9733 was suspended by Pennsylvania Rule of Criminal Procedure No. 1101(6), adopted March 1, 2000, as being inconsistent with the rules of Chapter 7 relating to post-trial procedures in court cases.

§ 9734. Disclosure of presentence report to the parties.

(a) General rule.--Before imposing sentence, the court shall afford counsel for the prosecution and the defense a reasonable opportunity to read but only in the discretion of the court to copy the presentence report.

(b) Restrictions on disclosure.--The court may in its discretion require counsel not to disclose specified parts of the report.

Suspension by Court Rule. Section 9734 was suspended by Pennsylvania Rule of Criminal Procedure No. 1101(6), adopted March 1, 2000, as being inconsistent with the rules of Chapter 7 relating to post-trial procedures in court cases.

Cross References. Section 9734 is referred to in section 9759 of this title.

§ 9735. Objections to contents of presentence report.

Each party shall prior to the imposition of sentence notify the opposing party and the court of any part of the report with which he differs, or of his intention to produce other reports or statements relating to the sentence. Upon such notice the court may conduct a presentence conference. A record of any stipulations agreed upon in the conference shall be made a part of the record of the sentencing proceeding.

Suspension by Court Rule. Section 9735 was suspended by Pennsylvania Rule of Criminal Procedure No. 1101(6), adopted March 1, 2000, as being inconsistent with the rules of Chapter 7 relating to post-trial procedures in court cases.

§ 9736. Report of psychiatric evaluation.

The court may order the defendant to submit to psychiatric observation and examination for a period not exceeding 60 days. The defendant may be remanded for this purpose to any available clinic or mental hospital or other institution or the court may appoint a qualified psychiatrist to make the examination.

Suspension by Court Rule. Section 9736 was suspended by Pennsylvania Rule of Criminal Procedure No. 1101(6), adopted March 1, 2000, as being inconsistent with the rules of Chapter 7 relating to post-trial procedures in court cases.

§ 9737. Report of outstanding charges and sentences.

The court shall order that an appropriate agency shall determine all criminal charges brought in any court against the defendant and report to the court on the status or the disposition of such charges. The court shall also be informed if the defendant is then serving any term of imprisonment, or is on probation or parole with reference to any such charges, or is entitled to credit for any time in accordance with section 9760 (relating to credit for time served).
(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

Cross References. Section 9737 is referred to in section 9760 of this title.

§ 9738. Victim impact statements.

(a) General rule.--Notwithstanding any other statute, rule or provision of law to the contrary, in the trial of a defendant accused of an offense, including an offense subject to sentence under section 9711 (relating to sentencing procedure for murder of the first degree), a court shall not order the exclusion of any victim of the offense from the trial on the basis that the victim may, during the sentencing phase of the proceedings:

(1) make a victim impact statement or present any victim impact information in relation to the sentence to be imposed on the defendant; or

(2) testify as to the effect of the offense on the victim or the family of the victim.

(b) Definition.--As used in this section, the term "victim" shall mean a "victim" as defined in:

(1) 18 Pa.C.S. § 1106 (relating to restitution for injuries to person or property); or

(2) 18 Pa.C.S. § 3001 (relating to definitions).

(June 25, 1997, P.L.293, No.28, eff. imd.; July 2, 2014, P.L.945, No.105, eff. 60 days; Oct. 24, 2018, P.L.891, No.145, eff. imd.)

2018 Amendment. Act 145 amended subsec. (b).
1997 Amendment. Act 28 added section 9738.

SUBCHAPTER E
IMPOSITION OF SENTENCE

Sec.

9751. Sentencing judge.
9752. Sentencing proceeding generally.
9753. Determination of guilt without further penalty.
9754. Order of probation.
9755. Sentence of partial confinement.
9755.1. Temporary release from county correctional institution.
9756. Sentence of total confinement.
9757. Consecutive sentences of total confinement for multiple offenses.
9758. Fine.
9759. Record.
9760. Credit for time served.
9761. Computation and order of service of sentences.
9762. Sentencing proceeding; place of confinement.
9763. Conditions of probation.
9764. Information required upon commitment and subsequent disposition.
9765. Merger of sentences.

§ 9751. Sentencing judge.

The judge who presided at the trial or who received the plea of the defendant shall impose the sentence unless there are compelling reasons that preclude his presence.

Suspension by Court Rule. Section 9751 was suspended by Pennsylvania Rule of Criminal Procedure No. 1101(6), adopted March 1, 2000, as being inconsistent with the rules of Chapter 7 relating to post-trial procedures in court cases.

§ 9752. Sentencing proceeding generally.

(a) General rule.--As soon as practicable after the determination of guilt and the examination of any presentence report, a proceeding shall be held at which the court shall:

(1) Entertain submissions by the parties on the facts relevant to the sentence, including any facts with respect to negotiated pleas, as to the nature of the sentence.

(2) Afford to the defendant the right to make a statement.

(3) Hear argument by the defense on the applicability of the various sentencing alternatives to the facts of the case, and may hear argument by the prosecution.

(b) Evidence.--Where the need for further evidence has not been eliminated by a presentence conference, evidence offered by the parties on the sentencing issue shall be presented in open court with the rights of confrontation, cross-examination, and representation by counsel.

Suspension by Court Rule. Section 9752 was suspended by Pennsylvania Rule of Criminal Procedure No. 1101(6), adopted March 1, 2000, as being inconsistent with the rules of Chapter 7 relating to post-trial procedures in court cases.

Cross References. Section 9752 is referred to in section 4505 of Title 61 (Prisons and Parole).

§ 9753. Determination of guilt without further penalty.

The court may impose a sentence determining guilt without further penalty.

§ 9754. Order of probation.

(a) General rule.--In imposing an order of probation the court shall specify at the time of sentencing the length of any term during which the defendant is to be supervised, which term may not exceed the maximum term for which the defendant could be confined, and the authority that shall conduct the supervision. The court shall consider probation guidelines adopted by the Pennsylvania Commission on Sentencing under sections 2154 (relating to adoption of guidelines for sentencing) and 2154.1 (relating to adoption of guidelines for restrictive conditions).

(b) Conditions generally.--The court shall attach reasonable conditions authorized by section 9763 (relating to conditions of probation).

(c) Specific conditions.--(Deleted by amendment).

(d) Sentence following violation of probation.--The sentence to be imposed in the event of the violation of a condition shall not be fixed prior to a finding on the record that a violation has occurred.

(Dec. 14, 1979, P.L.556, No.127, eff. imd.; June 30, 1988, P.L.464, No.79, eff. imd.; Dec. 18, 2019, P.L.776, No.115, eff. imd.; Dec. 14, 2023, P.L.381, No.44, eff. 180 days)

2023 Amendment. Act 44 amended subsec. (b). Section 6 of Act 44 provided that nothing in Act 44 shall be construed to prevent a defendant from petitioning a court for early termination of probation or modification of the terms and

conditions of probation as otherwise permitted by law. See sections 5 and 7 of Act 44 in the appendix to this title for special provisions relating to applicability.

§ 9755. Sentence of partial confinement.

(a) General rule.--In imposing a sentence involving partial confinement the court shall specify at the time of sentencing the length of the term during which the defendant is to be partially confined, which term may not exceed the maximum term for which he could be totally confined, and whether the confinement shall commence in a correctional or other appropriate institution.

(b) Minimum sentence.--The court shall impose a minimum sentence of partial confinement which shall not exceed one-half of the maximum sentence imposed.

(c) Purposes for partial release.--The court may in its order grant the defendant the privilege of leaving the institution during necessary and reasonable hours for any of the following purposes:

(1) To work at his employment.

(2) To seek employment.

(3) To conduct his own business or to engage in other self-employment, including housekeeping and attending to the needs of the family.

(4) To attend an educational institution or participate in a course of vocational training.

(5) To obtain medical treatment.

(6) To devote time to any other purpose approved by the court.

(d) Conditions to release.--The court may in addition include in its order such of the conditions as are enumerated in section 9763 (relating to conditions of probation) as may be reasonably related to the sentence.

(e) Duties of correctional authorities.--The correctional authorities shall be responsible for arranging a plan consistent with the order issued under this section whereby the objectives of partial confinement may be achieved and they shall determine when and under what conditions consistent with the order issued under this section the defendant shall be permitted to be absent from the correctional institution.

(f) Disposition of earnings of defendant.--If the defendant is employed for wages or salary, the superintendent or another administrative official of the institution shall collect the same, or shall require the defendant to turn over his wages or salary in full when received, and shall deposit the same in a trust account and shall keep a ledger showing the state of the account. When an employer transmits such earnings to the superintendent or other official, the employer shall have no liability to the defendant for such earnings. From such earnings there shall be deducted without priority the following:

(1) The board and personal expenses of the defendant both inside and outside the institution.

(2) Installment on fines, if any.

(3) To the extent directed by the court, support of the dependents of the defendant.

If sufficient funds after such deductions are available, the superintendent or other official may with the consent of the defendant pay in whole or in part any of the debts of the defendant. Any balance shall be retained and paid to the defendant upon his discharge.

(g) Prisoner release plans.--This section shall not be interpreted as limiting the authority of the court as set forth

in section 9755.1 (relating to temporary release from county correctional institution).

(h) Sentence of partial confinement combined with probation.--The court may impose a sentence of partial confinement without parole under this subsection only when:

(1) the period of partial confinement is followed immediately by restrictive conditions of probation imposed pursuant to section 9763 in which case the sentence of partial confinement shall specify the number of days of partial confinement to be served; and

(2) the maximum sentence of partial confinement imposed on one or more indictments to run consecutively or concurrently total 90 days or less.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; June 22, 2000, P.L.345, No.41, eff. 60 days; Nov. 19, 2004, P.L.855, No.112, eff. 180 days; July 5, 2012, P.L.1050, No.122, eff. July 1, 2013; Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 amended subsecs. (d) and (h).

2012 Amendment. Act 122 amended subsec. (g).

§ 9755.1. Temporary release from county correctional institution.

(a) (Reserved).

(b) Surrender of wages.--When an inmate is employed for wages or salary, the chief administrator of the county correctional institution shall collect the wages or salary or require the inmate to turn over his wages or salary in full when received, and the chief administrator shall deposit the same in a trust checking account and keep a ledger showing the status of the account of each inmate.

(c) Liability for board cost.--

(1) An inmate gainfully employed shall be liable for the cost of his board in the county correctional institution as fixed by the county commissioners. If necessarily absent from jail at a meal time, the inmate shall, at his request, be furnished with an adequately nourishing lunch to carry to work.

(2) The chief administrator of the county correctional institution shall charge the inmate's account if the inmate has one for such board.

(3) If the inmate is gainfully self employed, the inmate shall pay for such board in default of which his privilege under this section shall be automatically forfeited.

(4) If the food in the county correctional institution is furnished directly by the county, the chief administrator of the county correctional institution shall account for and pay over such board payments to the county treasurer.

(d) Disbursements from inmate accounts.--By order of the court, the wages or salaries of employed inmates shall be disbursed for the following purposes in the order stated:

(1) The board of the inmate.

(2) Necessary travel expense to and from work and other incidental expenses of the inmate.

(3) Support of the inmate's dependents, if any, the amount to be determined by the court.

(4) Payment of docket costs connected with the commitment of the inmate.

(5) Payment either in full or ratably of the inmate's obligations acknowledged by him in writing or which have been reduced to judgment.

(6) The balance, if any, to the inmate upon discharge.

(e) Intercounty custody.--The court may by order authorize the chief administrator of a county correctional institution to which an inmate is committed to arrange with the chief administrator of another county correctional institution for the employment of the prisoner in the other's county and while so employed to be in the other's custody but in other respects to be and continue subject to the commitment.
(Aug. 11, 2009, P.L.147, No.33, eff. 60 days)

2009 Amendment. Act 33 added section 9755.1.

Cross References. Section 9755.1 is referred to in sections 9755, 9756 of this title.

§ 9756. Sentence of total confinement.

(a) General rule.--In imposing a sentence of total confinement the court shall at the time of sentencing specify any maximum period up to the limit authorized by law and whether the sentence shall commence in a correctional or other appropriate institution.

(b) Minimum sentence.--

(1) The court shall impose a minimum sentence of confinement which shall not exceed one-half of the maximum sentence imposed.

(2) The minimum sentence imposed under this section may not be reduced through parole prior to the expiration of the minimum sentence unless otherwise authorized by this section or other law.

(3) Except where the maximum sentence imposed is two years or more, and except where a mandatory minimum sentence of imprisonment or total confinement is required by law, the court shall, at the time of sentencing, state whether or not the defendant is eligible to participate in a reentry plan at any time prior to the expiration of the minimum sentence or at the expiration of a specified portion of the minimum sentence. For maximum sentences of less than two years as defined under section 9762(f) (relating to sentencing proceeding; place of confinement), a court may parole a defendant prior to the expiration of the minimum sentence only if the defendant was made eligible to participate in a reentry plan at the time of sentencing. The court shall provide at least ten days' written notice and an opportunity to be heard, pursuant to section 9776 (relating to judicial power to release inmates), to the prosecuting attorney before granting parole pursuant to this subsection. The reentry plan eligibility shall be considered a part of the sentence and subject to the requirements relating to the entry, recording and reporting of sentences.

(b.1) Recidivism risk reduction incentive minimum sentence.--The court shall determine if the defendant is eligible for a recidivism risk reduction incentive minimum sentence under 61 Pa.C.S. Ch. 45 (relating to recidivism risk reduction incentive). If the defendant is eligible, the court shall impose a recidivism risk reduction incentive minimum sentence in addition to a minimum sentence and maximum sentence except, if the defendant was previously sentenced to two or more recidivism risk reduction incentive minimum sentences, the court shall have the discretion to impose a sentence with no recidivism risk reduction incentive minimum.

(c) Prohibition of parole for summary offenses.--The court may impose a sentence to imprisonment without the right to parole under this subsection only when:

(1) a summary offense is charged;

(2) sentence is imposed for nonpayment of fines or costs, or both, in which case the sentence shall specify the number of days to be served; and

(3) the maximum term or terms of imprisonment imposed on one or more indictments to run consecutively or concurrently total less than 30 days.

(c.1) Sentence of total confinement combined with probation.--The court may impose a sentence of imprisonment without parole under this subsection only when:

(1) the period of total confinement is followed immediately by restrictive conditions of probation imposed pursuant to section 9763(c) or (d) (relating to conditions of probation) in which case the sentence of total confinement shall specify the number of days of total confinement also to be served; and

(2) the maximum sentence of total confinement imposed on one or more indictments to run consecutively or concurrently total 90 days or less.

(d) Prisoner release plans.--This section shall not be interpreted as limiting the authority of the court as set forth in section 9755.1 (relating to temporary release from county correctional institution).

(e) Definitions.--As used in this section, the term "reentry plan" is a release plan that may include drug and alcohol treatment, behavioral health treatment, job training, skills training, education, life skills or any other condition deemed relevant by the court.

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; June 22, 2000, P.L.345, No.41, eff. 60 days; Nov. 19, 2004, P.L.855, No.112, eff. 180 days; Sept. 25, 2008, P.L.1026, No.81, eff. 60 days; Aug. 11, 2009, P.L.147, No.33, eff. 60 days; July 5, 2012, P.L.1050, No.122, eff. July 1, 2013; Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 amended subsec. (c.1).

2012 Amendment. Act 122 amended subsec. (d).

2009 Amendment. Act 33 amended subsecs. (b), (b.1) and (e).

2000 Amendment. Act 41 amended subsec. (c) and added subsec. (c.1).

Cross References. Section 9756 is referred to in sections 2154, 9721 of this title; sections 6137.1, 6137.2 of Title 61 (Prisons and Parole).

§ 9757. Consecutive sentences of total confinement for multiple offenses.

Whenever the court determines that a sentence should be served consecutively to one being then imposed by the court, or to one previously imposed, the court shall indicate the minimum sentence to be served for the total of all offenses with respect to which sentence is imposed. Such minimum sentence shall not exceed one-half of the maximum sentence imposed.

Cross References. Section 9757 is referred to in section 4505 of Title 61 (Prisons and Parole).

§ 9758. Fine.

(a) General rule.--In imposing a fine the court shall at the time of sentencing specify the amount of the fine up to the amount authorized by law and shall provide when it is to be paid, and in the absence of statutory direction provide whether it is to be paid to the county or to the Commonwealth.

(b) Installment payment.--Except for fines imposed under Title 34 (relating to game), the court may permit installment payments as it considers appropriate to the circumstances of

the defendant, in which case its order shall specify when each installment payment is due. Installment payments for fines imposed for summary offenses under Title 34 shall not exceed one year for summary offenses and, except for 34 Pa.C.S. § 2522 (relating to shooting at or causing injury to human beings), shall not exceed two years for misdemeanor offenses.

(c) Alternative sentence.--The sentence of the court may include an alternative sentence in the event of nonpayment.

(July 8, 1986, P.L.442, No.93, eff. July 1, 1987)

1986 Amendment. Act 93 amended subsec. (b).

Cross References. Section 9758 is referred to in section 9772 of this title; section 925 of Title 34 (Game); section 6504 of Title 75 (Vehicles).

§ 9759. Record.

(a) General rule.--A record of the sentencing proceeding shall be made and preserved in such a manner that it can be transcribed as needed.

(b) Contents.--The record shall include:

(1) The record of any stipulation made at a presentence conference.

(2) A copy of the presentence report and a copy of any other report or document available to the sentencing court as an aid in imposing sentence, subject to such limitations as the court may have imposed under section 9734(b) (relating to restrictions on disclosure).

(3) A verbatim account of the entire sentencing proceeding.

(c) Documents transmitted to prison and parole authorities.--If the defendant is sentenced to imprisonment for a maximum term in excess of two years, there shall be forwarded to the prison and parole authorities a copy of the presentence report, if any.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

1980 Amendment. Act 142 amended subsec. (b)(2).

Suspension by Court Rule. Section 9759 was suspended by Pennsylvania Rule of Criminal Procedure No. 1101(6), adopted March 1, 2000, as being inconsistent with the rules of Chapter 7 relating to post-trial procedures in court cases.

Cross References. Section 9759 is referred to in section 9733 of this title.

§ 9760. Credit for time served.

After reviewing the information submitted under section 9737 (relating to report of outstanding charges and sentences) the court shall give credit as follows:

(1) Credit against the maximum term and any minimum term shall be given to the defendant for all time spent in custody as a result of the criminal charge for which a prison sentence is imposed or as a result of the conduct on which such a charge is based. Credit shall include credit for time spent in custody prior to trial, during trial, pending sentence, and pending the resolution of an appeal.

(2) Credit against the maximum term and any minimum term shall be given to the defendant for all time spent in custody under a prior sentence if he is later reprosecuted and resentenced for the same offense or for another offense based on the same act or acts. This shall include credit in accordance with paragraph (1) of this section for all time spent in custody as a result of both the original charge and any subsequent charge for the same offense or for another offense based on the same act or acts.

(3) If the defendant is serving multiple sentences, and if one of the sentences is set aside as the result of direct or collateral attack, credit against the maximum and any minimum term of the remaining sentences shall be given for all time served in relation to the sentence set aside since the commission of the offenses on which the sentences were based.

(4) If the defendant is arrested on one charge and later prosecuted on another charge growing out of an act or acts that occurred prior to his arrest, credit against the maximum term and any minimum term of any sentence resulting from such prosecution shall be given for all time spent in custody under the former charge that has not been credited against another sentence.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

1980 Amendment. Act 142 amended the intro. par.

Cross References. Section 9760 is referred to in section 9737 of this title; section 4105 of Title 61 (Prisons and Parole).

§ 9761. Computation and order of service of sentences.

(a) Order of service of sentences.--If a minimum sentence imposed by the court which is to run concurrently with one which has been previously imposed would expire later than the minimum of such a previously imposed sentence, or if the previously imposed sentence is terminated before the expiration of the minimum sentence of the last imposed sentence, the defendant shall be imprisoned at least until the last imposed minimum sentence has been served.

(b) Sentences imposed by other sovereigns.--If the defendant is at the time of sentencing subject to imprisonment under the authority of any other sovereign, the court may indicate that imprisonment under such other authority shall satisfy or be credited against both the minimum and maximum time imposed under the court's sentence. If the defendant is released by such other authority before the expiration of the minimum time imposed by the court, he shall be returned to a correctional institution of the Commonwealth to serve the time which remains of the sentence. If the defendant is released after the minimum time has elapsed, he shall be considered for parole on the same basis as a prisoner who has served his minimum time in a correctional institution of the Commonwealth. If the defendant is released after the maximum time imposed under the sentence of imprisonment he shall be deemed to have served his sentence.

§ 9762. Sentencing proceeding; place of confinement.

(a) Sentences or terms of incarceration imposed before a certain date.--For the three-year period beginning on the effective date of this subsection, all persons sentenced to total or partial confinement for the following terms shall be committed as follows:

(1) Maximum terms of five or more years shall be committed to the Department of Corrections for confinement.

(2) Maximum terms of two years or more but less than five years may be committed to the Department of Corrections for confinement or may be committed to a county prison within the jurisdiction of the court.

(3) Maximum terms of less than two years shall be committed to a county prison within the jurisdiction of the court.

(b) Sentences or terms of incarceration imposed after a certain date.--All persons sentenced three or more years after

the effective date of this subsection to total or partial confinement shall be committed as follows:

(1) Maximum terms of five or more years shall be committed to the Department of Corrections for confinement.

(2) Maximum terms of two years or more but less than five years shall be committed to the Department of Corrections for confinement, except upon a finding of all of the following:

(i) The chief administrator of the county prison, or the administrator's designee, has certified that the county prison is available for the commitment of persons sentenced to maximum terms of two or more years but less than five years.

(ii) The attorney for the Commonwealth has consented to the confinement of the person in the county prison.

(iii) The sentencing court has approved the confinement of the person in the county prison within the jurisdiction of the court.

(3) Maximum terms of less than two years shall be committed to a county prison within the jurisdiction of the court.

(c) Certification.--The chief administrator of the county prison, or the administrator's designee, may issue a certification under subsection (b)(2)(i) if the county prison population is less than 110% of the rated capacity of the county prison. The chief administrator shall revoke any previously issued certification if the prison population exceed 110% of the rated capacity. The president judge of the court, the district attorney and the chief public defender of the county shall be served with a written copy of any certification or revocation.

(d) County intermediate punishment.--Nothing in this section shall prevent a judge from sentencing an offender to county intermediate punishment which does not require confinement within county prison if otherwise authorized by law.

(e) Reimbursement.--Beginning three years after the effective date of this subsection:

(1) The Department of Corrections shall reimburse to the counties the reasonable cost of confinement of every Level 4 or 5 offender as identified in the Basic Sentencing Matrix promulgated by the Pennsylvania Commission on Sentencing who is participating in an approved work release program. The reimbursement per prisoner shall not exceed the average per-prisoner cost of confinement paid by the Commonwealth for the confinement of prisoners in the Department of Corrections. No more than $2,500,000 shall be expended annually for this purpose. Reimbursement shall be made on a pro rata basis if the total dollar amount of eligible confinement costs exceeds $2,500,000. Nothing in this paragraph shall prevent more than $2,500,000 being appropriated for this purpose. Reimbursement shall be made on a pro rata basis if the total dollar amount of eligible confinement costs exceeds any additional appropriation. A county shall not be reimbursed under this section for any offender participating in an approved work release program for whom the county is being or has been reimbursed from any other State funds regardless of their source.

(2) County prisons may require reimbursements from other county prisons or the Department of Corrections for inmates voluntarily accepted for incarceration at mutually agreeable rates. The Department of Corrections shall maintain a list

of those counties willing to accept voluntary placement of out-of-county inmates.

(f) Aggregation.--For purposes of this section, the sentences or terms of incarceration shall mean the entire continuous term of incarceration to which a person is subject, notwithstanding whether the sentence is the result of any of the following:

(1) One or more sentences.

(2) Sentences imposed for violations of probation or intermediate punishment.

(3) Sentences to be served upon recommitment for violations of parole.

(4) Any other manner of sentence.

(g) Date of imposition.--For purposes of this section, if a person is subject to multiple sentences or terms of incarceration or any combination of sentences or terms, the date of the last sentence imposed or the date of recommitment, whichever is later, shall determine the place of incarceration and whether reimbursement is required.

(h) Transfer of prisoners.--Nothing in this section shall prohibit the transfer of prisoners otherwise authorized by law or prevent a judge from changing the place of confinement between State and county facilities to the extent that the judge would have such discretion at the time of imposition of sentence or recommitment.

(i) Prohibition.--Notwithstanding any other provision of law, no person sentenced to total or partial confinement after the effective date of this subsection shall be committed to the Department of Corrections unless:

(1) the aggregate sentence consists of a conviction for an offense graded as a misdemeanor of the second degree or higher; or

(2) the Secretary of Corrections or the secretary's designee has consented to the commitment.

(j) Applicability.--18 Pa.C.S. § 106(b)(8) and (9) (relating to classes of offenses) applies to subsection (i).

(Sept. 25, 2008, P.L.1026, No.81, eff. 60 days; July 5, 2012, P.L.1050, No.122, eff. 30 days)

2012 Amendment . Act 122 added subsecs. (i) and (j).

Cross References. Section 9762 is referred to in section 9756 of this title; sections 4505, 6132, 6134.1, 6171 of Title 61 (Prisons and Parole); sections 3804, 3815 of Title 75 (Vehicles).

§ 9763. Conditions of probation.

(a) General rule.--In imposing probation, the court shall consider guidelines adopted by the Pennsylvania Commission on Sentencing under section 2154 (relating to adoption of guidelines for sentencing) or 2154.1 (relating to adoption of guidelines for restrictive conditions) and specify at the time of sentencing the conditions of probation, including the length of the term of restrictive conditions under subsection (c) or (d). The term of restrictive conditions under subsection (c) shall be equal to or greater than the mandatory minimum term of imprisonment required by statute.

(b) Conditions generally.--Conditions shall be assessed and ordered based on individualized circumstances. Following an individualized assessment of the defendant, including the defendant's history and the underlying crime or crimes committed, the court shall attach only those conditions that the court deems necessary and the least restrictive means

available to promote the defendant's rehabilitation and protection of the public, including any of the following:

(1) To meet family responsibilities, including consideration of child-care responsibilities and limitations, other than the child-care responsibilities and limitations contained in 23 Pa.C.S. Ch. 43 (relating to support matters generally) which shall be governed exclusively by the provisions of that chapter.

(2) To be devoted to a specific occupation, employment or education, study or vocational training initiative.

(3) To participate in a public or nonprofit community service program.

(4) To undergo individual or family counseling.

(5) To undergo available medical or psychiatric treatment or to enter and remain in a specified institution, when required for that purpose.

(6) To attend educational or vocational training programs.

(7) To attend or reside in a rehabilitative facility or other intermediate punishment program.

(8) (Deleted by amendment).

(9) To not possess a firearm or other dangerous weapon unless granted written permission.

(10) To make restitution of the fruits of the crime or to make reparations, in an affordable amount and on a schedule that the defendant can afford to pay, for the loss or damage caused by the crime.

(11) To notify the court or designated person of any change in address or employment within 15 days, unless the defendant provides sufficient proof of extenuating circumstances to explain the delay.

(12) To report as directed to the court or the designated person and to permit the designated person to visit the defendant's home.

(13) To pay a fine.

(14) To participate in drug or alcohol screening and treatment programs, including outpatient programs.

(15) To do other things reasonably related to rehabilitation.

(16) (Deleted by amendment).

(17) (Deleted by amendment).

(c) Restrictive DUI probation conditions.--

(1) Any person receiving a penalty imposed pursuant to 75 Pa.C.S. § 1543(b) (relating to driving while operating privilege is suspended or revoked), former 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance) or 75 Pa.C.S. § 3804 (relating to penalties) for a first, second or third offense under 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs) may only have probation imposed after undergoing an assessment under 75 Pa.C.S. § 3814 (relating to drug and alcohol assessments).

(2) If the defendant is determined to be in need of drug and alcohol treatment, the defendant may only have probation that includes participation in drug and alcohol treatment under 75 Pa.C.S. § 3815(c) (relating to mandatory sentencing). The defendant shall have restrictive DUI probation conditions of:

(i) a residential inpatient program or a residential rehabilitative center;

(ii) house arrest with electronic surveillance;

(iii) a partial confinement program such as work release, work camp and halfway facility; or

(iv) any combination of the programs set forth in this paragraph.

(3) If the defendant is determined not to be in need of drug and alcohol treatment, the defendant shall have restrictive DUI probation conditions of:

(i) house arrest with electronic surveillance;

(ii) partial confinement programs such as work release, work camps and halfway facilities; or

(iii) any combination of the programs set forth in this paragraph.

(4) If the defendant is determined to be in need of additional treatment under 75 Pa.C.S. § 3814(2), the judge shall impose a minimum sentence as provided by law and a maximum sentence equal to the statutorily available maximum.

(d) Restrictive conditions of probation.--Probation may include restrictive conditions that:

(1) house the person full time or part time, including inpatient treatment; or

(2) significantly restrict the person's movement and monitor the person's compliance with the program, including electronic monitoring or home confinement.

(Dec. 19, 1990, P.L.1196, No.201, eff. July 1, 1991; June 22, 2000, P.L.345, No.41, eff. 60 days; Sept. 30, 2003, P.L.120, No.24, eff. Feb. 1, 2004; Nov. 19, 2004, P.L.855, No.112, eff. 180 days; Dec. 18, 2019, P.L.776, No.115, eff. imd.; Dec. 14, 2023, P.L.381, No.44, eff. 180 days)

2023 Amendment. Act 44 amended subsec. (b) intro. par., (1), (2) and (11). Section 6 of Act 44 provided that nothing in Act 44 shall be construed to prevent a defendant from petitioning a court for early termination of probation or modification of the terms and conditions of probation as otherwise permitted by law. See sections 5 and 7 of Act 44 in the appendix to this title for special provisions relating to applicability.

2019 Amendment. Act 115 amended the section heading and subsecs. (a), (b)(2), (10) and (14), (c) and (d) and deleted subsec. (b)(8), (16) and (17).

1990 Amendment. Act 201 added section 9763.

Cross References. Section 9763 is referred to in sections 2154.1, 9721, 9754, 9755, 9756, 9804 of this title.

§ 9764. Information required upon commitment and subsequent disposition.

(a) General rule.--Upon commitment of an inmate to the custody of the Department of Corrections, the sheriff or transporting official shall provide to the institution's records officer or duty officer, in addition to a copy of the court commitment form DC-300B generated from the Common Pleas Criminal Court Case Management System of the unified judicial system, the following information:

(1) Record of adjustment in the county correctional facility, including, but not limited to, misconducts and escape history.

(2) Any current medical or psychological condition requiring treatment, including, but not limited to, suicide attempts.

(3) All medical records of the county correctional institution relating to the inmate to the extent that those records may be disclosed under Federal and State law. The records shall include admission testing performed by the

county and the results of those tests and any testing related to hepatitis, HIV/AIDS, tuberculosis or other infectious disease testing.

(4) Notice of current or previously administered medications.

(5) A 48-hour supply of current medications.

(6) A written statement by the county correctional institution relating to any sentencing credit to which the inmate may be entitled.

(7) A written statement by the county correctional institution setting forth all of the following:

(i) The dates on which the inmate was incarcerated.

(ii) The charges pending against the inmate with the offense tracking number.

(iii) The date on which the inmate was released on bail, if any, and a copy of the bail order.

(8) A copy of the sentencing order and any detainers filed against the inmate which the county has notice.

(b) Additional information.--Within ten days from the date sentence is imposed, the court shall provide to the county correctional facility the following information pertaining to the inmate:

(1) A copy of the presentence investigation report. Where a presentence investigation report was not ordered by the court, the official version of the crime for which the inmate was convicted or a copy of the guilty plea transcript or preliminary hearing transcript.

(2) The criminal complaint or affidavit of probable cause accompanying the arrest warrant.

(3) (Deleted by amendment).

(4) A copy of the completed guideline sentence form.

(5) All of the following:

(i) A written, sealed sentencing order from the county.

(ii) The sentencing colloquy sealed by the court.

(iii) Court commitment orders.

(iv) The Court Commitment Form DC-300B generated from the Common Pleas Criminal Court Case Management System of the unified judicial system.

(v) Any detainers filed against the inmate of which the county has notice.

(c) Transmittal of additional inmate documentation.--If a document provided by the court under subsection (b) is received by the county correctional institution after the inmate is transferred to the custody of the Department of Corrections, the document shall be transmitted to the Department of Corrections within 20 calendar days of its receipt.

(c.1) Implementation.--

(1) The Department of Corrections may refuse to accept custody of an inmate for whom the sheriff or transporting official does not provide the information under subsection (a) under the following circumstances:

(i) The county correctional facility has a pattern or practice of not providing the information mandated under this section.

(ii) The Department of Corrections has previously notified the chief administrator of the county correctional facility, the county commissioners, the county sheriff and the president judge of the county of the specific deficiencies that constitute a pattern or practice.

(iii) The Department of Corrections has provided the county with a reasonable period of time to provide the documentation.

(iv) The Department of Corrections has notified the officials designated under subparagraph (ii) of the intent to refuse to accept inmates without documentation as of a specified date that shall be no sooner than 30 days after the service of the notification.

(2) In cases of a refusal to accept custody of an inmate under this subsection, the sheriff or transporting official shall return the inmate to the sending county correctional institution, which shall accept custody of the inmate. The inmate may be recommitted to the custody of the Department of Corrections upon provision of the documentation required under subsection (a).

(3) The Department of Corrections, board and a county correctional facility shall not be liable for compensatory, punitive or other damages for relying in good faith on any sentencing order or court commitment form DC-300B generated from the Common Pleas Criminal Court Case Management System of the unified judicial system or otherwise transmitted to them.

(c.2) Effect of electronic transfer of information.--Notwithstanding any electronic transfer of information which may occur, the Department of Corrections, in its discretion, may require actual sealed court orders to the extent that they relate to the commitment, term of sentence or other matter that may affect the fact or duration of confinement.

(d) Transfer to county facility.--Upon transfer of an inmate from a State correctional institution to a county correctional facility, the Department of Corrections shall provide to the county facility, unless the facility prior to the time of transfer agrees to accept the inmate without the information, the record of the inmate's institutional adjustment, including, but not limited to, misconducts and/or escape history, and written notice of any current medical or psychological condition requiring treatment, including, but not limited to, suicide attempts, notice of current or previously ordered medication and a 48-hour supply of current medication.

(e) Release by Department of Corrections.--Prior to the release of an inmate from the Department of Corrections to State parole supervision, the Department of Corrections shall provide to the Pennsylvania Parole Board the information contained in subsections (a)(1) and (2) and (b).

(f) Release from county correctional facility to State probation or parole.--

(1) Prior to the release of an inmate from a county correctional facility to State probation or parole supervision, the facility shall provide to the Department of Corrections and the Pennsylvania Parole Board the information contained in subsections (a) and (b) with the exception of subsection (a)(5).

(2) Prior to the release of an inmate from a county correctional facility to State probation or parole supervision, the facility shall provide to the inmate his current medications as prescribed and any customary and necessary medical supplies as determined by the prescribing physician.

(g) Release from county correctional facility to county probation or parole.--

(1) Prior to the release of an inmate from a county correctional facility to county probation or parole supervision, the facility shall provide to the county probation department the information contained in subsections (a)(1) through (4) and (b).

(2) Prior to the release of an inmate from a county correctional facility to county probation or parole supervision, the facility shall provide to the inmate his current medications as prescribed and any customary and necessary medical supplies as determined by the prescribing physician.

(h) Record of inmate moneys.--Prior to the release of an inmate from the Department of Corrections to State parole supervision, the department shall provide to the Pennsylvania Parole Board a record of any moneys paid by the inmate and any balance remaining towards satisfaction of restitution or any other court-ordered financial obligations. Prior to the release of an inmate from a county correctional facility to State parole supervision, the county correctional facility shall provide to the Department of Corrections a record of any moneys paid by the inmate and any balance remaining towards the satisfaction of restitution or any other court-ordered financial obligations. Prior to the release of an inmate from a county correctional facility to county parole supervision, the facility shall provide to the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge of the county a record of any moneys paid by the inmate and any remaining balance towards the satisfaction of restitution and any other court-ordered financial obligations.

(i) Continuing payments.--The Pennsylvania Parole Board shall require as a condition of parole that any inmate released to their supervision shall make continuing payments on restitution or any other court-ordered financial obligations. The sentencing court shall require as a condition of county parole that any inmate released to the supervision of the county probation department shall make continuing payments of restitution or any other court-ordered financial obligations.

(j) Release after maximum sentence.--Upon release of an inmate from the Department of Corrections at the expiration of his maximum sentence, the Department of Corrections shall transmit to the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge of the county in which the inmate was convicted a record of any moneys paid by the inmate and any outstanding amounts owed by the inmate towards satisfaction of restitution or any other court-ordered financial obligations.

(k) Procedures.--The Department of Corrections and the Pennsylvania Parole Board shall develop procedures to implement the provisions of this section.

(l) Application.--This section shall apply to offenders transferred to or released from a State or county correctional facility after the effective date of this section.

(June 18, 1998, P.L.640, No.84, eff. 120 days; Dec. 1, 2004, P.L.1778, No.233, eff. 60 days; Sept. 25, 2008, P.L.1026, No.81, eff. 60 days; Dec. 18, 2019, P.L.776, No.115, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsecs. (e), (f), (h), (i) and (k).

§ 9765. Merger of sentences.

No crimes shall merge for sentencing purposes unless the crimes arise from a single criminal act and all of the statutory elements of one offense are included in the statutory elements of the other offense. Where crimes merge for sentencing purposes, the court may sentence the defendant only on the higher graded offense.
(Dec. 9, 2002, P.L.1705, No.215, eff. 60 days)

2002 Amendment. Act 215 added section 9765.

SUBCHAPTER F
FURTHER JUDICIAL ACTION

Sec.
9771. Modification or revocation of order of probation.
9771.1. Court-imposed sanctions for violating probation.
9772. Failure to pay fine.
9773. Modification or revocation of county intermediate punishment sentence (Repealed).
9774. Revocation of State intermediate punishment sentence (Repealed).
9774.1. Probation review conference.
9775. Parole without board supervision.
9776. Judicial power to release inmates.
9777. Transfer of inmates in need of medical treatment.

§ 9771. Modification or revocation of order of probation.

(a) General rule.--The court has inherent power to at any time terminate continued supervision, lessen the conditions upon which an order of probation has been imposed or increase the conditions under which an order of probation has been imposed upon a finding by clear and convincing evidence that a person presents an identifiable threat to public safety.

(b) Revocation.--The court may increase the conditions, impose a brief sanction under section 9771.1 (relating to court-imposed sanctions for violating probation) or revoke an order of probation upon proof of the violation of specified conditions of the probation. Subject to the limitations of subsections (b.1) and (c), upon revocation the sentencing alternatives available to the court shall be the same as were available at the time of initial sentencing, due consideration being given to the time spent serving the order of probation. The attorney for the Commonwealth may file notice at any time prior to resentencing of the Commonwealth's intention to proceed under an applicable provision of law requiring a mandatory minimum sentence.

(b.1) Nonpayment of fines or costs.--Notwithstanding subsection (b), the court may not extend the period of probation, may not impose a brief sanction under section 9771.1 and may not revoke an order of probation solely due to nonpayment of fines or costs unless the court finds, with respect to the payment of fines, the defendant is financially able to pay the fines and has willfully refused to do so.

(c) Limitation on sentence of total confinement.--There is a presumption against total confinement for technical violations of probation. The following shall apply:

(1) The court may impose a sentence of total confinement upon revocation only if:

(i) the defendant has been convicted of another crime;

(ii) the court finds by clear and convincing evidence that the defendant committed a technical

violation that involves an identifiable threat to public safety and the defendant cannot be safely diverted from total confinement through less restrictive means; or

(iii) the court finds by a preponderance of the evidence that the defendant committed a technical violation and any of the following apply:

(A) The technical violation was sexual in nature.

(B) The technical violation involved assaultive behavior or included a credible threat to cause bodily injury to another, including acts committed against a family or household member.

(C) The technical violation involved possession or control of a firearm or dangerous weapon.

(D) The technical violation involved the manufacture, sale, delivery or possession with the intent to manufacture, sell or deliver, a controlled substance or other drug regulated under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(E) The defendant absconded and cannot be safely diverted from total confinement through less restrictive means.

(F) The technical violation involved an intentional and unexcused failure to adhere to recommended programming or conditions on three or more separate occasions and the defendant cannot be safely diverted from total confinement through less restrictive means. For purposes of this clause, multiple technical violations stemming from the same episode of events shall not constitute separate technical violations.

(2) If a court imposes a sentence of total confinement following a revocation, the basis of which is for one or more technical violations under paragraph (1)(ii) or (iii), the court shall consider the employment status of the defendant. The defendant shall be sentenced as follows:

(i) For a first technical violation, a maximum period of 14 days.

(ii) For a second technical violation, a maximum period of 30 days.

(iii) For a third or subsequent technical violation, the court may impose any sentencing alternatives available at the time of initial sentencing.

(iv) The time limitations contained in this paragraph shall not apply to the extent that a reasonable term of additional total confinement, not to exceed 30 days, is necessary to allow a defendant to either be evaluated for or to participate in:

(A) a court-ordered drug, alcohol or mental health treatment program; or

(B) a problem-solving court provided for in section 916 (relating to problem-solving courts).

(3) Nothing in this section shall prevent the adoption of a program under section 9771.1.

(d) Hearing required.--There shall be no revocation or increase of conditions of sentence under this section except after a hearing at which the court shall consider the record of the sentencing proceeding together with evidence of the conduct of the defendant while on probation. Probation may be eliminated or the term decreased without a hearing.

(Dec. 18, 2019, P.L.776, No.115, eff. imd.; Dec. 14, 2023, P.L.381, No.44, eff. 180 days)

2023 Amendment. Act 44 amended subsecs. (a), (b) and (c) and added subsec. (b.1). Section 6 of Act 44 provided that nothing in Act 44 shall be construed to prevent a defendant from petitioning a court for early termination of probation or modification of the terms and conditions of probation as otherwise permitted by law. See sections 5 and 7 of Act 44 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 9771 is referred to in sections 9771.1, 9774.1 of this title.

§ 9771.1. Court-imposed sanctions for violating probation.

(a) Program.--Notwithstanding the provisions of section 9771 (relating to modification or revocation of order of probation), the court of common pleas of a judicial district may establish a program to impose swift, predictable and brief sanctions on persons who violate their probation.

(b) Coordination with other officials.--(Deleted by amendment).

(c) Eligibility.--(Deleted by amendment).

(d) Warning hearing.--(Deleted by amendment).

(e) Drug testing.--(Deleted by amendment).

(f) Violation hearing.--If a participant commits a probation violation, the participant shall promptly be arrested, and a hearing shall be held no later than two business days after the arrest date.

(g) Sanctions.--

(1) The court shall impose a term of imprisonment of up to:

(i) three days for a first violation;

(ii) seven days for a second violation;

(iii) fourteen days for a third violation; and

(iv) twenty-one days for a fourth or subsequent violation of probation.

(2) The court may allow the term of imprisonment to be served on weekends or other nonwork days for employed probationers who have committed a first or second violation.

(3) The court may increase the conditions of probation, including additional substance abuse treatment for a participant who has failed one or more drug tests.

(h) Exceptions.--If the participant is able to provide a compelling reason for the probation violation, the court may grant an exception to the sanctions authorized under subsection (g).

(i) Revocation of probation.--

(1) After a third violation, the court may revoke the order of probation.

(2) Upon revocation, the sentencing alternatives shall be the same as were available at the time of initial sentencing, due consideration being given to the time spent serving the order of probation.

(j) Local rules.--

(1) The court may adopt local rules for the administration of this program. Except as provided for under paragraph (2), the local rules may not be inconsistent with this section or any rules adopted by the Supreme Court.

(2) The court may adopt local rules that are inconsistent with subsection (g) regarding the terms of imprisonment or other sanctions or conditions provided for under subsection (g).

(July 5, 2012, P.L.1050, No.122, eff. 60 days; Dec. 18, 2019, P.L.776, No.115, eff. imd.)

Cross References. Section 9771.1 is referred to in sections 2153, 9771 of this title.

§ 9772. Failure to pay fine.

Unless there is proof that failure to pay a fine or that portion of the fine that is due is excusable, the court may after a hearing find the defendant guilty of contempt and sentence him to not more than six months imprisonment, if a term of confinement of that amount could have been imposed for the offense charged. If an alternative sentence has been imposed under section 9758(c) (relating to alternative sentence), the alternative sentence may not take effect until there has been a preliminary finding of non-indigency, and a willful failure to pay the fine.

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

§ 9773. Modification or revocation of county intermediate punishment sentence (Repealed).

2019 Repeal. Section 9773 was repealed December 18, 2019, P.L.776, No.115, effective immediately.

§ 9774. Revocation of State intermediate punishment sentence (Repealed).

2019 Repeal. Section 9774 was repealed December 18, 2019, P.L.776, No.115, effective immediately.

§ 9774.1. Probation review conference.

(a) General rule.--Except as otherwise provided in this section, the court shall hold a probation review conference no later than 60 days from the date the defendant is eligible. If a defendant's probation review conference has not commenced within the time frames specified in this subsection, the defendant's attorney, or the defendant if unrepresented, may file a motion demanding a probation review conference within five business days.

(b) Eligibility for review conference.--Except as otherwise provided in this section, a defendant shall be eligible for an initial probation review conference as follows:

(1) If the offense for which a sentence of probation was imposed was a misdemeanor, the defendant shall be eligible for an initial probation review conference after completing two years of probation or 50% of the probation sentence, whichever is sooner.

(2) If the offense for which a sentence of probation was imposed was a felony, the defendant shall be eligible for an initial probation review conference after completing four years of probation or 50% of the probation sentence, whichever is sooner.

(3) If the sentence or sentences imposed arose out of convictions for multiple offenses which the court ordered to be served consecutively and:

(i) The offenses for which the sentence or sentences were imposed are misdemeanors based on the same conduct or arising from the same criminal episode, the defendant shall be eligible for a probation review conference after completing two years of probation or 50% of the aggregate probation sentence, whichever is sooner.

(ii) The offenses for which the sentence or sentences were imposed included a felony and are based on the same conduct or arise from the same criminal episode, the defendant shall be eligible for a probation

review conference after completing four years of probation or 50% of the aggregate probation sentence, whichever is sooner.

(iii) The offenses for which the sentence or sentences were imposed are based on separate conduct and arose from separate criminal episodes, the defendant shall be eligible for a probation review conference after completing four years of probation or 50% of the aggregate probation sentence, whichever is sooner.

(4) A defendant sentenced to a period of probation consecutive to a period of incarceration in a State correctional institution shall be eligible for an initial probation review conference 12 months prior to the date that the defendant would otherwise be eligible for a probation review conference under this subsection if the defendant completed the final 12 months of State parole supervision without violating the terms and conditions of the defendant's parole. This paragraph shall not apply to a defendant who serves fewer than 12 months on State parole supervision.

(5) Notwithstanding any other provisions of this section, a defendant shall not be eligible to receive an initial probation review conference less than 12 months from the original date of sentencing.

(c) Accelerated early review conference.--

(1) Subject to the limitations in subsection (b)(5), a defendant serving probation that was imposed for a misdemeanor or felony offense shall be eligible for an initial probation review conference six months prior to the date that the defendant would otherwise be eligible under subsection (b) if the defendant successfully satisfies any of the following conditions while serving the term of probation:

(i) Earns a high school diploma or certificate of high school equivalency.

(ii) Earns an associate degree from an accredited university, college, seminary college, community college or two-year college.

(iii) Earns a bachelor's degree from an accredited university, college or seminary college.

(iv) Earns a master's or other graduate degree from an accredited university, college or seminary college.

(v) Obtains a vocational or occupational license, certificate, registration or permit.

(vi) Completes a certified vocational, certified technical or certified career education or training program.

(vii) Any other condition approved by the court at the time of sentencing that substantially assists the defendant in leading a law-abiding life or furthers the rehabilitative needs of the defendant.

(2) Subject to the limitations in subsection (b)(5), a defendant serving probation that was imposed for a felony offense shall be eligible for an initial probation review conference up to a total of six months prior to the date that the defendant would otherwise be eligible under paragraph (1) if the defendant satisfies an additional condition specified in paragraph (1) while serving the term of probation.

(3) To qualify a defendant for an accelerated initial probation review conference under paragraphs (1) and (2), any condition under paragraph (1)(v), (vi) or (vii) must be approved by the probation office responsible for the

supervision of the defendant, in accordance with standards developed by the Pennsylvania Commission on Crime and Delinquency. The Pennsylvania Commission on Crime and Delinquency shall develop standards pursuant to this paragraph.

(d) Probation status report.--No later than 30 days prior to the date the defendant is otherwise entitled to a probation review conference under subsection (b) or (c), the probation office responsible for the supervision of the defendant shall complete and submit a probation status report to the defendant, the defendant's last counsel of record, the court, the Commonwealth and any victim registered with either the Pennsylvania Office of Victim Advocate or a county victim witness program. The probation status report shall contain the following:

(1) The date the probation office believes the defendant is eligible for a probation review conference.

(2) A statement as to whether:

(i) Any of the factors or violations specified in subsection (g)(1)(ii) and (iii) have occurred.

(ii) The defendant has committed any other technical violation within the six months prior to the probation status report.

(iii) The defendant was convicted of a misdemeanor or felony while either incarcerated or serving probation.

(iv) The defendant has completed all treatment or any other program required as a condition of probation.

(v) The defendant has paid all restitution owed to the victim.

(3) A description of the defendant's progress on probation and a recommendation that:

(i) the defendant's probation be terminated at or before the date the probation office believes the defendant is eligible for a probation review conference;

(ii) the defendant should continue on probation as previously ordered; or

(iii) the defendant should continue on probation under different, reduced or increased terms and conditions.

(e) Objections to status report.--The Commonwealth and the defendant shall have 30 days from the date of the status report to object or otherwise respond to the probation status report. A victim shall have 30 days from the date of the status report to provide input or otherwise respond to the probation status report. The following shall apply:

(1) If a party objects to all or any component of the probation status report, the court shall hold a probation review conference as otherwise provided by this subsection and shall notify the defendant, the Commonwealth and any victim registered with either the Pennsylvania Office of Victim Advocate or a county victim witness program of the date of the probation review conference.

(2) If none of the parties entitled to the probation status report object to the recommendation contained in the report within 30 days, upon evidence satisfactory to the court that the probation status report was sent to each party entitled to receive the probation status report, the probation review conference shall be deemed waived. The court shall enter an order memorializing the recommendation contained in the probation status report and so notify the defendant, the Commonwealth and any victim registered with either the Pennsylvania Office of Victim Advocate or a county

victim witness program. The court may enter the order even if the defendant's probation, sentence or plea of guilty was the result of an agreement between the Commonwealth and the defendant.

(f) Termination of probation.--

(1) Except as provided in subsection (g), immediately following the probation review conference, the court shall terminate probation unless the court finds:

(i) by clear and convincing evidence that the conduct of the defendant while on probation created an identifiable threat to public safety, including consideration of whether the defendant is the subject of an active protection from abuse order under 23 Pa.C.S. Ch. 61 (relating to protection from abuse) or an active protection from intimidation order under 18 Pa.C.S. Ch. 49 Subch. B. (relating to victim and witness intimidation);

(ii) by a preponderance of the evidence that the defendant has not successfully completed all treatment or other programs required as a condition of probation, and termination of probation would either prevent the defendant from continuing in the court-mandated treatment or programming that the court determines is still necessary to aid in the defendant's rehabilitation or would create a substantial likelihood that the defendant would discontinue the treatment or programs; or

(iii) by a preponderance of the evidence that the defendant has failed to pay the total restitution owed by the defendant.

(2) The court may terminate probation under paragraph (1) even if the defendant's probation, sentence or plea of guilty was the result of an agreement between the Commonwealth and the defendant.

(3) If the court does not terminate probation at a probation review conference, the defendant shall receive written notice of the court's order detailing the court's findings. The defendant shall be eligible for a subsequent probation review conference no later than 12 months after the date of the most recent probation review conference.

(g) Prohibitions on early termination.--

(1) A defendant shall not have the defendant's probation terminated under this section if:

(i) the defendant was convicted of a misdemeanor of the first degree, misdemeanor of the second degree or felony offense of any degree committed while either incarcerated or serving probation;

(ii) the court finds by clear and convincing evidence that the defendant committed a technical violation within the six months immediately preceding the defendant's probation review conference that involved an identifiable threat to public safety; or

(iii) a court determines at the probation review conference by a preponderance of the evidence that the defendant committed one of the following technical violations within the six months immediately preceding the defendant's probation review conference:

(A) A technical violation that was sexual in nature.

(B) A technical violation that involved assaultive behavior or included a credible threat to cause bodily injury to another, including acts committed against a family or household member.

(C) A technical violation that involved possession or control of a firearm or dangerous weapon.

(D) The technical violation involved the manufacture, sale, delivery or possession with the intent to manufacture, sell or deliver, a controlled substance or other drug regulated under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(E) The defendant absconded.

(F) A technical violation that involved an intentional and unexcused failure to adhere to recommended programming or conditions on three or more separate occasions. For purposes of this clause, multiple technical violations stemming from the same episode of events shall not constitute separate technical violations.

(2) If the defendant is ineligible for termination of probation as a result of a technical violation enumerated in paragraph (1)(ii) or (iii) occurring within the six months immediately preceding the probation review conference and if all other conditions are satisfied, a probation review conference shall be held six months after the date that the enumerated technical violation occurred.

(h) Failure to pay restitution.--

(1) If the court does not terminate probation at a probation review conference solely because of the defendant's failure to pay restitution in full, the court shall order that the defendant be placed on administrative probation for the remaining balance of the defendant's probation sentence if:

(i) the defendant has paid at least 50% of the restitution owed; or

(ii) the court determines, considering the defendant's resources, income and family, legal or other obligations, that the defendant has made a good faith effort to pay.

(2) The provisions of section 9771(c) (relating to modification or revocation of order of probation) shall apply to individuals placed on administrative probation pursuant to this subsection.

(3) Nothing in this section shall be construed to interfere with a victim's right to pursue private remedies in accordance with 18 Pa.C.S. § 1106(g) (relating to restitution for injuries to person or property).

(i) Applicability.--This section shall not apply and the defendant shall not be entitled to a probation review conference or to early termination of probation under this section if the offense for which the defendant was sentenced to probation was one of the following:

(1) an offense under 18 Pa.C.S. Ch. 25 (relating to criminal homicide);

(2) a crime of violence;

(3) an offense listed under Subchapter H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders);

(4) an offense under 18 Pa.C.S. § 2701 (relating to simple assault) when committed against a family or household member; or

(5) an offense under 18 Pa.C.S. § 2709.1 (relating to stalking).

(j) Other remedies preserved.--Nothing in this section shall be construed to:

(1) prevent a defendant from petitioning a court for early termination of probation or modification of the terms and conditions of probation as otherwise permitted by law;

(2) prohibit the court, in its discretion, from eliminating or decreasing the term of probation under section 9771(d); or

(3) diminish the court's power to:

(i) otherwise, at any time, terminate continued supervision or lessen the conditions upon which an order of probation has been imposed;

(ii) create or administer a process or program which seeks to terminate continued supervision or lessen the conditions upon which an order of probation has been imposed; or

(iii) seek information from the Commonwealth, defendant, victim, county probation officer or any other individual or entity to assist in these processes or programs.

(k) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Administrative probation." A term of imposed probation that:

(1) Requires a defendant to make supervision contact at least one time and no more than four times per year.

(2) Requires a defendant to notify the court or the designated person of any change in address or employment within a reasonable period of time.

(3) Requires a defendant to pay the remaining restitution, as ordered by the court on a schedule or payment plan that the defendant can afford to pay.

(4) Does not require the defendant to pay monthly probation administration fees or any additional costs for the continuation of supervision on administrative probation.

(5) Does not impose any other condition of probation.

"Crime of violence." As defined in section 9714(g) (relating to sentences for second and subsequent offenses).

"Dangerous weapon." Any of the following:

(1) A "weapon" as defined in 18 Pa.C.S. § 907 (relating to possessing instruments of crime); or

(2) An "offensive weapon" as defined in 18 Pa.C.S. § 908 (relating to prohibited offensive weapons).

"Family or household members." As defined in 23 Pa.C.S. § 6102(a) (relating to definitions).

"Firearm." As defined in 18 Pa.C.S. § 908.

"Technical violation." A violation of the specific terms and conditions of a defendant's probation, other than by the commission of a new crime of which the defendant is convicted or found guilty by a judge or jury or to which the defendant pleads guilty or nolo contendere in a court of record.
(Dec. 14, 2023, P.L.381, No.44, eff. 180 days)

2023 Amendment. Act 44 added section 9774.1. Section 6 of Act 44 provided that nothing in Act 44 shall be construed to prevent a defendant from petitioning a court for early termination of probation or modification of the terms and conditions of probation as otherwise permitted by law. See sections 5, 7 and 8 of Act 44 in the appendix to this title for special provisions relating to applicability and sentencing.

§ 9775. Parole without board supervision.

A sentencing court shall grant parole from a term of imprisonment for less than a maximum period of two years, and, together with all probations except probation as to which supervision is specially ordered by the court as provided for under section 9721 (relating to sentencing generally), parole shall be without supervision by the board.
(Aug. 11, 2009, P.L.147, No.33, eff. 60 days)

2009 Amendment. Act 33 added section 9775.

§ 9776. Judicial power to release inmates.

(a) General rule.--Except as otherwise provided under this chapter or if the Pennsylvania Parole Board has exclusive parole jurisdiction, a court of this Commonwealth or other court of record having jurisdiction may, after due hearing, release on parole an inmate in the county correctional institution of that judicial district.

(b) Petition required.--No inmate may be paroled under this section except on petition verified by the oath of the inmate or by the inmate's representative and presented and filed in the court in which the inmate was convicted.

(c) Hearing.--On presentation of the petition, the court shall fix a day for the hearing. A copy of the petition shall be served on the district attorney and prosecutor in the case at least ten days before the day fixed for the hearing. Proof of service on the district attorney and the prosecutor shall be produced at the hearing.

(d) Order.--After the hearing, the court shall make such order as it may deem just and proper. In case the court paroles the inmate, it shall place the inmate in the charge of and under the supervision of a designated probation officer.

(e) Recommit.--The court may, on cause shown by the probation officer that the inmate has violated his parole, recommit and reparole the inmate in the same manner and by the same procedure as in the case of the original parole if, in the judgment of the court, there is a reasonable probability that the inmate will benefit by being paroled. The court may also recommit for violation of that parole.

(f) Limitation.--

(1) Subject to the provisions of paragraph (2), the power of a court to parole an inmate under this section shall extend for a period not to exceed the maximum sentence provided by law for the offense of which the inmate was convicted.

(2) A court may release on parole, on petition to any other court, an inmate committed to a correctional institution by any magisterial district judge and shall have the same power to recommit an inmate paroled under this section.

(Aug. 11, 2009, P.L.147, No.33, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (a).

2009 Amendment. Act 33 added section 9776.

Cross References. Section 9776 is referred to in section 9756 of this title.

§ 9777. Transfer of inmates in need of medical treatment.

(a) Inmates committed to custody of department.--If an inmate is committed to the custody of the department, the department, the inmate or a person to whom the court grants standing to act on behalf of the inmate may petition the sentencing court to temporarily defer service of the sentence of confinement and temporarily remove the inmate committed to

the custody of the department, or other facility, for placement in a hospital, long-term care nursing facility or hospice care location. The following shall apply:

(1) The sentencing court may approve the petitioner's request to temporarily defer service of the sentence of confinement and place the inmate in a hospital or long-term care nursing facility under electronic monitoring by the department upon clear and convincing proof that all of the following apply:

(i) The medical needs of the inmate can be more appropriately addressed in the hospital or long-term care nursing facility.

(ii) The hospital or long-term care nursing facility requested by the petitioner has agreed to accept the placement of the inmate and to provide necessary medical care.

(iii) The inmate is seriously ill and is expected by a treating physician to not live for more than one year.

(iv) There are no writs filed or detainers lodged against the inmate and the inmate is not subject to any court order requiring the inmate's presence.

(v) The placement in the hospital or long-term care nursing facility does not pose an undue risk of escape or danger to the community. In making this determination, the sentencing court shall consider the inmate's institutional conduct record, whether the inmate was ever convicted of a crime of violence, the length of time that the inmate has been imprisoned and any other factors the sentencing court deems relevant.

(vi) The hospital or long-term care nursing facility has agreed to notify the department and the court of any material changes in the health status of the inmate, the nature of the care provided or other information required by the department.

(vii) Each agency representing the Commonwealth at a proceeding which resulted in an order committing or detaining the inmate, the State or local correctional facility housing the inmate and any registered crime victim have been given notice and an opportunity to be heard on the petition.

(2) The sentencing court may approve the petitioner's request to temporarily defer service of the sentence of confinement in order for the inmate to receive care from a licensed hospice care provider, proposed by the petitioner and subject to electronic monitoring by the department, if all of the following are established by clear and convincing proof:

(i) The inmate is terminally ill, not ambulatory and likely to die in the near future.

(ii) The licensed hospice care provider can provide the inmate with more appropriate care.

(iii) Appropriate medical care and palliative and supportive services will be provided by the licensed hospice care provider at the proposed hospice care location.

(iv) The placement of the inmate in the proposed, licensed hospice care location does not pose an undue risk of escape or danger to the community. In making this determination, the sentencing court shall consider the inmate's institutional conduct record, whether the inmate was ever convicted of a crime of violence, the

length of time that the inmate has been imprisoned and any other factors the sentencing court deems relevant.

(v) The licensed hospice care provider has agreed to notify the department and the sentencing court of any material changes in the health status of the inmate, the nature of the hospice care provided or other information required by the department or the sentencing court.

(vi) Each agency representing the Commonwealth at a proceeding which resulted in an order committing or detaining the inmate, the State or local correctional facility housing the inmate and any registered crime victim have been given notice and an opportunity to be heard on the petition.

(3) Any order entered pursuant to this subsection temporarily deferring service of an inmate's sentence of confinement shall include a provision that the department or prosecuting attorney may at any time petition the sentencing court for an order directing that the inmate be recommitted to the custody of the department if the circumstances under which the inmate was released change or for any previously unknown circumstances, including a change in the inmate's medical status, the inmate's risk of escape, the inmate's danger to the community or the nature of the medical or other care provided by the hospital, long-term care nursing facility or hospice care provider.

(4) The sentencing court may terminate at any time its order authorizing the temporary deferral of the service of an inmate's sentence of confinement entered pursuant to this subsection. An inmate taken into custody pursuant to an order directing the inmate's detention or recommitment under this subsection shall be delivered to the nearest State correctional institution pending a hearing on the matter.

(b) Inmates committed to custody of other facilities.--An inmate not committed to the custody of the department but confined in an institution authorized to incarcerate or detain persons for criminal sentences, violations of criminal law or orders of parole, probation, bail or other order related to a civil or criminal matter may have service of the sentence of confinement deferred and may be placed in a hospital, long-term care nursing facility or licensed hospice care location, subject to electronic monitoring, by order of the judge that committed the inmate to the facility or institution or by another available judge designated to preside if all of the following are established by clear and convincing proof:

(1) The chief administrator, the chief administrator's designee, the inmate or a person to whom the court grants standing to act on behalf of the inmate petitions the court or has given written consent to the grant of a petition under this section filed on behalf of the inmate.

(2) There is sufficient proof to establish the requirements for a placement to a hospital or long-term care nursing facility under subsection (a)(1) or a placement to a hospice care location under subsection (a)(2).

(3) An entry of an order pursuant to this subsection temporarily deferring service of an inmate's sentence of confinement shall include a provision that the chief administrator or the prosecuting attorney may at any time petition the sentencing court seeking the issuance of a bench warrant directing that the inmate be recommitted to the custody of the appropriate correctional institution if the circumstances under which the inmate was released change or for previously unknown circumstances, including a change in

the inmate's medical status, the inmate's risk of escape, the inmate's danger to the community or the nature of the medical or other care provided by the hospital, long-term care nursing facility or hospice care provider.

(4) The sentencing court may terminate at any time its order authorizing the temporary deferral of the service of an inmate's sentence of confinement entered pursuant to this subsection. An inmate taken into custody pursuant to an order directing detention or recommitment under this subsection shall be delivered to the county correctional institution or other institution at which the inmate was confined prior to the entry of the order deferring the service of the sentence of confinement pending a hearing on the matter.

(c) Service.--Any petition filed under this section shall be served on each agency representing the Commonwealth at each proceeding which resulted in an order by which the inmate is committed or detained and to the correctional institution or institution responsible for housing the inmate. Each party shall have an opportunity to object and be heard as to the petition for alternative placement, the circumstances of placement, the conditions of return or any other relevant issue. The court shall ensure that any crime victim entitled to notification under section 201(7) or (8) of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, has been given notice and the opportunity to be heard on the petition. All parties served or notified under this subsection shall receive a copy of the final order adjudicating the petition.

(d) Notice.--

(1) Any order entered under this section placing an inmate in a hospital, long-term care nursing facility or hospice care location which provides care to persons who were not placed therein pursuant to an order entered under this section shall direct the individual in charge of the hospital, long-term care nursing facility or hospice care location to ensure that each person receiving care at, and each employee or contractor working in, the hospital, long-term care nursing facility or hospice care location is notified that the placement was ordered if it is foreseeable that the person, employee or contractor will come into contact with the inmate during the placement.

(2) The sentencing court shall forward notice of any order entered under this section placing an inmate in a hospital, long-term care nursing facility or hospice care location to the hospital, long-term care nursing facility or hospice care location and to the Department of Human Services.

(e) Petition requirements.--Any petition filed pursuant to this section must aver:

(1) The name of the hospital, long-term care nursing facility or hospice care location proposed for placement.

(2) That the petitioner reasonably believes the named hospital, long-term care nursing facility or hospice care location has agreed to accept the placement of the inmate and the facts upon which that belief is based.

(f) Removal from placement.--If an inmate placed in a hospital, long-term care nursing facility or hospice care location pursuant to this chapter removes himself from the hospital, long-term care nursing facility or hospice care location, the inmate shall be subject to arrest upon probable cause and shall, upon conviction thereof, be guilty of criminal contempt.

(g) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Chief administrator." As defined under 61 Pa.C.S. § 102 (relating to definitions).

"Department." The Department of Corrections of the Commonwealth.

"Hospice care location." A home, independent living environment or inpatient setting that provides a coordinated program of palliative and supportive services through a licensed hospice care provider.

"Hospital." An entity licensed as an acute-care general hospital, a specialty hospital or a rehabilitation hospital under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Licensed hospice care provider." A hospice as defined under section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Long-term care nursing facility." A long-term care nursing facility as defined under section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Prosecuting attorney." The Office of Attorney General of the Commonwealth or the office of a district attorney of a county who represented the Commonwealth at the most recent sentencing of an inmate.

"Sentencing court." The trial judge who most recently sentenced an inmate or, if the trial judge is no longer serving as a judge of that court, the president judge of the county court of common pleas.

(Aug. 11, 2009, P.L.147, No.33, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (d)(2).

2009 Amendment. Act 33 added section 9777.

SUBCHAPTER G
APPELLATE REVIEW OF SENTENCE

Sec.

9781. Appellate review of sentence.

Prior Provisions. Former Subchapter G of Title 18 (Crimes and Offenses), which related to Pennsylvania Commission on Sentencing, was added November 26, 1978, P.L.1316, No.319, and repealed October 5, 1980, P.L.693, No.142, effective in 60 days, except for section 1386 of Title 18 which was renumbered and transferred to section 9781 of Title 42. The subject matter of the repealed provisions is now contained in Subchapter F of Chapter 21.

§ 9781. Appellate review of sentence.

(a) Right to appeal.--The defendant or the Commonwealth may appeal as of right the legality of the sentence.

(b) Allowance of appeal.--The defendant or the Commonwealth may file a petition for allowance of appeal of the discretionary aspects of a sentence for a felony or a misdemeanor to the appellate court that has initial jurisdiction for such appeals. Allowance of appeal may be granted at the discretion of the appellate court where it appears that there is a substantial question that the sentence imposed is not appropriate under this chapter.

(c) Determination on appeal.--The appellate court shall vacate the sentence and remand the case to the sentencing court with instructions if it finds:

(1) the sentencing court purported to sentence within the sentencing guidelines but applied the guidelines erroneously;

(2) the sentencing court sentenced within the sentencing guidelines but the case involves circumstances where the application of the guidelines would be clearly unreasonable; or

(3) the sentencing court sentenced outside the sentencing guidelines and the sentence is unreasonable.

In all other cases the appellate court shall affirm the sentence imposed by the sentencing court.

(d) Review of record.--In reviewing the record the appellate court shall have regard for:

(1) The nature and circumstances of the offense and the history and characteristics of the defendant.

(2) The opportunity of the sentencing court to observe the defendant, including any presentence investigation.

(3) The findings upon which the sentence was based.

(4) The guidelines promulgated by the commission.

(e) Right to bail not enlarged.--Nothing in this chapter shall be construed to enlarge the defendant's right to bail pending appeal.

(f) Limitation on additional appellate review.--No appeal of the discretionary aspects of the sentence shall be permitted beyond the appellate court that has initial jurisdiction for such appeals.

(g) Implementing rules of court.--(Repealed).

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days)

1980 Repeal. Act 142 repealed subsec. (g).

Effective Date. Section 218(b) of Act 142 of 1980 provided that the provisions of 18 Pa.C.S. § 1386 (redesignated by Act 142 as 42 Pa.C.S. § 9781) shall take effect upon the effective date of initial sentencing guidelines pursuant to 42 Pa.C.S. § 2155(c). The initial sentencing guidelines, as revised, were adopted January 5, 1982, and became effective July 22, 1982.

Cross References. Section 9781 is referred to in section 724 of this title.

SUBCHAPTER H
REGISTRATION OF SEXUAL OFFENDERS

Sec.

9791. Legislative findings and declaration of policy (Expired).
9792. Definitions (Expired).
9793. Registration of certain offenders for ten years (Deleted by amendment).
9794. Designation of sexually violent predators (Deleted by amendment).
9795. Registration of offenders (Deleted by amendment).
9795.1. Registration (Expired).
9795.2. Registration procedures and applicability (Expired).
9795.3. Sentencing court information (Expired).
9795.4. Assessments (Expired).
9795.5. Exemption from certain notifications (Expired).
9796. Verification of residence (Expired).
9797. Victim notification (Expired).
9798. Other notification (Expired).

9798.1. Information made available on the Internet and electronic notification (Expired).
9798.2. Administration (Expired).
9798.3. Global positioning system technology (Expired).
9799. Immunity for good faith conduct (Expired).
9799.1. Duties of Pennsylvania State Police (Expired).
9799.2. Duties of Pennsylvania Board of Probation and Parole (Expired).
9799.3. Board (Expired).
9799.4. Counseling of sexually violent predators (Expired).
9799.5. Exemption from notification (Deleted by amendment).
9799.6. Applicability (Deleted by amendment).
9799.7. Exemption from notification for certain licensees and their employees (Expired).
9799.8. Annual performance audit (Expired).
9799.9. Photographs and fingerprinting (Expired).
9799.10. Purposes of subchapter.
9799.11. Legislative findings, declaration of policy and scope.
9799.12. Definitions.
9799.13. Applicability.
9799.14. Sexual offenses and tier system.
9799.15. Period of registration.
9799.16. Registry.
9799.17. Termination of period of registration for juvenile offenders.
9799.18. Information sharing.
9799.19. Initial registration.
9799.20. Duty to inform.
9799.21. Penalty.
9799.22. Enforcement.
9799.23. Court notification and classification requirements.
9799.24. Assessments.
9799.25. Verification by sexual offenders and Pennsylvania State Police.
9799.26. Victim notification.
9799.27. Other notification.
9799.28. Public Internet website.
9799.29. Administration.
9799.30. Global positioning system technology.
9799.31. Immunity for good faith conduct.
9799.32. Pennsylvania State Police and Department of Corrections.
9799.33. Duties of Department of Corrections and probation and parole officials.
9799.34. Duties of facilities housing sexual offenders.
9799.35. Board.
9799.36. Counseling of sexually violent predators.
9799.37. Exemption from notification for certain licensees and their employees.
9799.38. Annual performance audit.
9799.39. Photographs and fingerprinting.
9799.40. Duties of Pennsylvania Commission on Sentencing.
9799.41. Expiration.
9799.42. Standing for Pennsylvania State Police.

Enactment. Subchapter H was added October 24, 1995, 1st Sp.Sess., P.L.1079, No.24, effective in 180 days, unless otherwise noted.

Reenactment. Subchapter H was reenacted and amended May 10, 2000, P.L.74, No.18, effective in 60 days.

Special Provisions in Appendix. See section 21 of Act 29 of 2018 in the appendix to this title for special provisions relating to applicability.

Cross References. Subchapter H is referred to in sections 5920, 6302, 9774.1, 9799.55, 9799.63, 9799.67, 9802 of this title; sections 3130, 3141, 4915.1, 4915.2 of Title 18 (Crimes and Offenses); sections 2511, 6303, 6338.1, 6707 of Title 23 (Domestic Relations); section 2303 of Title 44 (Law and Justice); sections 3903, 4103, 4503, 4601, 6137, 6137.1, 6138, 6139, 6143 of Title 61 (Prisons and Parole).

§ 9791. Legislative findings and declaration of policy (Expired).

2012 Expiration. Section 9791 expired December 20, 2012. See Act 111 of 2011.

§ 9792. Definitions (Expired).

2012 Expiration. Section 9792 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9793. Registration of certain offenders for ten years (Deleted by amendment).

2000 Amendment. Section 9793 was deleted by amendment May 10, 2000, P.L.74, No.18, effective in 60 days.

§ 9794. Designation of sexually violent predators (Deleted by amendment).

2000 Amendment. Section 9794 was deleted by amendment May 10, 2000, P.L.74, No.18, effective in 60 days.

§ 9795. Registration of offenders (Deleted by amendment).

2000 Amendment. Section 9795 was deleted by amendment May 10, 2000, P.L.74, No.18, effective in 60 days.

§ 9795.1. Registration (Expired).

2012 Expiration. Section 9795.1 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9795.2. Registration procedures and applicability (Expired).

2012 Expiration. Section 9795.2 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9795.3. Sentencing court information (Expired).

2012 Expiration. Section 9795.3 expired December 20, 2012. See Act 111 of 2011.

§ 9795.4. Assessments (Expired).

2012 Expiration. Section 9795.4 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9795.5. Exemption from certain notifications (Expired).

2012 Expiration. Section 9795.5 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9796. Verification of residence (Expired).

2012 Expiration. Section 9796 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9797. Victim notification (Expired).

2012 Expiration. Section 9797 expired December 20, 2012. See Act 111 of 2011.

§ 9798. Other notification (Expired).

2012 Expiration. Section 9798 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9798.1. Information made available on the Internet and electronic notification (Expired).

2012 Expiration. Section 9798.1 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9798.2. Administration (Expired).

2012 Expiration. Section 9798.2 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9798.3. Global positioning system technology (Expired).

2012 Expiration. Section 9798.3 expired December 20, 2012. See Act 111 of 2011.

§ 9799. Immunity for good faith conduct (Expired).

2012 Expiration. Section 9799 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9799.1. Duties of Pennsylvania State Police (Expired).

2012 Expiration. Section 9799.1 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9799.2. Duties of Pennsylvania Board of Probation and Parole (Expired).

2012 Expiration. Section 9799.2 expired December 20, 2012. See Act 111 of 2011.

§ 9799.3. Board (Expired).

2012 Expiration. Section 9799.3 expired December 20, 2012. See Act 111 of 2011.

§ 9799.4. Counseling of sexually violent predators (Expired).

2012 Expiration. Section 9799.4 expired December 20, 2012. See Act 111 of 2011.

§ 9799.5. Exemption from notification (Deleted by amendment).

2000 Amendment. Section 9799.5 was deleted by amendment May 10, 2000, P.L.74, No.18, effective in 60 days.

§ 9799.6. Applicability (Deleted by amendment).

2000 Amendment. Section 9799.6 was deleted by amendment May 10, 2000, P.L.74, No.18, effective in 60 days.

§ 9799.7. Exemption from notification for certain licensees and their employees (Expired).

2012 Expiration. Section 9799.7 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9799.8. Annual performance audit (Expired).

2012 Expiration. Section 9799.8 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9799.9. Photographs and fingerprinting (Expired).

2012 Expiration. Section 9799.9 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9799.10. Purposes of subchapter.

This subchapter shall be interpreted and construed to effectuate the following purposes:

(1) To bring the Commonwealth into substantial compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 120 Stat. 587).

(2) To require individuals convicted or adjudicated delinquent of certain sexual offenses to register with the Pennsylvania State Police and to otherwise comply with this subchapter if those individuals reside within this Commonwealth, intend to reside within this Commonwealth, attend an educational institution within this Commonwealth or are employed or conduct volunteer work within this Commonwealth.

(3) To require individuals convicted or adjudicated delinquent of certain sexual offenses who fail to maintain a residence and are therefore homeless but can still be found within the borders of this Commonwealth to register with the Pennsylvania State Police.

(4) To require individuals who are subject to the criminal justice system of this Commonwealth as inmates,

supervised with respect to probation or parole or registrants due to committing a sexually violent offense on or after December 20, 2012, for which the individual was convicted, to register with the Pennsylvania State Police and to otherwise comply with this subchapter. To the extent practicable and consistent with the requirements of the Adam Walsh Child Protection and Safety Act of 2006, this subchapter shall be construed to maintain existing procedures regarding registration of sexual offenders who are subject to the criminal justice system of this Commonwealth.

(5) To provide a mechanism for members of the general public to obtain information about certain sexual offenders from a public Internet website and to include on that Internet website a feature which will allow a member of the public to enter a zip code or a geographic radius and determine whether a sexual offender resides within that zip code or radius.

(6) To provide a mechanism for law enforcement entities within this Commonwealth to obtain information about certain sexual offenders and to allow law enforcement entities outside this Commonwealth, including those within the Federal Government, to obtain current information about certain sexual offenders.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.10 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.10 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended par. (4) and Act 29 reenacted par. (4). Section 20(1) of Act 10 provided that the amendment of section 9799.10 shall apply to an individual who commits an offense on or after December 20, 2012.

2012 Amendment . Act 91 amended pars. (2) and (3).

2011 Amendment. Act 111 added section 9799.10.

§ 9799.11. Legislative findings, declaration of policy and scope.

(a) Legislative findings.--The General Assembly finds as follows:

(1) In 1995 the General Assembly enacted the act of October 24, 1995 (1st Sp.Sess. P.L.1079, No.24), commonly referred to as Megan's Law. Through this enactment, the General Assembly intended to comply with legislation enacted by Congress requiring that states provide for the registration of sexual offenders. The Federal statute, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (Public Law 103-322, 42 U.S.C. 14071 et seq.), has been superseded by the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 120 Stat. 587).

(2) This Commonwealth's laws regarding registration of sexual offenders need to be strengthened. The Adam Walsh Child Protection and Safety Act of 2006 provides a mechanism for the Commonwealth to increase its regulation of sexual offenders in a manner which is nonpunitive but offers an increased measure of protection to the citizens of this Commonwealth.

(3) If the public is provided adequate notice and information about sexual offenders, the community can develop constructive plans to prepare for the presence of sexual offenders in the community. This allows communities to meet with law enforcement to prepare and obtain information about the rights and responsibilities of the community and to provide education and counseling to residents, particularly children.

(4) Sexual offenders pose a high risk of committing additional sexual offenses and protection of the public from this type of offender is a paramount governmental interest.

(5) Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government.

(6) Release of information about sexual offenders to public agencies and the general public will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems so long as the information released is rationally related to the furtherance of those goals.

(7) Knowledge of whether a person is a sexual offender could be a significant factor in protecting oneself and one's family members, or those in care of a group or community organization, from recidivist acts by such offenders.

(8) The technology afforded by the Internet and other modern electronic communication methods makes this information readily accessible to parents, minors and private entities, enabling them to undertake appropriate remedial precautions to prevent or avoid placing potential victims at risk.

(b) Declaration of policy.--The General Assembly declares as follows:

(1) It is the intention of the General Assembly to substantially comply with the Adam Walsh Child Protection and Safety Act of 2006 and to further protect the safety and general welfare of the citizens of this Commonwealth by providing for increased regulation of sexual offenders, specifically as that regulation relates to registration of sexual offenders and community notification about sexual offenders.

(2) It is the policy of the Commonwealth to require the exchange of relevant information about sexual offenders among public agencies and officials and to authorize the release of necessary and relevant information about sexual offenders to members of the general public as a means of assuring public protection and shall not be construed as punitive.

(3) It is the intention of the General Assembly to address the Pennsylvania Supreme Court's decision in Commonwealth v. Neiman, No.74 MAP 2011 (Pa. 2013), by amending this subchapter in the act of March 14, 2014 (P.L.41, No.19).

(4) It is the intention of the General Assembly to address the Pennsylvania Supreme Court's decision in Commonwealth v. Muniz, 164 A.3d 1189 (Pa. 2017) and the Pennsylvania Superior Court's decision in Commonwealth v. Butler (2017 WL 4914155).

(c) Scope.--This subchapter shall apply to individuals who committed a sexually violent offense on or after December 20, 2012, for which the individual was convicted.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; Mar. 14, 2014, P.L.41, No.19, eff. imd.; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.11 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.11 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended the section heading and added subsecs. (b)(4) and (c) and Act 29 reenacted the section heading and subsecs. (b)(4) and (c). Section 20(1) of Act 10 provided that the amendment of section 9799.11 shall apply to an individual who commits an offense on or after December 20, 2012.

2014 Amendment. Act 19 amended subsec. (b).

2011 Amendment. Act 111 added section 9799.11.

References in Text. The citation, Commonwealth v. Butler, (2017 WL 4914155), referred to in subsec. (b)(4), was incorrectly cited as Commonwealth v. Butler (2017 WL 3882445) in Acts 10 and 29 of 2018. The parallel citation is Commonwealth v. Butler, 173 A.3d 1212 (Pa. Super. 2017).

§ 9799.12. 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:

"Approved registration site." A site in this Commonwealth approved by the Pennsylvania State Police at which individuals subject to this subchapter may comply with this subchapter.

"Board." The State Sexual Offenders Assessment Board.

"Common interest community." Includes a cooperative, a condominium and a planned community where an individual by virtue of an ownership interest in any portion of real estate is or may become obligated by covenant, easement or agreement imposed upon the owner's interest to pay any amount for real property taxes, insurance, maintenance, repair, improvement, management, administration or regulation of any part of the real estate other than the portion or interest owned solely by the individual.

"Convicted." Includes conviction by entry of plea of guilty or nolo contendere, conviction after trial or court martial and a finding of not guilty due to insanity or of guilty but mentally ill.

"Employed." Includes a vocation or employment that is full time or part time for a period of time exceeding four days during a seven-day period or for an aggregate period of time exceeding 14 days during any calendar year, whether self-employed, volunteered, financially compensated, pursuant to a contract or for the purpose of governmental or educational benefit.

"Foreign country." Includes Canada, the United Kingdom, Australia, New Zealand and a foreign country where the United States Department of State in the Country Reports on Human Rights Practices has concluded that an independent judiciary enforced the right to a fair trial in that country during the calendar year in which the individual's conviction occurred.

"IAFIS." The Integrated Automated Fingerprint Identification System.

"Integrated Automated Fingerprint Identification System." The national fingerprint and criminal history system maintained by the Federal Bureau of Investigation providing automated fingerprint search capabilities, latent searching capability, electronic image storage and electronic exchange of fingerprints and responses.

"Jurisdiction." A state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands and a federally recognized Indian tribe as provided in section 127 of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 42 U.S.C. § 16927).

"Juvenile offender." One of the following:

(1) An individual who was 14 years of age or older at the time the individual committed an offense which, if committed by an adult, would be classified as an offense under 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse) or 3125 (relating to aggravated indecent assault) or an attempt, solicitation or conspiracy to commit an offense under 18 Pa.C.S. § 3121, 3123 or 3125 and either:

(i) is adjudicated delinquent for such offense on or after the effective date of this section; or

(ii) has been adjudicated delinquent for such offense and on the effective date of this section is subject to the jurisdiction of the court on the basis of that adjudication of delinquency, including commitment to an institution or facility set forth in section 6352(a)(3) (relating to disposition of delinquent child).

(2) An individual who, on or after the effective date of this paragraph, was 14 years of age or older at the time the individual committed an offense similar to an offense under 18 Pa.C.S. § 3121, 3123 or 3125 or an attempt, solicitation or conspiracy to commit an offense similar to an offense under 18 Pa.C.S. § 3121, 3123 or 3125 under the laws of the United States, another jurisdiction or a foreign country and was adjudicated delinquent for such an offense; or who was previously adjudicated delinquent for such an offense and, on the effective date of this paragraph, is subject to the jurisdiction of the court on the basis of that adjudication of delinquency.

(3) An individual who, on or after the effective date of this paragraph, was required to register in a sexual offender registry in another jurisdiction or foreign country based upon an adjudication of delinquency.

The term does not include a sexually violent delinquent child.

"Mental abnormality." A congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

"Military offense." An offense specified by the United States Secretary of Defense under 10 U.S.C. § 951 (relating to establishment; organization; administration).

"Minor." Any individual under 18 years of age.

"Municipality." A city, borough, incorporated town or township.

"NCIC." The National Crime Information Center.

"Penetration." Includes any penetration, however slight, of the genitals or anus or mouth of another person with a part of the person's body or a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.

"Predatory." An act directed at a stranger or at a person with whom a relationship has been initiated, established, maintained or promoted, in whole or in part, in order to facilitate or support victimization.

"Registry." The Statewide Registry of Sexual Offenders established in section 9799.16(a) (relating to registry).

"Residence." A location where an individual resides or is domiciled or intends to be domiciled for 30 consecutive days or more during a calendar year. The term includes a residence which is mobile, including a houseboat, mobile home, trailer or recreational vehicle.

"Sexual offender." An individual who has committed a sexually violent offense. The term includes a sexually violent predator.

"Sexually violent delinquent child." As defined in section 6402 (relating to definitions) if the determination as a sexually violent delinquent child is based on an act of sexual violence, as defined in section 6402, committed on or after December 20, 2012, for which the child was adjudicated delinquent and determined to be in need of commitment for involuntary treatment as specified in Chapter 64 (relating to court-ordered involuntary treatment of certain sexually violent persons).

"Sexually violent offense." An offense specified in section 9799.14 (relating to sexual offenses and tier system) as a Tier I, Tier II or Tier III sexual offense committed on or after December 20, 2012, for which the individual was convicted.

"Sexually violent predator." An individual who committed a sexually violent offense on or after December 20, 2012, for which the individual was convicted, specified in:

(1) section 9799.14(b)(1), (2), (3), (4), (5), (6), (8), (9) or (10) (relating to sexual offenses and tier system) or an attempt, conspiracy or solicitation to commit any offense under section 9799.14(b)(1), (2), (3), (4), (5), (6), (8), (9) or (10);

(2) section 9799.14(c)(1), (1.1), (1.2), (1.3), (2), (3), (4), (5) or (6) or an attempt, conspiracy or solicitation to commit an offense under section 9799.14(c)(1), (1.1), (1.2), (1.3), (2), (3), (4), (5) or (6); or

(3) section 9799.14(d)(1), (2), (3), (4), (5), (6), (7), (8) or (9) or an attempt, conspiracy or solicitation to commit an offense under section 9799.14(d)(1), (2), (3), (4), (5), (6), (7), (8) or (9)

who is determined to be a sexually violent predator under section 9799.24 (relating to assessments) due to a mental abnormality or personality disorder that makes the individual likely to engage in predatory sexually violent offenses. The term includes an individual determined to be a sexually violent predator or similar designation where the determination occurred in another jurisdiction, a foreign country or by court martial following a judicial or administrative determination pursuant to a process similar to that under section 9799.24 where the determination or designation is based on the commitment of a sexually violent offense on or after December 20, 2012, for which the individual was convicted.

"Student." An individual who is enrolled in or attends a public or private educational institution within this Commonwealth on a full-time or part-time basis, including a secondary school, trade or professional institution or institution of higher education. The term does not include an individual enrolled in an educational institution exclusively through the Internet or via correspondence courses.

"Temporary lodging." The specific location, including street address, where a sexual offender is staying when away from the sexual offender's residence for seven or more days.

"Tier I sexual offense." An offense specified in section 9799.14(b) (relating to sexual offenses and tier system).

"Tier II sexual offense." An offense specified in section 9799.14(c) (relating to sexual offenses and tier system).

"Tier III sexual offense." An offense specified in section 9799.14(d) (relating to sexual offenses and tier system).

"Transient." A sexual offender who does not have a residence but nevertheless resides in this Commonwealth in a temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park. (Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Mar. 14, 2014, P.L.41, No.19, eff. imd.; Sept. 27, 2014, P.L.2482, No.138, eff. 60 days; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.12 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.12 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended the defs. of "sexual offender," "sexually violent delinquent child," "sexually violent offense," "sexually violent predator" and "transient" and Act 29 reenacted the defs. of "sexual offender," "sexually violent delinquent child," "sexually violent offense," "sexually violent predator" and "transient." Section 20(1) of Act 10 provided that the amendment of section 9799.12 shall apply to an individual who commits an offense on or after December 20, 2012.

2014 Amendment. Act 138 amended the defs. of "juvenile offender" and "sexually violent predator," retroactive to September 2, 2014, as to the def. of "sexually violent predator."

2012 Amendment . Act 91 amended the defs. of "approved registration site," "convicted," "juvenile offender" and "sexually violent predator."

2011 Amendment. Act 111 added section 9799.12.

Cross References. Section 9799.12 is referred to in sections 9718.1, 9799.19 of this title; section 4915.1 of Title 18 (Crimes and Offenses); sections 6303, 6338.1 of Title 23 (Domestic Relations).

§ 9799.13. Applicability.

The following individuals shall register with the Pennsylvania State Police as provided in sections 9799.15 (relating to period of registration), 9799.19 (relating to initial registration) and 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police) and otherwise comply with the provisions of this subchapter:

(1) A sexual offender who has a residence within this Commonwealth or is a transient.

(1.1) A sexual offender who is convicted in this Commonwealth and who does not have a residence in this Commonwealth and:

(i) is employed in this Commonwealth; or

(ii) is a student in this Commonwealth.

(1.2) A sexual offender who does not have a residence within this Commonwealth or is not a transient in this Commonwealth and:

(i) is employed in this Commonwealth; or

(ii) is a student in this Commonwealth.

(2) A sexual offender who is an inmate in a State or county correctional institution of this Commonwealth,

including a community corrections center or a community contract facility, is being supervised by the Department of Corrections or county probation or parole, is subject to a sentence of intermediate punishment or restrictive conditions of probation or has supervision transferred pursuant to the Interstate Compact for Adult Supervision in accordance with section 9799.19(g).

(2.1) A sexual offender who is an inmate in a Federal correctional institution or is supervised by Federal probation authorities and who:

(i) has a residence within this Commonwealth or is a transient;

(ii) is employed within this Commonwealth; or

(iii) is a student within this Commonwealth.

(3) (Deleted by amendment).

(3.1) (Deleted by amendment).

(3.2) (Deleted by amendment).

(4) (Deleted by amendment).

(5) (Deleted by amendment).

(6) (Deleted by amendment).

(7) A sexual offender required to register in a sexual offender registry in another jurisdiction or in a foreign country based upon a conviction for a sexually violent offense or under a sexual offender statute in the jurisdiction where the individual is convicted and:

(i) has a residence in this Commonwealth or is a transient;

(ii) is employed within this Commonwealth; or

(iii) is a student within this Commonwealth.

(7.1) An individual who, as a result of committing an offense set forth in section 9799.14(b)(23) (relating to sexual offenses and tier system) on or after December 20, 2012, for which the individual was convicted, is required to register in a sexual offender registry in another jurisdiction or foreign country and:

(i) has a residence in this Commonwealth or is a transient;

(ii) is employed within this Commonwealth; or

(iii) is a student within this Commonwealth.

(7.2) A sexual offender who is convicted in another jurisdiction or foreign country, or is incarcerated or under supervision as a result of a conviction in another jurisdiction or foreign country and:

(i) has a residence in this Commonwealth or is a transient;

(ii) is employed within this Commonwealth; or

(iii) is a student within this Commonwealth.

(8) An individual who, on or after December 20, 2012, is a juvenile offender who was adjudicated delinquent within this Commonwealth or was adjudicated delinquent in another jurisdiction or a foreign country and:

(i) has a residence within this Commonwealth;

(ii) is employed within this Commonwealth; or

(iii) is a student within this Commonwealth.

(8.1) An individual who is a juvenile offender who is adjudicated delinquent in this Commonwealth on or after December 20, 2012, but who does not have a residence within this Commonwealth, is not a transient, is not employed in this Commonwealth or is not a student within this Commonwealth must register with the Pennsylvania State Police in accordance with section 9799.19 prior to leaving this Commonwealth.

(8.2) An individual who between January 23, 2005, and December 19, 2012, established a residence or was a transient in this Commonwealth, was employed within this Commonwealth, or was a student in this Commonwealth, and who was required to register in a sexual offender registry as a result of an adjudication of delinquency for an offense which occurred in a foreign country or another jurisdiction and that required the individual to register in that foreign country or other jurisdiction.

(9) An individual who is a sexually violent delinquent child.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Mar. 14, 2014, P.L.41, No.19, eff. imd.; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended par. (2).

2021 Unconstitutionality. Section 9799.13 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.13 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended section 9799.13 and Act 29 reenacted and amended section 9799.13. Act 29 overlooked the amendment by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.13. Section 20(1) of Act 10 provided that the amendment of section 9799.13 shall apply to an individual who commits an offense on or after December 20, 2012.

2014 Amendment. Act 19 amended par. (3) and added pars. (3.1), (3.2) and (8.2), retroactive to December 20, 2012.

References in Text. Section 16 of Act 111 of 2011 provided that any reference in any act or part of an act to section 9795.1, referred to in par. (4), shall be deemed a reference to section 9799.15 as if fully set forth in that act or part of that act.

Cross References. Section 9799.13 is referred to in sections 9718.4, 9799.15, 9799.16, 9799.18, 9799.19, 9799.21, 9799.22, 9799.25, 9799.32, 9799.34, 9799.36, 9799.39 of this title; section 4915.1 of Title 18 (Crimes and Offenses).

§ 9799.14. Sexual offenses and tier system.

(a) Tier system established.--Sexual offenses shall be classified in a three-tiered system composed of Tier I sexual offenses, Tier II sexual offenses and Tier III sexual offenses.

(b) Tier I sexual offenses.--The following offenses shall be classified as Tier I sexual offenses:

(1) 18 Pa.C.S. § 2902(b) (relating to unlawful restraint).

(2) 18 Pa.C.S. § 2903(b) (relating to false imprisonment).

(3) 18 Pa.C.S. § 2904 (relating to interference with custody of children), except in cases where the defendant is the child's parent, guardian or other lawful custodian.

(4) 18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).

(4.1) 18 Pa.C.S. § 3011(a)(1) and (2) (relating to trafficking in individuals).

(4.2) 18 Pa.C.S. § 3013 (relating to patronizing a victim of sexual servitude).

(5) 18 Pa.C.S. § 3124.2(a) and (a.4)(1) (relating to institutional sexual assault).

(6) 18 Pa.C.S. § 3126(a)(1) (relating to indecent assault).

(7) (Reserved).

(8) 18 Pa.C.S. § 6301(a)(1)(ii) (relating to corruption of minors).

(9) 18 Pa.C.S. § 6312(d) (relating to sexual abuse of children).

(10) 18 Pa.C.S. § 7507.1. (relating to invasion of privacy).

(11) 18 U.S.C. § 1801 (relating to video voyeurism).

(12) 18 U.S.C. § 2252(a)(4) (relating to certain activities relating to material involving the sexual exploitation of minors).

(13) 18 U.S.C. § 2252A (relating to certain activities relating to material constituting or containing child pornography).

(14) 18 U.S.C. § 2252B (relating to misleading domain names on the Internet).

(15) 18 U.S.C. § 2252C (relating to misleading words or digital images on the Internet).

(16) 18 U.S.C. § 2422(a) (relating to coercion and enticement).

(17) 18 U.S.C. § 2423(b) (relating to transportation of minors).

(18) 18 U.S.C. § 2423(c).

(19) 18 U.S.C. § 2424 (relating to filing factual statement about alien individual).

(20) 18 U.S.C. § 2425 (relating to use of interstate facilities to transmit information about a minor).

(21) A comparable military offense or similar offense under the laws of another jurisdiction or foreign country or under a former law of this Commonwealth.

(22) An attempt, conspiracy or solicitation to commit an offense listed in paragraph (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20) or (21).

(23) A conviction for a sexual offense in another jurisdiction or foreign country that is not set forth in this section, but nevertheless requires registration under a sexual offender statute in the jurisdiction or foreign country.

(c) Tier II sexual offenses.--The following offenses shall be classified as Tier II sexual offenses:

(1) 18 Pa.C.S. § 3011(b).

(1.1) 18 Pa.C.S. § 3122.1(a)(2) (relating to statutory sexual assault).

(1.2) 18 Pa.C.S. § 3124.2(a.2) and (a.3).

(1.3) 18 Pa.C.S. § 3126(a)(2), (3), (4), (5), (6) or (8).

(1.4) 18 Pa.C.S. § 3012 (relating to involuntary servitude) as it relates to sexual servitude.

(2) 18 Pa.C.S. § 5902(b.1) (relating to prostitution and related offenses).

(3) 18 Pa.C.S. § 5903(a)(3)(ii), (4)(ii), (5)(ii) or (6) (relating to obscene and other sexual materials and performances).

(4) 18 Pa.C.S. § 6312(b) and (c).

(5) 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(6) 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(7) 18 U.S.C. § 1591 (relating to sex trafficking of children by force, fraud, or coercion).

(8) 18 U.S.C. § 2243 (relating to sexual abuse of a minor or ward).

(9) 18 U.S.C. § 2244 (relating to abusive sexual contact) where the victim is 13 years of age or older but under 18 years of age.

(10) 18 U.S.C. § 2251 (relating to sexual exploitation of children).

(11) 18 U.S.C. § 2251A (relating to selling or buying of children).

(12) 18 U.S.C. § 2252(a)(1), (2) or (3).

(13) 18 U.S.C. § 2260 (relating to production of sexually explicit depictions of a minor for importation into the United States).

(14) 18 U.S.C. § 2421 (relating to transportation generally).

(15) 18 U.S.C. § 2422(b).

(16) 18 U.S.C. § 2423(a).

(17) A comparable military offense or similar offense under the laws of another jurisdiction or foreign country or under a former law of this Commonwealth.

(18) An attempt, conspiracy or solicitation to commit an offense listed in paragraph (1), (1.1), (1.2), (1.3), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16) or (17).

(d) Tier III sexual offenses.--The following offenses shall be classified as Tier III sexual offenses:

(1) 18 Pa.C.S. § 2901(a.1) (relating to kidnapping).

(2) 18 Pa.C.S. § 3121 (relating to rape).

(3) 18 Pa.C.S. § 3122.1(b) (relating to statutory sexual assault).

(4) 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(5) 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(6) 18 Pa.C.S. § 3124.2(a.1) and (a.4)(2).

(7) 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(8) 18 Pa.C.S. § 3126(a)(7).

(9) 18 Pa.C.S. § 4302(b) (relating to incest).

(10) 18 U.S.C. § 2241 (relating to aggravated sexual abuse).

(11) 18 U.S.C. § 2242 (relating to sexual abuse).

(12) 18 U.S.C. § 2244 where the victim is under 13 years of age.

(13) A comparable military offense or similar offense under the laws of another jurisdiction or country or under a former law of this Commonwealth.

(14) An attempt, conspiracy or solicitation to commit an offense listed in paragraph (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12) or (13).

(15) (Reserved).

(16) Two or more convictions of offenses listed as Tier I or Tier II sexual offenses.

(17) One conviction of a sexually violent offense and one conviction of a sexually violent offense as defined in section 9799.55 (relating to registration).

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Mar. 14, 2014, P.L.41, No.19, eff. imd.; July 2, 2014, P.L.945, No.105, eff. 60 days;

Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; July 23, 2020, P.L.641, No.63, eff. 60 days; Nov. 3, 2022, P.L.2066, No.144, eff. 60 days)

2022 Amendment. Act 144 amended subsec. (c)(1) and added subsecs. (b)(4.1) and (4.2) and (c)(1.4).

2021 Unconstitutionality. Section 9799.14 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2020 Amendment. Act 63 amended subsecs. (b)(5) and (d)(6).

2019 Unconstitutionality. Section 9799.14 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended subsec. (b)(3) and added subsec. (d)(17) and Act 29 reenacted subsecs. (b)(3) and (d)(17). Section 20(1) of Act 10 provided that the amendment of section 9799.14 shall apply to an individual who commits an offense on or after December 20, 2012.

2014 Amendments. Act 19 amended subsec. (c)(18), retroactive to December 20, 2012, and Act 105 amended subsec. (c).

2012 Amendment . Act 91 amended subsecs. (b)(12) and (21), (c)(9), (12) and (17) and (d)(12), (13) and (15) and added subsec. (b)(23).

2011 Amendment. Act 111 added section 9799.14.

Cross References. Section 9799.14 is referred to in sections 9718.2, 9718.5, 9799.12, 9799.13, 9799.15 of this title; sections 9122.1, 9122.3 of Title 18 (Crimes and Offenses); sections 57A12, 57B02 of Title 53 (Municipalities Generally); section 2604.1 of Title 66 (Public Utilities).

§ 9799.15. Period of registration.

(a) Period of registration.--Subject to subsection (c), an individual specified in section 9799.13 (relating to applicability) shall register with the Pennsylvania State Police as follows:

(1) An individual convicted of a Tier I sexual offense, except an offense set forth in section 9799.14(b)(23) (relating to sexual offenses and tier system), shall register for a period of 15 years.

(2) An individual convicted of a Tier II sexual offense shall register for a period of 25 years.

(3) An individual convicted of a Tier III sexual offense shall register for the life of the individual.

(4) A juvenile offender who was adjudicated delinquent in this Commonwealth, or who was adjudicated delinquent in another jurisdiction or foreign country as a consequence of having committed an offense similar to an offense which would require the individual to register if the offense was committed in this Commonwealth, shall register for the life of the individual.

(4.1) A juvenile offender who is required to register in a sexual offender registry in another jurisdiction or foreign country as a consequence of having been adjudicated delinquent for an offense similar to an offense which, if committed in this Commonwealth, would not require the individual to register shall register for a period of time equal to that required of the individual in the other jurisdiction or foreign country.

(5) A sexually violent delinquent child shall register for the life of the individual.

(6) A sexually violent predator shall register for the life of the individual.

(7) An individual subject to registration under section 9799.13(7.1) shall register for the period of time equal to the time for which the individual was required to register in another jurisdiction or foreign country.

(a.1) Credit for time on registry.--(Deleted by amendment).

(a.2) Assessment by court after 25 years.--An individual required to register under subsection (a)(3), (5), (6) and (7) may be exempt from the requirement to register, the requirement to verify residence, employment and enrollment in an educational institution, the requirement to appear on the publicly accessible Internet website maintained by the Pennsylvania State Police and all other requirements of this subchapter if:

(1) Subject to subsection (c), at least 25 years have elapsed prior to filing a petition with the sentencing court to be exempt from the requirements of this subchapter, during which time the petitioner has not been convicted in this Commonwealth or any other jurisdiction or foreign country of an offense punishable by imprisonment of more than one year, or the petitioner's release from custody following the petitioner's most recent conviction for an offense, whichever is later.

(2) Upon receipt of a petition filed under paragraph (1), the sentencing court shall enter an order directing that the petitioner be assessed by the board. Upon receipt from the court of an order for an assessment under this subsection, a member of the board designated by the administrative officer of the board shall conduct an assessment of the petitioner to determine if the relief sought, if granted, is likely to pose a threat to the safety of any other person. The board shall establish standards for evaluations and for evaluators conducting assessments.

(3) The order for an assessment under this subsection shall be sent to the administrative officer of the board within 10 days of the entry. No later than 90 days following receipt of the order, the board shall submit a written report containing the board's assessment to the sentencing court, the district attorney and the attorney for the petitioner.

(4) Within 120 days of filing the petition under paragraph (1), the sentencing court shall hold a hearing to determine whether to exempt the petitioner from the application of any or all of the requirements of this subchapter. The petitioner and the district attorney shall be given notice of the hearing and an opportunity to be heard, the right to call witnesses and the right to cross-examine witnesses. The petitioner shall have the right to counsel and to have a lawyer appointed to represent the petitioner if the petitioner cannot afford one.

(5) The sentencing court shall exempt the petitioner from application of any or all of the requirements of this subchapter, at the discretion of the court, only upon a finding of clear and convincing evidence that exempting the sexual offender from a particular requirement or all of the requirements of this subchapter is not likely to pose a threat to the safety of any other person.

(6) A court granting relief under this subsection shall notify the Pennsylvania State Police in writing within 10 days from the date the relief is granted. If a memorandum of understanding has been entered into under section 9799.26 (relating to victim notification) with respect to relief granted to the petitioner, the Pennsylvania State Police shall transmit the information about the relief to the Office of Victim Advocate as soon as is practicable. The Office of

Victim Advocate shall notify the victim of the relief, in accordance with the memorandum of understanding, as described in section 9799.26.

(7) The petitioner and the Commonwealth shall have the right to appellate review of the actions of the sentencing court under this subsection. An appeal by the Commonwealth shall stay the order of the sentencing court.

(8) The petitioner may file an additional petition with the sentencing court no sooner than five years from the date of the final determination of a court regarding the petition and no sooner than every five years thereafter.

(9) If the petitioner is exempt from any provisions of this subchapter and the petitioner is subsequently convicted under 18 Pa.C.S. § 4915.1 (relating to failure to comply with registration requirements), relief granted under this subsection shall be void and the petitioner shall automatically and immediately again be subject to the provisions of this subchapter, as previously determined by this subchapter.

(a.3) Agency cooperation.--All State, county and local agencies, offices and entities in this Commonwealth, including juvenile probation officers, shall cooperate by providing access to records and information as requested by the board in connection with the court-ordered assessment under subsection (a.2).

(b) Commencement of registration.--The following apply:

(1) The period of registration set forth in subsection (a) shall commence as follows:

(i) For an individual who committed a sexually violent offense in this Commonwealth, the period of registration shall commence upon:

(A) release from incarceration in a State or county correctional facility, including release to a community correction center or community contract facility;

(B) parole or a sentence of probation; or

(C) a sentence of State or county intermediate punishment in which the person is not sentenced to a period of incarceration.

(ii) For an individual who is a juvenile offender, the period of registration shall commence upon:

(A) release from an institution or facility set forth in section 6352(a)(3) (relating to disposition of delinquent child), if the juvenile offender is, on or after December 20, 2012, subject to the jurisdiction of a court pursuant to a disposition entered under section 6352 and is under court-ordered placement in an institution or facility set forth in section 6352(a)(3); or

(B) disposition, if the juvenile offender is, on or after December 20, 2012, subject to the jurisdiction of a court pursuant to a disposition entered under section 6352 and is placed on probation or is otherwise subject to jurisdiction of a court pursuant to a disposition under section 6352 that did not involve out-of-home placement.

(iii) For a sexually violent delinquent child, the period of registration shall commence upon transfer to involuntary outpatient treatment pursuant to section 6404.1 (relating to transfer to involuntary outpatient treatment).

(iv) For an individual who committed a sexually violent offense in another jurisdiction or foreign country or a comparable military offense, the period of registration shall commence upon establishment of a residence or commencement of employment or enrollment as a student within this Commonwealth. This subparagraph shall apply to an individual convicted of a sexually violent offense in another jurisdiction or foreign country or comparable military offense and who is a transient.

(2) Notwithstanding the provisions of paragraph (1), an individual specified in section 9799.13 shall initially register with the Pennsylvania State Police as set forth in section 9799.19 (relating to initial registration).

(c) Period of registration tolled.--The following shall apply:

(1) The period of registration set forth in subsection (a) shall be tolled for the period of time in which the individual specified in section 9799.13 is:

(i) incarcerated in a Federal, State or county correctional institution, excluding a community contract facility or community corrections center;

(ii) subject to a sentence of intermediate punishment which is restrictive and where the individual is sentenced to a period of incarceration;

(iii) committed to an institution or facility set forth in section 6352(a)(3) that provides the individual with 24-hour-per-day supervision and care;

(iv) committed to and receiving involuntary inpatient treatment in the State-owned facility or unit set forth in Chapter 64 (relating to court-ordered involuntary treatment of certain sexually violent persons); or

(v) incarcerated in a Federal correctional institution, excluding a community contract facility or community corrections center.

(2) This subsection shall apply to an individual specified in section 9799.13 who is recommitted to a Federal, State or county correctional institution for a parole violation or who has been sentenced to an additional term of imprisonment. In addition, this subsection shall apply to an individual committed to or recommitted to a Federal correctional institution. In the case of recommitment to a State or county correctional institution, the Department of Corrections or the county correctional facility shall notify the Pennsylvania State Police of the admission of the individual.

(d) Sexually violent predators.--An individual convicted of a Tier I sexual offense, a Tier II sexual offense or a Tier III sexual offense who is determined to be a sexually violent predator under section 9799.24 (relating to assessments) shall register for the life of the individual.

(e) Periodic in-person appearance required.--Except as provided in subsection (f) and subject to subsections (g) and (h), an individual specified in section 9799.13 shall appear in person at an approved registration site to provide or verify the information set forth in section 9799.16(b) (relating to registry) and to be photographed as follows:

(1) An individual convicted of a Tier I sexual offense shall appear annually.

(2) An individual convicted of a Tier II sexual offense shall appear semiannually.

(3) An individual convicted of a Tier III sexual offense shall appear quarterly.

(4) An individual required to register pursuant to section 9799.13(7.1) shall appear annually.

(f) Sexually violent predators.--A sexually violent predator shall appear in person at an approved registration site to:

(1) provide or verify the information set forth in section 9799.16(b);

(2) be photographed quarterly; and

(3) state whether he is in compliance with section 9799.36 (relating to counseling of sexually violent predators).

(g) In-person appearance to update information.--In addition to the periodic in-person appearance required in subsections (e), (f) and (h), an individual specified in section 9799.13 shall appear in person at an approved registration site within three business days to provide current information relating to:

(1) A change in name, including an alias.

(2) A commencement of residence, change in residence, termination of residence or failure to maintain a residence, thus making the individual a transient.

(3) Commencement of employment, a change in the location or entity in which the individual is employed or a termination of employment.

(4) Initial enrollment as a student, a change in enrollment as a student or termination as a student.

(5) An addition and a change in telephone number, including a cell phone number, or a termination of telephone number, including a cell phone number.

(6) An addition, a change in and termination of a motor vehicle owned or operated, including watercraft or aircraft. In order to fulfill the requirements of this paragraph, the individual must provide any license plate numbers and registration numbers and other identifiers and an addition to or change in the address of the place the vehicle is stored.

(7) A commencement of temporary lodging, a change in temporary lodging or a termination of temporary lodging. In order to fulfill the requirements of this paragraph, the individual must provide the specific length of time and the dates during which the individual will be temporarily lodged.

(8) An addition, change in or termination of e-mail address, instant message address or any other designations used in Internet communications or postings.

(9) An addition, change in or termination of information related to occupational and professional licensing, including type of license held and license number.

(h) Transients, juvenile offenders and sexually violent delinquent children.--If the individual specified in section 9799.13 is a transient, a juvenile offender or a sexually violent delinquent child, the following apply:

(1) If the individual is a transient, the individual shall appear in person at an approved registration site to provide or to verify the information set forth in section 9799.16(b) and to be photographed monthly. The duty to appear in person monthly and to be photographed shall apply until a transient establishes a residence. In the event a transient establishes a residence, the requirement of periodic in-person appearances set forth in subsection (e) shall apply.

(2) If the individual is a juvenile offender who is not a transient, the individual shall appear at an approved

registration site to provide or verify the information set forth in section 9799.16(b) and to be photographed quarterly.

(3) If the individual is a sexually violent delinquent child who is not a transient, the individual shall appear at an approved registration site to provide or verify the information set forth in section 9799.16(b) and to be photographed quarterly.

(i) International travel.--In addition to the periodic in-person appearance required in subsection (e), an individual specified in section 9799.13 shall appear in person at an approved registration site no less than 21 days in advance of traveling outside of the United States. The individual shall provide the following information:

(1) Dates of travel, including date of return to the United States.

(2) Destinations.

(3) Temporary lodging.

(j) In-person reporting by incarcerated or committed individuals.--The requirements of subsections (e), (f), (g) and (h) do not apply where the individual specified in section 9799.13 is:

(1) incarcerated in a correctional institution, excluding a community contract facility or community corrections center;

(2) subject to a sentence of intermediate punishment which is restrictive and where the individual is sentenced to a period of incarceration;

(3) committed to an institution or facility set forth in section 6352(a)(3) which provides the individual with 24-hour-per-day supervision and care; or

(4) committed to and receiving involuntary inpatient treatment in the State-owned facility or unit set forth in Chapter 64.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Mar. 14, 2014, P.L.41, No.19, eff. imd.; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.15 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.15 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended subsec. (b)(1)(i) and (iv), added subsec. (a.2) and deleted subsec. (a.1) and Act 29 reenacted and amended section 9799.15. Act 29 overlooked the amendment by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.15. Section 20(1) of Act 10 provided that the amendment of section 9799.15 shall apply to an individual who commits an offense on or after December 20, 2012.

2014 Amendment. Act 19 added subsec. (a.1), retroactive to December 20, 2012.

2012 Amendment . Act 91 amended subsecs. (a)(1), (4) and (7), (c), (f), (g) and (h) and added subsecs. (a)(4.1) and (j).

2011 Amendment. Act 111 added section 9799.15. Section 16 of Act 111 provided that any reference in any act or part of an act to section 9795.1 shall be deemed a reference to section 9799.15 as if fully set forth in that act or part of that act.

Cross References. Section 9799.15 is referred to in sections 6404.2, 9718.4, 9799.13, 9799.16, 9799.17, 9799.18, 9799.19, 9799.21, 9799.22, 9799.23, 9799.25, 9799.26, 9799.28, 9799.42 of this title; section 4915.1 of Title 18 (Crimes and Offenses).

§ 9799.16. Registry.

(a) Establishment.--There is established a Statewide registry of sexual offenders in order to carry out the provisions of this subchapter. The Pennsylvania State Police shall create and maintain the registry. The registry shall maintain a complete and systematic index of all records required regarding sexual offenders in order to comply with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 120 Stat. 587). The registry shall:

(1) Be composed of an electronic database and digitized records.

(2) Be able to communicate with the Sex Offender Registration and Notification Act Exchange Portal developed by the United States Department of Justice, the National Sex Offender Registry or any successor database which is maintained by the Department of Justice and the Dru Sjodin National Sex Offender Public Internet Website maintained by the Department of Justice.

(3) Be able to communicate with sexual offender registries established in other jurisdictions.

(4) Contain information about individuals required to register with the Pennsylvania State Police under Subchapter I (relating to continued registration of sexual offenders).

(b) Information provided by sexual offender.--An individual specified in section 9799.13 (relating to applicability) shall provide the following information which shall be included in the registry:

(1) Primary or given name, including an alias used by the individual, nickname, pseudonym, ethnic or tribal name, regardless of the context used and any designations or monikers used for self-identification in Internet communications or postings.

(2) Designation used by the individual for purposes of routing or self-identification in Internet communications or postings.

(3) Telephone number, including cell phone number, and any other designation used by the individual for purposes of routing or self-identification in telephonic communications.

(4) Valid Social Security number issued to the individual by the Federal Government and purported Social Security number.

(5) Address of each residence or intended residence, whether or not the residence or intended residence is located within this Commonwealth and the location at which the individual receives mail, including a post office box. If the individual fails to maintain a residence and is therefore a transient, the individual shall provide information for the registry as set forth in paragraph (6).

(6) If the individual is a transient, the individual shall provide information about the transient's temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park. In addition, the transient shall provide a list of places the transient eats, frequents and engages in leisure activities and any planned destinations, including those outside this Commonwealth. If the transient changes or adds to the places listed under this paragraph during a monthly

period, the transient shall list these when registering as a transient during the next monthly period. In addition, the transient shall provide the place the transient receives mail, including a post office box. If the transient has been designated as a sexually violent predator, the transient shall state whether he is in compliance with section 9799.36 (relating to counseling of sexually violent predators). The duty to provide the information set forth in this paragraph shall apply until the transient establishes a residence. In the event a transient establishes a residence, the requirements of section 9799.15(e) (relating to period of registration) shall apply.

(7) Temporary lodging. In order to fulfill the requirements of this paragraph, the individual must provide the specific length of time and the dates during which the individual will be temporarily lodged.

(8) A passport and documents establishing immigration status, which shall be copied in a digitized format for inclusion in the registry.

(9) Name and address where the individual is employed or will be employed. In order to fulfill the requirements of this paragraph, if the individual is not employed in a fixed workplace, the individual shall provide information regarding general travel routes and general areas where the individual works.

(10) Information relating to occupational and professional licensing, including type of license held and the license number.

(11) Name and address where the individual is a student or will be a student.

(12) Information relating to motor vehicles owned or operated by the individual, including watercraft and aircraft. In order to fulfill the requirements of this paragraph, the individual shall provide a description of each motor vehicle, watercraft or aircraft. The individual shall provide a license plate number, registration number or other identification number and the address of the place where a vehicle is stored. In addition, the individual shall provide the individual's license to operate a motor vehicle or other identification card issued by the Commonwealth, another jurisdiction or a foreign country so that the Pennsylvania State Police can fulfill its responsibilities under subsection (c)(7).

(13) Actual date of birth and purported date of birth.

(14) Form signed by the individual acknowledging the individual's obligations under this subchapter provided in accordance with section 9799.23 (relating to court notification and classification requirements).

(c) Criminal justice information.--The Pennsylvania State Police shall ensure that the following information is included in or electronically accessible by the registry:

(1) Physical description of the individual, including a general physical description and tattoos, scars and other identifying marks.

(2) Text of the statute defining the criminal offense for which the individual is registered.

(3) Criminal history record information of the individual, including:

(i) Dates of arrests and convictions.

(ii) Status of probation, parole or supervised release.

(iii) Whether the individual is in compliance with requirements regarding this subchapter or has absconded.

(iv) Existence of any outstanding warrants.

(4) Current photograph of the individual. In order to fulfill the requirements of this paragraph, in addition to the taking of photographs pursuant to section 9799.15(e), the Pennsylvania State Police shall ensure that additional photographs are taken as needed when there is a significant change in appearance of the individual, including the taking of a current photograph before the individual is released from a State or county correctional institution or an institution or facility set forth in section 6352(a)(3) (relating to disposition of delinquent child) or discharged from the State-owned facility or unit set forth in Chapter 64 (relating to court-ordered involuntary treatment of certain sexually violent persons) due to:

(i) the expiration of sentence, period of commitment or involuntary treatment;

(ii) parole or other supervised release, including release to a community corrections center or a community contract facility;

(iii) commencement of a sentence of intermediate punishment; or

(iv) any other form of supervised release.

(5) Set of fingerprints and palm prints of the individual. In order to fulfill the requirements of this paragraph, the palm prints shall be taken for the purpose of submission to the Federal Bureau of Investigation Central Database. The palm prints shall be submitted for entry into the database.

(6) DNA sample of the individual. In order to fulfill the requirements of this paragraph, the sample shall be taken for the purpose of analysis and entry into the Combined DNA Index System (CODIS). In addition, the sample shall be analyzed and submitted for entry into CODIS.

(7) Photocopy of valid driver's license or identification card issued to the individual by the Commonwealth, another jurisdiction or a foreign country.

(d) Cooperation.--There shall be cooperation between the Pennsylvania State Police, State and county correctional institutions, the Pennsylvania Parole Board, the county office of probation and parole, any court with jurisdiction over a sexual offender, the chief juvenile probation officer of the court, juvenile probation and parole and the Department of Human Services to ensure that the information set forth in subsections (b) and (c) is provided and placed in the registry.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (d).

2021 Unconstitutionality. Section 9799.16 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.16 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended subsec. (a) and Act 29 reenacted subsec. (a)(4). Section 20(1) of Act 10 provided that the amendment of section 9799.16 shall apply to an individual who commits an offense on or after December 20, 2012.

2012 Amendment . Act 91 amended subsecs. (b)(5) and (6), (c) intro. par. and (d).

2011 Amendment. Act 111 added section 9799.16.

Cross References. Section 9799.16 is referred to in sections 9799.12, 9799.15, 9799.18, 9799.19, 9799.20, 9799.23, 9799.25 of this title; section 4915.1 of Title 18 (Crimes and Offenses).

§ 9799.17. Termination of period of registration for juvenile offenders.

(a) Juvenile offender.--An individual who is a juvenile offender, with the exception of a juvenile offender whose period of registration is determined by section 9799.15(a)(4.1) (relating to period of registration), shall have the requirement to register terminated if all of the following apply:

(1) At least 25 years have elapsed since the individual was:

(i) adjudicated delinquent for an offense which, if committed by an adult, would be classified as an offense under 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse) or 3125 (relating to aggravated indecent assault) or an attempt, solicitation or conspiracy to commit an offense under 18 Pa.C.S. § 3121, 3123 or 3125, excluding time spent under the supervision of the court, including commitment to an institution or facility set forth in section 6352(a)(3) (relating to deposition of delinquent child); or

(ii) adjudicated delinquent for an offense in another jurisdiction or foreign country which is similar to that which if committed by an adult in this Commonwealth would be classified as an offense under 18 Pa.C.S. § 3121, 3123 or 3125 or an attempt, solicitation or conspiracy to commit an offense under 18 Pa.C.S. § 3121, 3123 or 3125.

(2) For a period of 25 years prior to the filing of the petition, the individual has not been convicted of a subsequent sexually violent offense or a subsequent offense:

(i) graded as a misdemeanor of the second degree or higher; or

(ii) which is punishable by a term of imprisonment greater than one year.

(3) The individual successfully completed court-ordered supervision without revocation.

(4) The individual successfully completed a treatment program for sexual offenders recognized by the juvenile court in this Commonwealth or another jurisdiction or the United States Attorney General under section 115(b)(1) of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 42 U.S.C. § 16915(b)(1)).

(b) Procedure.--An individual who was adjudicated delinquent in this Commonwealth and who seeks to terminate the obligation to register pursuant to subsection (a) may petition the court of common pleas of the county in which the individual was adjudicated delinquent for termination. An individual who was adjudicated delinquent in another jurisdiction or foreign country may petition the court of common pleas in the county in which the individual has established a residence in this Commonwealth. The court shall:

(1) Within 120 days of the filing of the petition under this subsection, hold a hearing to determine whether to terminate the obligation to register. The petitioner and the district attorney shall be given notice of the hearing and an opportunity to be heard, the right to call witnesses, the

right to call expert witnesses and the right to cross-examine witnesses. The petitioner shall have the right to counsel and to have a lawyer appointed if the petitioner cannot afford one.

(2) Terminate the obligation to register only upon a finding of clear and convincing evidence that the petitioner has satisfied the criteria in subsection (a) and that allowing the petitioner to terminate the obligation to register is not likely to pose a threat to the safety of any other person. The burden of proof shall be on the petitioner.

(c) Notice.--A court granting relief under this section shall notify the Megan's Law Unit of the Pennsylvania State Police in writing within ten days from the date relief is granted.

(d) Right to appeal.--The petitioner and the Commonwealth shall have the right to appellate review of the actions of the court taken under this section. An appeal by the Commonwealth shall stay the order of the court.

(e) Prohibition.--This section shall not apply to an individual who:

(1) Has been designated as a sexually violent predator.

(2) Has been convicted of a sexually violent offense who is required to register for a period of 15 years or a period of 25 years.

(3) Has been convicted of a sexually violent offense who is required to register for a period of life.

(4) Is a sexually violent delinquent child.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012)

2021 Unconstitutionality. Section 9799.17 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.17 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

Cross References. Section 9799.17 is referred to in section 9799.23 of this title; section 6338.1 of Title 23 (Domestic Relations).

§ 9799.18. Information sharing.

(a) General rule.--The Pennsylvania State Police shall, within three business days, make available information provided by an individual set forth in section 9799.13 (relating to applicability) under sections 9799.15(g) and (i) (relating to period of registration), 9799.16(b) (relating to registry) and 9799.19 (relating to initial registration) to:

(1) A jurisdiction in which the individual is required to register the individual's residence, employment or enrollment as a student.

(2) A jurisdiction in which the individual has terminated the individual's residence, employment or enrollment as a student.

(3) The United States Attorney General, the Department of Justice and the United States Marshals Service for inclusion in the National Sex Offender Registry, NCIC and any other database established by such Federal agencies.

(4) The district attorney of the county in which the individual:

(i) establishes a residence or terminates a residence, or is transient;

(ii) commences employment or terminates employment; or

(iii) enrolls as a student or terminates enrollment as a student.

(5) The chief law enforcement officer of the police department of the municipality in which the individual:

(i) establishes a residence or terminates a residence, or is transient;

(ii) commences employment or terminates employment; or

(iii) enrolls as a student or terminates enrollment as a student.

(6) The county office of probation and parole for the county in which the individual:

(i) establishes a residence or terminates a residence, or is transient;

(ii) commences employment or terminates employment; or

(iii) enrolls as a student or terminates enrollment as a student.

(b) When sexual offender fails to appear.--When another jurisdiction notifies this Commonwealth that a sexual offender has terminated his residence, employment or enrollment as a student in that jurisdiction and intends to establish a residence in this Commonwealth, commence employment in this Commonwealth or commence enrollment as a student in this Commonwealth and that sexual offender fails to appear in this Commonwealth to register, the Pennsylvania State Police shall notify the other jurisdiction that the sexual offender failed to appear.

(c) International residence.--The Pennsylvania State Police shall, within three business days, transfer information that a sexual offender intends to establish residence in another country to:

(1) A jurisdiction in which the sexual offender is required to register residence, employment or enrollment as a student.

(2) The United States Marshals Service.

(3) The Department of Justice for inclusion in the National Sex Offender Registry and NCIC.

(d) International travel.--The Pennsylvania State Police shall, within three business days, transfer information about international travel provided by the sexual offender under section 9799.15(i) to:

(1) A jurisdiction in which the sexual offender is required to register the sexual offender's residence, as a transient, employment or enrollment as a student.

(2) The United States Marshals Service.

(3) The Department of Justice for inclusion in the National Sex Offender Registry and NCIC.

(e) National Child Protection Act agencies.--The Pennsylvania State Police shall, within three business days, transfer such criminal history record information about a sexual offender in the registry necessary to enable an agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (Public Law 103-209, 42 U.S.C. 5119a) to conduct the background checks.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012)

2021 Unconstitutionality. Section 9799.18 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.18 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2012 Amendment . Act 91 amended subsecs. (a) intro. par., (4), (5) and (6) and (d)(1).

2011 Amendment. Act 111 added section 9799.18.

Cross References. Section 9799.18 is referred to in section 9799.32 of this title.

§ 9799.19. Initial registration.

(a) General rule.--An individual set forth in section 9799.13 (relating to applicability) shall initially register with the Pennsylvania State Police as set forth in this section.

(b) Initial registration if incarcerated within Commonwealth or by Federal Court on effective date of section.--(Deleted by amendment).

(b.1) Initial registration if sentenced to a county or State correctional facility on or after the effective date of section.--(Deleted by amendment).

(c) Initial registration if sentenced to county intermediate punishment on effective date of section.--(Deleted by amendment).

(d) Initial registration if sentenced to county intermediate punishment after effective date of section.--(Deleted by amendment).

(e) Initial registration if sentenced to county probation on or after effective date of section.--(Deleted by amendment).

(e.1) Initial registration for county or Federal probationers on the effective date of this section.--(Deleted by amendment).

(e.2) Initial registration for county or State parolees on the effective date of this section.--(Deleted by amendment).

(f) Initial registration if being supervised by Commonwealth under Interstate Compact for Adult Offender Supervision.--If an individual is in this Commonwealth and is being supervised by the Department of Corrections or the county office of probation and parole pursuant to the Interstate Compact for Adult Offender Supervision, the following apply:

(1) If the individual is being supervised under the compact for committing a sexually violent offense which requires registration in another jurisdiction or foreign country whether or not the sexual offense is designated as a sexually violent offense, the individual shall provide the information set forth in section 9799.16(b) (relating to registry) to the appropriate official of the Department of Corrections or the county office of probation and parole for inclusion in the registry. The appropriate official shall collect the information set forth in section 9799.16(b) and forward the information to the Pennsylvania State Police. The appropriate official shall, in addition, ensure that the information set forth in section 9799.16(c) is collected and forwarded to the Pennsylvania State Police. If the individual fails to provide the information in section 9799.16(b), the appropriate official of the Department of Corrections or county office of probation and parole shall notify the Pennsylvania State Police.

(2) (Deleted by amendment).

(g) Supervision of individual convicted in Commonwealth who does not intend to reside in Commonwealth.--An individual who committed a sexually violent offense within this Commonwealth who seeks transfer of supervision to another jurisdiction pursuant to the Interstate Compact for Adult Offender

Supervision shall not have supervision transferred to another jurisdiction prior to the individual's registration with the Pennsylvania State Police as set forth in this section.

(h) Initial registration of juvenile offender or sexually violent delinquent child.--

(1) If the individual is a juvenile offender who is adjudicated delinquent by a court on or after December 20, 2012, the following apply:

(i) The court shall require the individual to provide the information set forth in section 9799.16(b) to the chief juvenile probation officer of the court as follows:

(A) Except as set forth in clause (B), at the time of disposition under section 6352 (relating to disposition of delinquent child).

(B) At the time the individual is adjudicated delinquent under section 6341 (relating to adjudication) if:

(I) the adjudication of delinquency occurs in any county other than the individual's county of residence; and

(II) the court intends to transfer the individual's case for disposition to the individual's county of residence under section 6321(c) (relating to commencement of proceedings).

(ii) The chief juvenile probation officer shall collect the information in section 9799.16(b) and (c) and forward it to the Pennsylvania State Police for inclusion in the registry as directed by the Pennsylvania State Police. If the juvenile offender is, under section 6352(a)(3), subject to court-ordered placement in an institution or facility which provides the juvenile with 24-hour-per-day supervision and care, the institution or facility shall ensure the information provided by the juvenile offender pursuant to section 9799.16(b) is updated to reflect accurate information prior to release. The institution or facility may not release the juvenile offender until it receives verification from the Pennsylvania State Police that the information required under section 9799.16(b) and (c) has been entered in the registry.

(2) If, on December 20, 2012, the individual is a juvenile offender and is subject to the jurisdiction of the court pursuant to a disposition entered under section 6352 and is on probation or the individual is otherwise being supervised in the community, including placement in a foster family home or other residential setting which provides the individual with less than 24-hour-per-day supervision and care, the individual shall provide the information set forth in section 9799.16(b) to the chief juvenile probation officer of the court within 30 days of December 20, 2012. The chief juvenile probation officer shall collect the information set forth in section 9799.16(b) and (c) and forward it to the Pennsylvania State Police for inclusion in the registry, as directed by the Pennsylvania State Police.

(3) If the individual is, on December 20, 2012, already a juvenile offender and is subject to the jurisdiction of a court pursuant to a disposition entered under section 6352 and is, under section 6352, subject to court-ordered placement in an institution or facility which provides the juvenile with 24-hour-per-day supervision and care, the

director of the institution or facility or a designee shall make the juvenile offender available for and facilitate the collection of the information set forth in section 9799.16(b) and (c) as directed by the Pennsylvania State Police for inclusion in the registry. The Pennsylvania State Police may require the institution or facility to transport the juvenile offender to and from an approved registration site in order to fulfill the requirement of this paragraph. In order to fulfill the requirements of this paragraph, the chief juvenile probation officer of the court shall, within ten days of December 20, 2012, notify the director of the institution or facility and the Pennsylvania State Police that the juvenile offender is required to register under this subchapter. In addition, the institution or facility shall ensure that the information provided by the juvenile offender pursuant to section 9799.16(b) is updated to reflect accurate information prior to release. The juvenile offender may not be released until the institution or facility receives verification from the Pennsylvania State Police that the information required under section 9799.16(b) and (c) has been entered into the registry.

(4) If the individual is, on December 20, 2012, already a sexually violent delinquent child and receiving involuntary treatment in the State-owned facility or unit under Chapter 64 (relating to court-ordered involuntary treatment of certain sexually violent persons), the director of the facility or unit or a designee shall make the sexually violent delinquent child available for and facilitate the collection of the information set forth in section 9799.16(b) and (c) as directed by the Pennsylvania State Police for inclusion in the registry. The Pennsylvania State Police may require the facility or unit to transport the sexually violent delinquent child to and from an approved registration site in order to fulfill the requirement of this paragraph. In addition, the facility or unit shall ensure that the information provided by the sexually violent delinquent child pursuant to section 9799.16(b) is updated to reflect accurate information prior to release. The facility or unit may not transfer the sexually violent child to outpatient treatment until it has received verification from the Pennsylvania State Police that it has received the information set forth in section 9799.16(b) and (c).

(5) If the individual is, on or after December 20, 2012, determined by the court to be a sexually violent delinquent child and committed for involuntary treatment to the State-owned facility or unit under Chapter 64, the following apply:

(i) The court shall require the individual to provide the information set forth in section 9799.16(b) to the chief juvenile probation officer of the court at the time of commitment. The chief juvenile probation officer shall collect and forward the information to the Pennsylvania State Police for inclusion in the registry. The chief juvenile probation officer shall, at the time of commitment, also ensure that the information set forth in section 9799.16(c) is collected and forwarded to the Pennsylvania State Police for inclusion in the registry. The Pennsylvania State Police may require the facility or unit to transport the sexually violent delinquent child to and from an approved registration site in order to fulfill the requirement of initial registration at the time of commitment.

(ii) The facility or unit shall ensure that the information provided by the sexually violent delinquent child pursuant to section 9799.16(b) is updated to reflect accurate information prior to transfer to involuntary outpatient treatment pursuant to section 6404.1 (relating to transfer to involuntary outpatient treatment) or discharge. The court may not transfer the sexually violent delinquent child to outpatient treatment or discharge the child from the facility or unit until it has received verification from the Pennsylvania State Police that the information required under section 9799.16(b) and (c) has been entered in the registry.

(i) Initial registration if convicted or adjudicated delinquent outside Commonwealth.--

(1) An individual subject to registration under section 9799.13(7), (7.1) or (7.2) shall appear in person at an approved registration site to provide the information set forth in section 9799.16(b) to the Pennsylvania State Police within three business days of establishing residence, commencing employment or commencing enrollment as a student within this Commonwealth. In addition, the individual shall comply with the other provisions of this subchapter, including section 9799.15 (relating to period of registration). If the individual fails to establish a residence but nevertheless resides in this Commonwealth, the individual shall register as a transient. The Pennsylvania State Police shall ensure that the information set forth in section 9799.16(c) with respect to the individual is collected and entered in the registry.

(2) If the individual is, on or after December 20, 2012, a juvenile offender as defined in paragraph (2) or (3) of the definition of "juvenile offender" in section 9799.12 (relating to definitions), the individual shall appear in person at an approved registration site to provide the information set forth in section 9799.16(b) to the Pennsylvania State Police within three business days of establishing residence, commencing employment or commencing enrollment as a student within this Commonwealth. In addition, the individual shall comply with the other provisions of this subchapter, including section 9799.15. If the individual fails to establish a residence but nevertheless resides in this Commonwealth, the individual shall register as a transient. The Pennsylvania State Police shall ensure that the information set forth in section 9799.16(c) with respect to the individual is collected and entered in the registry.

(3) If the individual is convicted of a sexually violent offense and incarcerated in a Federal correctional institution or being supervised by Federal probation authorities, the individual shall appear in person at an approved registration site to provide the information set forth in section 9799.16(b) to the Pennsylvania State Police within three business days of establishing residence, commencing employment or commencing enrollment as a student in this Commonwealth. In addition, the individual shall comply with other provisions of this subchapter, including section 9799.15. If the individual fails to establish a residence but nevertheless resides in this Commonwealth, the individual shall register as a transient. The Pennsylvania State Police shall ensure that the information set forth in section 9799.16(c) with respect to the individual is collected and entered into the registry.

(j) Former law and registration.--(Deleted by amendment).

(k) Registration if incarcerated within Commonwealth or by Federal court.--The following apply to an individual who committed a sexually violent offense:

(1) If the individual is incarcerated in a Federal, State or county correctional facility, the individual shall provide the information specified in section 9799.16(b) to the appropriate official of the Federal, State or county correctional facility or the Department of Corrections for inclusion in the registry before being released due to:

(i) the expiration of sentence, in which case the information shall be collected no later than 10 days prior to the maximum expiration date;

(ii) parole;

(iii) State or county intermediate punishment where the sentence is restrictive and the individual is sentenced to a period of incarceration in a State or county correctional facility or a work release facility; or

(iv) special probation supervised by the Department of Corrections.

(2) For individuals described in paragraph (1), the appropriate official of the Federal, State or county correctional facility or the Department of Corrections shall collect and forward the information specified in section 9799.16(b) to the Pennsylvania State Police. The appropriate official shall, in addition, ensure that the information specified in section 9799.16(c) is collected and forwarded to the Pennsylvania State Police. The information specified in section 9799.16(b) and (c) shall be included in the registry. With respect to individuals released under paragraph (1)(ii), (iii) or (iv), the State or county correctional facility shall not release the individual until the State or county correctional facility receives verification from the Pennsylvania State Police that the Pennsylvania State Police has received the information specified in section 9799.16(b) and (c). Verification may take place by electronic means. With respect to individuals released under paragraph (1)(i), if the individual refuses to provide the information specified in section 9799.16(b), the State or county correctional facility shall notify the Pennsylvania State Police or the municipal police department with jurisdiction over the facility of the failure to provide the information and of the expected date, time and location of the release of the individual.

(l) Registration if sentenced to a State or county correctional facility.--If the individual committed a sexually violent offense and is sentenced to a period of incarceration in a State or county correctional facility, the individual shall provide the information specified in section 9799.16(b) as follows:

(1) At the time of sentencing, the court shall require the individual to immediately report to the office of probation and parole serving that county to register under this subchapter. The appropriate office of probation and parole shall collect the information specified in section 9799.16(b) from the individual and forward the information to the Pennsylvania State Police. The appropriate office of probation and parole shall, in addition, ensure the information specified in section 9799.16(c) is collected and forwarded to the Pennsylvania State Police. The information

specified in section 9799.16(b) and (c) shall be included in the registry.

(2) If the individual is incarcerated in a State or county correctional facility, the correctional facility shall notify the Pennsylvania State Police, not more than 30 days in advance of, but not later than 10 days prior to, the individual's release from the correctional facility. The following apply:

(i) The correctional facility shall ensure that the information specified in section 9799.16(b) and (c) for the individual has been submitted to the Pennsylvania State Police.

(ii) If the information has not been submitted to the Pennsylvania State Police, the correctional facility shall collect the information specified in section 9799.16(b) from the individual and forward the information to the Pennsylvania State Police.

(iii) The correctional facility shall also report any changes to the information specified in section 9799.16(b) and (c) on file with the Pennsylvania State Police.

(iv) In the case of parole, State intermediate punishment, State drug treatment programs or restrictive conditions of probation where the sentence is restrictive and the individual is sentenced to a period of incarceration in a State or county correctional facility or work release facility or special probation supervised by the Department of Corrections, the correctional facility may not release the individual until the correctional facility receives verification from the Pennsylvania State Police that the Pennsylvania State Police has received the information specified in section 9799.16(b) and (c). Verification by the Pennsylvania State Police may occur by electronic means.

(v) If the individual is scheduled to be released from a State or county correctional facility due to the expiration of sentence and the individual refuses to provide the information specified in section 9799.16(b), the State or county correctional facility shall notify the Pennsylvania State Police or the municipal police department with jurisdiction over the facility of the failure to provide the information and of the expected date, time and location of the release of the individual.

(m) Registration if sentenced to county intermediate punishment.--If the individual committed a sexually violent offense and is sentenced to county intermediate punishment which is restorative where the individual is not sentenced to incarceration or to a work release facility, the individual shall provide the information specified in section 9799.16(b) by appearing at an approved registration site within 48 hours of being sentenced. The appropriate official of the county office of probation and parole shall ensure that the individual has appeared at an approved registration site as described in this subsection. If the individual fails to appear, the appropriate official of the county office of probation and parole shall notify the Pennsylvania State Police. The Pennsylvania State Police shall ensure the information specified in section 9799.16(c) with respect to the individual is collected and entered in the registry.

(n) Registration if sentenced to county intermediate punishment.--If the individual committed a sexually violent

offense and is sentenced to county intermediate punishment, the following apply:

(1) If the individual is sentenced to county intermediate punishment which is restorative, the individual shall provide the information specified in section 9799.16(b) by appearing at an approved registration site within 48 hours of being sentenced. The appropriate official of the county office of probation and parole shall ensure that the individual has appeared at an approved registration site as specified in this paragraph. If the individual fails to appear, the appropriate official of the county office of probation and parole shall notify the Pennsylvania State Police. The Pennsylvania State Police shall ensure the information specified in section 9799.16(c) with respect to the individual is collected and entered in the registry.

(2) If the individual is sentenced to county intermediate punishment which is restrictive where the individual is not sentenced to incarceration or to a work release facility, the individual shall provide the information specified in section 9799.16(b) by appearing at an approved registration site within 48 hours of being sentenced. The appropriate official of the county office of probation and parole shall ensure that the individual has appeared at an approved registration site as described in this paragraph. If the individual fails to appear, the appropriate official of the county office of probation and parole shall notify the Pennsylvania State Police. The Pennsylvania State Police shall ensure the information specified in section 9799.16(c) with respect to the individual is collected and entered in the registry.

(o) Registration if sentenced to county probation.--If the individual committed a sexually violent offense and is sentenced to county probation, the individual shall provide the information specified in section 9799.16(b) by appearing at an approved registration site within 48 hours of being sentenced. The appropriate official of the county office of probation and parole shall ensure that the individual has appeared at an approved registration site as described in this subsection. If the individual fails to appear, the appropriate official of the county office of probation and parole shall notify the Pennsylvania State Police. The Pennsylvania State Police shall ensure the information specified in section 9799.16(c) with respect to the individual is collected and entered in the registry.

(p) Registration for county or Federal probationers.--If the individual committed a sexually violent offense, the following apply:

(1) If the individual is serving a sentence of county probation, the appropriate office of probation and parole serving the county shall register the individual within 48 hours. The appropriate official of that office shall collect the information specified in section 9799.16(b) and forward that information to the Pennsylvania State Police. The Pennsylvania State Police shall ensure that the information specified in section 9799.16(c) is collected. The information specified in section 9799.16(b) and (c) shall be included in the registry. If the individual fails to comply, the appropriate official of that office shall notify the Pennsylvania State Police.

(2) If the individual is under the supervision of Federal probation authorities for a sexually violent offense, the individual shall provide the information specified in

section 9799.16(b) by appearing at an approved registration site within 48 hours of sentencing.

(q) Registration for State or county parolees.--

(1) If the individual committed a sexually violent offense and is serving a sentence of county parole, the appropriate office of probation and parole serving the county shall register the individual within 48 hours. The appropriate official of that office shall collect the information specified in section 9799.16(b) and forward that information to the Pennsylvania State Police. The Pennsylvania State Police shall ensure that the information specified in section 9799.16(c) is collected. The information specified in section 9799.16(b) and (c) shall be included in the registry. If the individual fails to comply, the appropriate official of that office shall notify the Pennsylvania State Police.

(2) If the individual committed a sexually violent offense and is serving a sentence of State parole, the Department of Corrections shall register the individual within 48 hours. The appropriate official of the Department of Corrections shall collect the information specified in section 9799.16(b) from the individual and forward the information to the Pennsylvania State Police. The Pennsylvania State Police shall ensure that the information specified in section 9799.16(c) is collected. The information specified in section 9799.16(b) and (c) shall be included in the registry. If the individual fails to comply, the appropriate official of the Department of Corrections shall notify the Pennsylvania State Police.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsecs. (f), (k)(1) intro. par., (iv) and (2), (l)(2)(iv) and (q)(2).

2021 Unconstitutionality. Section 9799.19 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.19 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended subsecs. (f), (g) and (i)(3), added subsecs. (k), (l), (m), (n), (o), (p) and (q) and deleted subsecs. (b), (b.1), (c), (d), (e), (e.1), (e.2) and (j) and Act 29 reenacted and amended section 9799.19. Act 29 overlooked the amendment by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.19. Section 20(1) of Act 10 provided that the amendment of section 9799.19 shall apply to an individual who commits an offense on or after December 20, 2012.

2012 Amendment . Act 91 amended subsecs. (b), (b.1) intro. par., (h), (i) and (j) and added subsecs. (e.1) and (e.2).

2011 Amendment. Act 111 added section 9799.19.

Cross References. Section 9799.19 is referred to in sections 9799.13, 9799.15, 9799.18, 9799.20, 9799.21, 9799.22, 9799.23, 9799.25, 9799.26, 9799.33, 9799.34 of this title; section 4915.1 of Title 18 (Crimes and Offenses).

§ 9799.20. Duty to inform.

In order to implement the provisions of section 9799.19 (relating to initial registration), as appropriate, the

Pennsylvania State Police, the court having jurisdiction over the sexual offender, the chief juvenile probation officer of the court and the appropriate official of the Department of Corrections, county office of probation and parole, the Department of Human Services or a State or county correctional institution shall:

(1) Inform the individual required to register of the individual's duties under this subchapter.

(2) Require the individual to read and sign a form stating that the duty to register has been explained and that the individual understands the registration requirement.

(3) Collect the information required under section 9799.16(b) and (c) (relating to registry) and forward the information to the Pennsylvania State Police for inclusion in the registry as set forth in this subchapter.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended the intro. par.

2021 Unconstitutionality. Section 9799.20 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.20 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2011 Amendment. Act 111 added section 9799.20.

§ 9799.21. Penalty.

(a) Registration.--An individual set forth in section 9799.13 (relating to applicability) may be subject to prosecution under 18 Pa.C.S. § 4915.1 (relating to failure to comply with registration requirements) if the individual fails to:

(1) register with the Pennsylvania State Police as set forth in section 9799.15 (relating to period of registration), 9799.19 (relating to initial registration) or 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police);

(2) verify the information provided by the individual or be photographed as provided in sections 9799.15, 9799.19 and 9799.25; or

(3) provide accurate information when registering under sections 9799.15, 9799.19 and 9799.25.

(b) Counseling.--A sexually violent predator or sexually violent delinquent child may be subject to prosecution under 18 Pa.C.S. § 4915.1 if he fails to comply with section 9799.36 (relating to counseling of sexually violent predators).

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012)

2021 Unconstitutionality. Section 9799.21 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.21 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

Cross References. Section 9799.21 is referred to in section 9799.22 of this title.

§ 9799.22. Enforcement.

(a) Failure to comply.--When an individual set forth in section 9799.13 (relating to applicability) fails to comply with section 9799.19 (relating to initial registration), 9799.21

(relating to penalty) or 9799.36 (relating to counseling of sexually violent predators), the Pennsylvania State Police shall either:

(1) In cooperation with the district attorney, seek issuance of a warrant for the arrest of the individual and locate and arrest the individual for violating this section.

(2) Notify the municipal police department where the individual has a residence, is transient, is employed or is enrolled as a student. The municipal police shall, in cooperation with the district attorney, seek issuance of a warrant for the arrest of the individual and locate and arrest the individual for violating this section. In municipalities where no municipal police department exists, the Pennsylvania State Police shall proceed under paragraph (1).

(b) When individual cannot be found.--In the event the individual cannot be located, the following apply:

(1) The Pennsylvania State Police shall enter information on the Internet website of sexual offenders and in the registry indicating that the individual cannot be located.

(2) The Pennsylvania State Police shall provide information to the National Sex Offender Registry and NCIC to reflect that the individual cannot be located.

(3) The Pennsylvania State Police shall notify the United States Marshals Service.

(4) If a warrant is issued pursuant to this subsection, the police department executing the warrant shall provide information to the National Crime Information Center Wanted Person File to reflect that a warrant has been issued for the individual's arrest.

(c) Notice from another jurisdiction.--When another jurisdiction notifies the Pennsylvania State Police that a sexual offender has terminated residence, employment or enrollment as a student in that jurisdiction and intends to establish a residence in this Commonwealth, commence employment in this Commonwealth or commence enrollment as a student in this Commonwealth and that sexual offender fails to appear in this Commonwealth to register as provided in section 9799.15 (relating to period of registration), the Pennsylvania State Police shall notify the other jurisdiction that the sexual offender failed to appear. This subsection also applies to a transient who fails to appear.

(d) Duty to inform Pennsylvania State Police.--In order to implement this subchapter, the court with jurisdiction over the sexual offender, the chief juvenile probation officer of the court and the appropriate official of the Department of Corrections responsible for State parole supervision, the county office of probation and parole, the Department of Human Services or a State or county correctional institution shall inform the Pennsylvania State Police if the individual refuses to provide the information required by this subchapter so that the Pennsylvania State Police may comply with this section. (Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (d). See section 28 of Act 59 in the appendix to this title for special provisions relating to reference in law.

2021 Unconstitutionality. Section 9799.22 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.22 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

Cross References. Section 9799.22 is referred to in sections 9799.25, 9799.32 of this title.

§ 9799.23. Court notification and classification requirements.

(a) Notice to sexual offenders.--At the time of sentencing, of disposition under section 6352 (relating to disposition of delinquent child) in the case of a juvenile offender, of adjudication of delinquency under section 6341 (relating to adjudication) in the case of a juvenile offender if the individual was adjudicated delinquent in any county other than the individual's county of residence and section 9799.19(h)(1)(i)(B) (relating to initial registration) applies, or of commitment under section 6403 (relating to court-ordered involuntary treatment) in the case of a sexually violent delinquent child, the court shall inform the sexual offender of the provisions of this subchapter. The court shall:

(1) Specifically inform the sexual offender of the duty to register under this subchapter.

(2) Specifically inform the sexual offender of:

(i) the duty to register in accordance with sections 9799.15 (relating to period of registration), 9799.16(b) (relating to registry), 9799.19 and 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police); and

(ii) the duty to attend counseling in accordance with:

(A) section 9799.36 (relating to counseling of sexually violent predators) if applicable; or

(B) section 6404.2(g) (relating to duration of outpatient commitment and review) if applicable.

(3) Specifically inform the sexual offender of the duty to register with authorities in another jurisdiction within three business days of:

(i) Commencement of residence, change of residence, termination of residence or failure to maintain a residence, thus making the sexual offender a transient.

(ii) Commencement of employment, a change in the location or entity in which the sexual offender is employed or termination of employment.

(iii) Commencement of enrollment as a student, a change in enrollment as a student or termination of enrollment as a student.

(4) In accordance with section 9799.16(c), order that the fingerprints, palm prints, DNA sample and photograph of the sexual offender be provided to the Pennsylvania State Police upon sentencing.

(5) Require the sexual offender to read and sign a form stating that the duty to register under this subchapter has been explained. If the sexual offender is incapable of speaking, reading or writing the English language, the court shall certify the duty to register was explained to the sexual offender, and the sexual offender indicated an understanding of the duty.

(6) Specifically classify the individual as one of the following:

(i) An individual convicted of a Tier I offense.

(ii) An individual convicted of a Tier II offense.

(iii) An individual convicted of a Tier III offense.
(iv) A sexually violent predator.
(v) A juvenile offender.
(vi) A sexually violent delinquent child.

(b) Mandatory registration.--All sexual offenders must register in accordance with this subchapter. The following apply:

(1) Failure by the court to provide the information required in this section, to correctly inform a sexual offender of the sexual offender's obligations or to require a sexual offender to register shall not relieve the sexual offender from the requirements of this subchapter.

(2) Except as provided in sections 9799.15(a.2) and 9799.17 (relating to termination of period of registration for juvenile offenders), the court shall have no authority to relieve a sexual offender from the duty to register under this subchapter or to modify the requirements of this subchapter as they relate to the sexual offender.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Sept. 27, 2014, P.L.2482, No.138, eff. 60 days; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.23 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.23 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended subsec. (b)(2) and Act 29 reenacted subsec. (b)(2). Section 20(1) of Act 10 provided that the amendment of section 9799.23 shall apply to an individual who commits an offense on or after December 20, 2012.

2014 Amendment . Act 138 amended subsec. (a).

2011 Amendment. Act 111 added section 9799.23.

Cross References. Section 9799.23 is referred to in sections 9799.16, 9799.40 of this title.

§ 9799.24. Assessments.

(a) Order for assessment.--After conviction but before sentencing, a court shall order an individual convicted of a sexually violent offense to be assessed by the board. The order for an assessment shall be sent to the executive director of the board within ten days of the date of conviction for the sexually violent offense.

(b) Assessment.--Upon receipt from the court of an order for an assessment, a member of the board as designated by the executive director of the board shall conduct an assessment of the individual to determine if the individual should be classified as a sexually violent predator. The board shall establish standards for evaluations and for evaluators conducting the assessments. An assessment shall include, but not be limited to, an examination of the following:

(1) Facts of the current offense, including:
(i) Whether the offense involved multiple victims.
(ii) Whether the individual exceeded the means necessary to achieve the offense.
(iii) The nature of the sexual contact with the victim.
(iv) Relationship of the individual to the victim.
(v) Age of the victim.

(vi) Whether the offense included a display of unusual cruelty by the individual during the commission of the crime.

(vii) The mental capacity of the victim.

(2) Prior offense history, including:

(i) The individual's prior criminal record.

(ii) Whether the individual completed any prior sentences.

(iii) Whether the individual participated in available programs for sexual offenders.

(3) Characteristics of the individual, including:

(i) Age.

(ii) Use of illegal drugs.

(iii) Any mental illness, mental disability or mental abnormality.

(iv) Behavioral characteristics that contribute to the individual's conduct.

(4) Factors that are supported in a sexual offender assessment field as criteria reasonably related to the risk of reoffense.

(c) Release of information.--All State, county and local agencies, offices and entities in this Commonwealth, including juvenile probation officers, shall cooperate by providing copies of records and information as requested by the board in connection with the court-ordered assessment and the assessment requested by the Pennsylvania Parole Board or the assessment of a delinquent child under section 6358 (relating to assessment of delinquent children by the State Sexual Offenders Assessment Board). For assessments of delinquent children conducted by the board pursuant to section 6358 from January 23, 2005, to December 19, 2012, all State, county and local agencies, offices and entities, including juvenile probation officers, are subject to the release of information requirements set forth in this subsection.

(d) Submission of report by board.--The board shall have 90 days from the date of conviction of the individual to submit a written report containing its assessment to the district attorney.

(d.1) Summary of offense.--The board shall prepare a description of the offense or offenses that trigger the application of this subchapter to include, but not be limited to:

(1) A concise narrative of the individual's conduct.

(2) Whether the victim was a minor.

(3) The manner of weapon or physical force used or threatened.

(4) If the offense involved unauthorized entry into a room or vehicle occupied by the victim.

(5) If the offense was part of a course or pattern of conduct involving multiple incidents or victims.

(6) Previous instances in which the individual was determined guilty of an offense subject to this subchapter or of a crime of violence as defined in section 9714(g) (relating to sentences for second and subsequent offenses).

(e) Hearing.--

(1) A hearing to determine whether the individual is a sexually violent predator shall be scheduled upon the praecipe filed by the district attorney. The district attorney upon filing a praecipe shall serve a copy of the praecipe upon defense counsel together with a copy of the report of the board.

(2) The individual and district attorney shall be given notice of the hearing and an opportunity to be heard, the right to call witnesses, the right to call expert witnesses and the right to cross-examine witnesses. In addition, the individual shall have the right to counsel and to have an attorney appointed to represent the individual if the individual cannot afford one. If the individual requests another expert assessment, the individual shall provide a copy of the expert assessment to the district attorney prior to the hearing.

(3) At the hearing prior to sentencing, the court shall determine whether the Commonwealth has proved by clear and convincing evidence that the individual is a sexually violent predator.

(4) A copy of the order containing the determination of the court shall be immediately submitted to the individual, the district attorney, the Pennsylvania Parole Board, the Department of Corrections, the board and the Pennsylvania State Police.

(f) Presentence investigation.--In all cases where the board has performed an assessment under this section, copies of the report shall be provided to the agency preparing the presentence investigation.

(g) Parole assessment.--The Pennsylvania Parole Board may request of the board that an assessment of a sexual offender be conducted and that a report be provided to the Pennsylvania Parole Board prior to considering a sexual offender for parole.

(h) Delinquent children.--The probation officer shall notify the board 90 days prior to the 20th birthday of the child of the status of the delinquent child who is committed to an institution or other facility pursuant to section 6352 (relating to disposition of delinquent child) after having been found delinquent for an act of sexual violence that if committed by an adult would be a violation of 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault), 3126 (relating to indecent assault) or 4302 (relating to incest), together with the location of the facility where the child is committed. The board shall conduct an assessment of the child, which shall include the board's determination of whether or not the child is in need of commitment due to a mental abnormality as defined in section 6402 (relating to definitions) or a personality disorder, either of which results in serious difficulty in controlling sexually violent behavior, and provide a report to the court within the time frames set forth in section 6358(c). The probation officer shall assist the board in obtaining access to the child and any records or information as requested by the board in connection with the assessment. The assessment shall be conducted under subsection (b).

(Dec. 20, 2011, P.L.446, No.111, eff. one year; Mar. 14, 2014, P.L.41, No.19, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsecs. (a), (b) intro. par., (c), (e)(4) and (g).

2021 Unconstitutionality. Section 9799.24 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.24 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2011 Amendment. Act 111 added section 9799.24.

Cross References. Section 9799.24 is referred to in sections 9799.12, 9799.15 of this title; section 6303 of Title 23 (Domestic Relations).

§ 9799.25. Verification by sexual offenders and Pennsylvania State Police.

(a) Periodic verification.--Except for initial registration as provided in section 9799.19 (relating to initial registration) and in accordance with section 9799.15(a) (relating to period of registration), sexual offenders shall verify the information provided in section 9799.16(b) (relating to registry) and be photographed as follows:

(1) An individual convicted of a Tier I sexual offense shall appear in person at an approved registration site annually.

(2) An individual convicted of a Tier II sexual offense shall appear in person at an approved registration site semiannually.

(3) An individual convicted of a Tier III sexual offense shall appear in person at an approved registration site quarterly.

(4) An individual designated as a sexually violent predator shall appear in person at an approved registration site quarterly.

(5) A juvenile offender shall appear in person at an approved registration site quarterly.

(6) A sexually violent delinquent child shall appear in person at an approved registration site quarterly.

(7) A transient shall appear in person at an approved registration site monthly.

(8) An individual required to register under section 9799.13(7.1) (relating to applicability) shall annually appear in person at an approved registration site.

(a.1) Alternate requirements regarding verification.--The following apply to an individual required to appear in person under subsection (a)(2) or (3):

(1) If the individual has been in compliance with the requirements of this subchapter for the first three years of the individual's period of registration and, during the same three-year period, the individual has not been convicted in this Commonwealth or any other jurisdiction or foreign country of an offense punishable by imprisonment of more than one year, the individual shall appear at an approved registration site annually. The individual shall appear within 10 days before the date designated by the Pennsylvania State Police to verify information in section 9799.16(b) and be photographed.

(2) The other appearances required of the individual under this section may be completed by contacting the Pennsylvania State Police by telephone at a telephone number designated by the Pennsylvania State Police. The individual shall call the Pennsylvania State Police within three business days of the date designated by the Pennsylvania State Police.

(3) If the individual fails to comply with the provisions of this subsection and the individual is subsequently convicted under 18 Pa.C.S. § 4915.1 (relating to failure to comply with registration requirements), any relief granted under this subsection shall be void, and the petitioner shall automatically and immediately again be subject to the provisions of this subchapter, as previously determined by this subchapter.

(a.2) Telephonic verification system.--The Pennsylvania State Police shall develop a mechanism to permit individuals to utilize the telephonic verification system established in this section. No individual may utilize the telephonic verification system until the Pennsylvania State Police publishes notice in the Pennsylvania Bulletin that the system is operational.

(b) Deadline.--The following apply:

(1) A sexual offender shall appear as required under subsection (a) within ten days before the date designated by the Pennsylvania State Police. Failure to appear within ten days may subject the sexual offender to prosecution under 18 Pa.C.S. § 4915.1 (relating to failure to comply with registration requirements).

(2) In the case of a sexual offender who fails to appear in person or telephonically as required under this section, the Pennsylvania State Police shall notify the municipal police department where the sexual offender has a residence, is employed or is enrolled as a student. The municipal police shall locate the sexual offender and arrest the sexual offender for violating this section. A municipal police department may request assistance locating or arresting a sexual offender from the Pennsylvania State Police. In municipalities where no municipal police department exists, the Pennsylvania State Police shall locate the offender and arrest the sexual offender for violating this section.

(3) In the case of a sexual offender who fails to appear in person or telephonically as required under this section, the Pennsylvania State Police shall notify the United States Marshals Service in accordance with section 9799.22(b)(3) (relating to enforcement).

(c) Facilitation of verification.--The Pennsylvania State Police shall administer and facilitate the process of verification of information, including compliance with counseling in the case of sexually violent predators and sexually violent delinquent children, and photographing the sexual offender by:

(1) Sending a notice by first class United States mail to each sexual offender at the last reported location where the offender receives mail. The notice shall be sent not more than 30 days nor less than 15 days prior to the date a sexual offender is required to appear pursuant to subsection (a) or (a.1). The notice shall remind the sexual offender of the sexual offender's responsibilities under this subchapter, including counseling in the case of sexually violent predators and sexually violent delinquent children, and provide a list of approved registration sites and the telephone number to contact the Pennsylvania State Police under subsection (a.1).

(2) Providing verification and compliance forms as necessary at each approved registration site.

(d) Effect of notice.--Failure to send or receive notice of information under this section shall not relieve the sexual offender from the requirements of this subchapter.

(e) Natural disaster.--The occurrence of a natural disaster or other event requiring evacuation of residences shall not relieve the sexual offender of the duty to register or any other duty imposed by this subchapter.

(f) Residents in group-based homes.--

(1) A group-based home may not provide concurrent residence in the group-based home to more than five individuals in total who are required to register under this

subchapter and Subchapter I (relating to continued registration of sexual offenders) as sexually violent predators.

(2) A group-based home that violates paragraph (1) shall be subject to a civil penalty in the amount of $2,500 for a first violation and in the amount of $5,000 for a second or subsequent violation.

(3) The Pennsylvania State Police or local law enforcement agency of jurisdiction shall investigate compliance with this subsection, and the Attorney General or district attorney may commence a civil action in the court of common pleas of the county in which a group-based home is located to impose and collect from the group-based home the penalty under paragraph (2).

(4) As used in this subsection, the term "group-based home" has the meaning given to it in 61 Pa.C.S. § 5007(c) (relating to certain offenders residing in group-based homes).

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (f)(4).

2021 Unconstitutionality. Section 9799.25 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.25 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended subsecs. (b)(2) and (3), (c)(1) and (f)(1) and added subsecs. (a.1) and (a.2) and Act 29 reenacted subsecs. (a.1), (a.2), (b)(2) and (3), (c)(1) and (f)(1). Section 20(1) of Act 10 provided that the amendment of section 9799.25 shall apply to an individual who commits an offense on or after December 20, 2012. Section 21 of Act 10 provided that the amendment of subsec. (f) shall apply to all group-based homes and their residents, regardless of when the group-based homes began to provide housing or the residents began their residency. Section 22 of Act 29 provided that the reenactment of subsec. (f) shall apply to all group-based homes and their residents, regardless of when the group-based homes began to provide housing or the residents began their residency.

2012 Amendment . Act 91 amended subsecs. (b)(1) and (c) intro. par. and (1).

2011 Amendment. Act 111 added section 9799.25.

Cross References. Section 9799.25 is referred to in sections 9799.13, 9799.21, 9799.23, 9799.32 of this title; section 4915.1 of Title 18 (Crimes and Offenses).

§ 9799.26. Victim notification.

(a) Duty to inform victim.--

(1) If an individual is determined to be a sexually violent predator or a sexually violent delinquent child, the municipal police department or the Pennsylvania State Police, if no municipal police jurisdiction exists, shall give written notice to the victim when the sexually violent predator or the sexually violent delinquent child registers initially under section 9799.19 (relating to initial registration) or under section 9799.15(g)(2), (3) or (4) (relating to period of registration). The notice shall be given within 72 hours after the sexually violent predator or the sexually violent delinquent child registers or

notifies the Pennsylvania State Police of current information under section 9799.15(g). The notice shall contain the following information about the sexually violent predator or sexually violent delinquent child:

(i) Name.

(ii) Residence. This subparagraph includes whether the sexually violent predator or sexually violent delinquent child is a transient, in which case the notice shall contain information about the transient's temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park. In addition, the notice shall contain a list of places the transient eats, frequents and engages in leisure activities.

(iii) The address of employment.

(iv) The address where the sexually violent predator or sexually violent delinquent child is enrolled as a student.

(2) A victim may terminate the duty to inform set forth in paragraph (1) by providing the local municipal police department or the Pennsylvania State Police, if no local municipal police department exists, with a written statement releasing that agency from the duty to comply with this section as it pertains to that victim.

(b) Individual not determined to be sexually violent predator or sexually violent delinquent child.--If an individual is not determined to be a sexually violent predator or a sexually violent delinquent child, the victim shall be notified in accordance with section 201 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

(c) Electronic notification option.--In addition to subsections (a) and (b), the Pennsylvania State Police shall develop and implement a system that allows a victim to receive electronic notification instead of the notification in subsections (a) and (b) when a sexual offender provides current information to the Pennsylvania State Police under subsection (a).

(d) Alternate means of notifying victims.--

(1) The Pennsylvania State Police may enter into a memorandum of understanding with the Office of Victim Advocate to assist the Pennsylvania State Police in notifying victims and providing the information under subsection (a). In addition, the memorandum of understanding may also include the Office of Victim Advocate's notifying a victim of relief granted to a petitioner under section 9799.15(a.2). The memorandum of understanding must state the manner and method of notifying victims and the duties of the Pennsylvania State Police and the Office of Victim Advocate under this section and section 9799.15(a.2). A memorandum of understanding entered into under this subsection shall be valid for no more than 10 years. There shall be no limit to the number of memoranda of understanding which may be executed by the Pennsylvania State Police and the Office of Victim Advocate under this subsection.

(2) As used in this subsection, the term "Office of Victim Advocate" shall mean the office established under section 301 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.26 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.26 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended subsec. (a)(1) and added subsec. (d) and Act 29 reenacted subsecs. (a)(1) and (d). Section 20(1) of Act 10 provided that the amendment of section 9799.26 shall apply to an individual who commits an offense on or after December 20, 2012.

2012 Amendment . Act 91 amended subsec. (a)(1)(ii) and carried without amendment subsec. (a)(1)(i).

2011 Amendment. Act 111 added section 9799.26.

Cross References. Section 9799.26 is referred to in section 9799.15 of this title.

§ 9799.27. Other notification.

(a) Notice.--Notwithstanding the provisions of Chapter 63 (relating to juvenile matters) and 18 Pa.C.S. Ch. 91 (relating to criminal history record information), the chief law enforcement officer of the police department of the municipality where a sexually violent predator or sexually violent delinquent child lives or, in the case of a sexually violent predator or sexually violent delinquent child failing to establish a residence and being a transient, the chief law enforcement officer of the police department of the transient's last known habitat, shall be responsible for providing written notice as required under this section. The notice shall contain:

(1) The name of the individual.

(2) The address of the residence of the individual. If the individual is a transient, written notice under this paragraph shall consist of information about the transient's temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park, and a list of the places the transient eats, frequents and engages in leisure activities.

(3) The offense for which the individual was convicted, sentenced by a court, adjudicated delinquent or court martialed.

(4) A statement that the individual has been determined to be a sexually violent predator or sexually violent delinquent child, which determination has or has not been terminated as of a date certain.

(5) A photograph of the sexually violent predator or sexually violent delinquent child.

The notice shall not include any information that might reveal the victim's name, identity and residence.

(b) To whom written notice is provided.--The chief law enforcement officer shall provide written notice under subsection (a) to the following persons:

(1) Neighbors of the sexually violent predator or sexually violent delinquent child. As used in this paragraph:

(i) In the case of a sexually violent predator or sexually violent delinquent child being a transient, "neighbor" includes residents in the area of the transient's last known temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park.

(ii) Where the sexually violent predator lives in a common interest community, the term "neighbor" includes the unit owners' association and residents of the common interest community.

(2) The director of the county children and youth agency of the county where the sexually violent predator or sexually violent delinquent child has a residence or, in the case of a sexually violent predator or sexually violent delinquent child failing to establish a residence and being a transient, the director of the county children and youth agency of the county of the sexually violent predator's or sexually violent delinquent child's last known temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park.

(3) The superintendent of each school district and the equivalent official for each private and parochial school enrolling students up through grade 12 in the municipality where the sexually violent predator or sexually violent delinquent child has a residence or, in the case of a sexually violent predator or sexually violent delinquent child failing to establish a residence and being a transient, the superintendent of each school district and the equivalent official for private and parochial schools enrolling students up through grade 12 in the municipality of the sexually violent predator's or sexually violent delinquent child's last known temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park.

(4) The superintendent of each school district and the equivalent official for each private and parochial school located within a one-mile radius of where the sexually violent predator or sexually violent delinquent child has a residence or, in the case of a sexually violent predator or sexually violent delinquent child failing to establish a residence and being a transient, the superintendent of each school district and the equivalent official for each private and parochial school within a one-mile radius of the sexually violent predator's or sexually violent delinquent child's last known temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park.

(5) The licensee of each certified day-care center and licensed preschool program and owner or operator of each registered family day-care home in the municipality where the sexually violent predator or sexually violent delinquent child has a residence or, in the case of a sexually violent predator or sexually violent delinquent child failing to establish a residence and being a transient, the licensee of each certified day-care center and licensed preschool program and owner or operator of each registered family day-care home in the municipality of the sexually violent predator's or sexually violent delinquent child's last known temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park.

(6) The president of each college, university and community college located within 1,000 feet of where the sexually violent predator or sexually violent delinquent child has a residence or, in the case of a sexually violent predator or sexually violent delinquent child failing to establish a residence and being a transient, the president of each college, university and community college located within 1,000 feet of the sexually violent predator's or sexually violent delinquent child's last known temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park.

(c) Notification time frames.--The municipal police department's chief law enforcement officer shall provide notice within the following time frames:

(1) To neighbors, notice shall be provided within five days after information of the sexually violent predator's or sexually violent delinquent child's release date and residence has been received by the chief law enforcement officer. Notwithstanding the provisions of subsections (a) and (b), verbal notification may be used if written notification would delay meeting the requirement of this paragraph.

(2) To the persons specified in subsection (b)(2), (3), (4), (5) and (6), notice shall be provided within seven days after the chief law enforcement officer receives information regarding the sexually violent predator's or sexually violent delinquent child's release date and residence.

(d) Public notice.--Information provided in accordance with subsection (a) shall be available to the general public upon request. The information may be provided by electronic means. (Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012)

2021 Unconstitutionality. Section 9799.27 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.27 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2012 Amendment . Act 91 amended subsecs. (a)(2) and (b) and carried without amendment subsec. (a) last sentence.

2011 Amendment. Act 111 added section 9799.27.

Cross References. Section 9799.27 is referred to in sections 9799.31, 9799.32 of this title.

§ 9799.28. Public Internet website.

(a) Information to be made available through Internet.--The Pennsylvania State Police shall, in the manner and form directed by the Governor:

(1) Develop and maintain a system for making information about individuals convicted of a sexually violent offense, sexually violent predators and sexually violent delinquent children publicly available by electronic means via an Internet website. In order to fulfill its duties under this section, the Pennsylvania State Police shall ensure that the Internet website:

(i) Contains a feature to permit a member of the public to obtain relevant information for an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child by a query of the Internet website based on search criteria including searches for any given zip code or geographic radius set by the user.

(ii) Contains a feature to allow a member of the public to receive electronic notification when an individual convicted of a sexually violent offense, sexually violent predator or sexually violent delinquent child provides information under section 9799.15(g)(2), (3) or (4) (relating to period of registration). This feature shall also allow a member of the public to receive electronic notification when the individual convicted of a sexually violent offense, sexually violent predator or sexually violent delinquent child moves into or out of a geographic area chosen by the user.

(iii) Includes in its design all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Internet Website. The Pennsylvania State Police shall ensure that the website is able to participate in the Dru Sjodin National Sex Offender Public Internet Website as the United States Attorney General may direct.

(iv) Is updated within three business days with the information required.

(2) Include on the Internet website the following:

(i) Instructions on how to seek correction of information that an individual contends is erroneous.

(ii) A warning that the information on the Internet website should not be used to unlawfully injure, harass or commit a crime against an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child and that any such action could result in criminal or civil penalties.

(3) Include on the Internet website an explanation of its limitations, including statements advising that:

(i) A positive identification of an individual convicted of a sexually violent offense, sexually violent predator or sexually violent delinquent child may be confirmed only by fingerprints.

(ii) Some information contained on the Internet website may be outdated or inaccurate.

(iii) The Internet website is not a comprehensive listing of every person who has ever committed a sexual offense in Pennsylvania.

(4) Strive to ensure that the information contained on the Internet website is accurate and that the data therein is revised and updated as provided in paragraph (1)(iv).

(5) Provide on the Internet website general information designed to inform and educate the public about sexual offenders and the operation of this subchapter as well as pertinent and appropriate information concerning crime prevention and personal safety, with appropriate links to other relevant Internet websites operated by the Commonwealth.

(b) Required information.--Notwithstanding Chapter 63 (relating to juvenile matters) and 18 Pa.C.S. Ch. 91 (relating to criminal history record information), the Internet website shall contain the following information regarding an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child:

(1) Name and aliases.

(2) Year of birth.

(3) Street address, municipality, county, State and zip code of residences and intended residences. In the case of an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child who fails to establish a residence and is therefore a transient, the Internet website shall contain information about the transient's temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park. In addition, the Internet website shall contain a list of places the transient eats, frequents and engages in leisure activities.

(4) Street address, municipality, county, State and zip code of any location at which an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is enrolled as a student.

(5) Street address, municipality, county, State and zip code of a fixed location where an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is employed. If an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is not employed at a fixed address, the information shall include general areas of work.

(6) Current facial photograph of an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child. This paragraph requires, if available, the last eight facial photographs taken of the individual and the date each photograph was entered into the registry.

(7) Physical description of an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child.

(8) License plate number and a description of a vehicle owned or operated by an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child.

(9) Offense for which an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is registered under this subchapter and other sexually violent offenses for which the individual was convicted.

(10) A statement whether an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is in compliance with registration.

(11) A statement whether the victim is a minor.

(12) Date on which the individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is made active within the registry and date when the individual most recently updated registration information.

(13) Indication as to whether the individual is a sexually violent predator, sexually violent delinquent child or convicted of a Tier I, Tier II or Tier III sexual offense.

(14) If applicable, indication that an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is incarcerated or committed or is a transient.

(c) Prohibited information.--The public Internet website established under this section shall not contain:

(1) The identity of any victim.

(2) The Social Security number of an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child.

(3) Any information relating to arrests of an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child that did not result in conviction.

(4) Travel and immigration document numbers.

(d) (Reserved).

(e) Duration of posting.--The information listed in subsection (b) shall be made available on the Internet website unless an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is deceased or is no longer required to register under this subchapter.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012)

2021 Unconstitutionality. Section 9799.28 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.28 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2012 Amendment . Act 91 amended subsecs. (a)(1)(i) and (ii), (b)(3), (4), (5), (6) and (9) and (e) and added subsec. (b)(12), (13) and (14).

2011 Amendment. Act 111 added section 9799.28. See section 17(1)(i) of Act 111 in the appendix to this title for special provisions relating to applicability.

§ 9799.29. Administration.

The Governor shall direct the Pennsylvania State Police, the board, the Department of Corrections, the Department of Transportation and any other agency of the Commonwealth that the Governor deems necessary to collaboratively design, develop and implement an integrated and secure system of communication, storage and retrieval of information to assure the timely, accurate and efficient administration of this subchapter.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Unconstitutionality. Section 9799.29 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.29 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

§ 9799.30. Global positioning system technology.

The Pennsylvania Parole Board, the Department of Corrections, the agents of the Department of Corrections and county probation authorities may impose supervision conditions that include tracking through global positioning system technology.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. See section 28 of Act 59 in the appendix to this title for special provisions relating to reference in law.

2021 Unconstitutionality. Section 9799.30 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.30 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

§ 9799.31. Immunity for good faith conduct.

The following entities shall be immune from liability for good faith conduct under this subchapter:

(1) Agents and employees of the Pennsylvania State Police and local law enforcement agencies.

(2) District attorneys and their agents and employees.

(3) Superintendents, administrators, teachers, employees and volunteers engaged in the supervision of children of any public, private or parochial school.

(4) Directors and employees of county children and youth agencies.

(5) Presidents or similar officers of universities and colleges, including community colleges.

(6) The Pennsylvania Parole Board and its agents and employees.

(7) County probation and parole offices and their agents and employees.

(8) Licensees of certified day-care centers and directors of licensed preschool programs and owners and operators of registered family day-care homes and their agents and employees.

(9) The Department of Corrections and its agents and employees.

(10) County correctional facilities and their agents and employees.

(11) The board and its members, agents and employees.

(12) Juvenile probation offices and their agents and employees.

(13) The Department of Human Services and its agents and employees.

(14) Institutions or facilities set forth in section 6352(a)(3) (relating to disposition of delinquent child) and their agents and employees.

(15) The unit owners' association of a common interest community and its agents and employees as it relates to distributing information regarding section 9799.27(b)(1) (relating to other notification).

(Dec. 20, 2011, P.L.446, No.111, eff. one year; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended par. (6). See section 28 of Act 59 in the appendix to this title for special provisions relating to reference in law.

2021 Unconstitutionality. Section 9799.31 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.31 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended par. (13) and Act 29 reenacted par (13). Section 20(1) of Act 10 provided that the amendment of section 9799.31 shall apply to an individual who commits an offense on or after December 20, 2012.

2011 Amendment. Act 111 added section 9799.31.

§ 9799.32. Pennsylvania State Police and Department of Corrections.

The Pennsylvania State Police have the following duties:

(1) To create and maintain the Statewide registry of sexual offenders in conformity with the provisions of this subchapter.

(2) In consultation with the Department of Corrections, the Office of Attorney General, the Juvenile Court Judges' Commission, the Administrative Office of Pennsylvania Courts and the chairman and minority chairman of the Judiciary Committee of the Senate and the chairman and minority chairman of the Judiciary Committee of the House of Representatives, to promulgate guidelines necessary for the general administration of this subchapter. These guidelines shall establish procedures to allow an individual subject to the requirements of this subchapter, including a transient, to fulfill these requirements at approved registration sites throughout this Commonwealth. The Pennsylvania State Police shall publish a list of approved registration sites in the Pennsylvania Bulletin and provide

a list of approved registration sites in any notice sent to individuals required to register under this subchapter. An approved registration site shall be capable of submitting fingerprints, palm prints, DNA samples and any other information required electronically to the Pennsylvania State Police. The Pennsylvania State Police shall require that approved registration sites submit fingerprints utilizing the Integrated Automated Fingerprint Identification System or in another manner and in such form as the Pennsylvania State Police shall require. Approved registration sites shall not be limited to sites managed by the Pennsylvania State Police and shall include sites managed by local law enforcement agencies that meet the criteria for approved registration sites set forth in this paragraph.

(3) To write guidelines regarding neighbor notification under section 9799.27(b)(1) (relating to other notification).

(4) Within three business days, to transfer information as set forth in section 9799.18 (relating to information sharing).

(5) To enforce the provisions of this subchapter as set forth in section 9799.22 (relating to enforcement).

(6) To facilitate verification of information from individuals under section 9799.13 (relating to applicability) as provided in section 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police).

(7) In consultation with the Department of Education and the Department of Corrections, to promulgate guidelines directing licensed day-care centers, licensed preschool programs, schools, universities and colleges, including community colleges, on the proper use and administration of information received under section 9799.27.

(8) In consultation with the Department of Corrections, to promulgate guidelines directing State and county correctional facilities and State and county probation and parole offices regarding the completion of information, including the taking of photographs, required by sexual offenders under this subchapter.

(9) In consultation with the Administrative Office of Pennsylvania Courts, the Department of Human Services and the Juvenile Court Judges' Commission, to promulgate guidelines regarding the completion of information required by juvenile offenders and sexually violent delinquent children under this subchapter.

(10) To develop the telephonic verification system established under section 9799.25.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. imd.; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended the section heading and pars. (2), (7), (8) and (9).

2021 Unconstitutionality. Section 9799.32 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.32 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended par. (6) and added par. (10) and Act 29 reenacted pars. (6) and (10). Section 20(1) of Act 10 provided that the amendment of section 9799.32 shall

apply to an individual who commits an offense on or after December 20, 2012.

2012 Amendment . Act 91 amended par. (3).

2011 Amendment. Act 111 added section 9799.32.

§ 9799.33. Duties of Department of Corrections and probation and parole officials.

(a) Duties.--The Department of Corrections, the county office of probation and parole and the chief juvenile probation officer of the court shall:

(1) Perform their respective duties set forth for the Department of Corrections, the county office of probation and parole and the chief juvenile probation officer of the court in accordance with section 9799.19 (relating to initial registration).

(2) On a form prescribed by the Pennsylvania State Police, notify the Pennsylvania State Police each time a sexual offender is arrested, recommitted to a State or county correctional institution for a parole violation or incarcerated.

(b) Notification form.--The Department of Corrections shall create a notification form which will inform county prison and probation and parole personnel how to inform sexual offenders of their duties under this subchapter. In addition, the Department of Corrections shall apply for Federal funding as provided in the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 120 Stat. 587) to support and enhance programming using global satellite positioning system technology.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Unconstitutionality. Section 9799.33 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.33 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

§ 9799.34. Duties of facilities housing sexual offenders.

The Department of Corrections, a county correctional facility, an institution or facility set forth in section 6352(a)(3) (relating to disposition of delinquent child) and the separate, State-owned facility or unit established under Chapter 64 (relating to court-ordered involuntary treatment of certain sexually violent persons) shall have the following duties:

(1) To perform their respective duties in accordance with section 9799.19 (relating to initial registration). This paragraph includes taking a current photograph of the individual specified in section 9799.13 (relating to applicability) before the individual is released from confinement or commitment or is discharged.

(2) On a form prescribed by the Pennsylvania State Police, to notify the Pennsylvania State Police each time a sexual offender is incarcerated, committed or released, including supervised release. In the case of a juvenile offender or sexually violent delinquent child, the facility shall notify the Pennsylvania State Police each time the individual is committed, released or transferred to another facility or institution. This paragraph shall include a community corrections center or community contract facility.

(3) To assist sexual offenders registering under this subchapter.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.34 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.34 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended par. (1) and Act 29 reenacted the intro. par. and par. (1). Section 20(1) of Act 10 provided that the amendment of section 9799.34 shall apply to an individual who commits an offense on or after December 20, 2012.

2012 Amendment . Act 91 amended par. (2).

2011 Amendment. Act 111 added section 9799.34.

§ 9799.35. Board.

(a) Composition.--The board shall be composed of psychiatrists, psychologists and criminal justice experts, each of whom is an expert in the field of the behavior and treatment of sexual offenders.

(b) Appointment.--The Governor shall appoint the board members.

(c) Term of office.--Members of the board shall serve four-year terms.

(d) Compensation.--The members of the board shall be compensated at a rate of $350 per assessment and receive reimbursement for their actual and necessary expenses while performing the business of the board. The chairman shall receive $500 additional compensation annually.

(e) Staff.--The board shall employ an executive director and other staff as necessary to carry out the board's duties under this chapter. The executive director shall direct the operations, management and administration of the board and organize and oversee the work of the staff. Legal counsel for the board shall be provided in accordance with the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act. Upon request by the board, the Department of Corrections shall make available facilities, administrative support and other assistance to the board.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (e).

2021 Unconstitutionality. Section 9799.35 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.35 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2011 Amendment. Act 111 added section 9799.35.

§ 9799.36. Counseling of sexually violent predators.

(a) General rule.--A sexually violent predator who is not incarcerated shall be required to attend at least monthly counseling sessions in a program approved by the board and be financially responsible for all fees assessed from the counseling sessions. The board shall monitor the compliance of the sexually violent predator. If the sexually violent predator can prove to the satisfaction of the court that the sexually violent predator cannot afford to pay for the counseling

sessions, the sexually violent predator shall nonetheless attend the counseling sessions, and the parole office shall pay the requisite fees.

(b) Designation in another jurisdiction.--If an individual specified in section 9799.13 (relating to applicability) has been designated as a sexually violent predator in another jurisdiction and was required to undergo counseling, the individual shall be subject to the provisions of this section.

(c) Penalty.--A sexually violent predator who knowingly fails to attend counseling sessions as provided in this section may be subject to prosecution under 18 Pa.C.S. § 4915.1 (relating to failure to comply with registration requirements).

(d) Notification.--A provider of counseling services under subsection (a) shall notify the district attorney of the county and the chief law enforcement officer, as defined in section 8951 (relating to definitions), of the municipality in the county and municipality where the provider is located that the provider is counseling sexually violent predators. Notifications under this subsection must be submitted in writing by January 15 of each year and shall include the address of the provider.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; July 10, 2015, P.L.122, No.20, eff. 60 days; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.36 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.36 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended subsec. (b) and Act 29 reenacted subsec. (b). Section 20(1) of Act 10 provided that the amendment of section 9799.36 shall apply to an individual who commits an offense on or after December 20, 2012.

2015 Amendment . Act 20 added subsec. (d).

2012 Amendment . Act 91 amended subsec. (a).

2011 Amendment. Act 111 added section 9799.36.

Cross References. Section 9799.36 is referred to in sections 9718.1, 9799.15, 9799.16, 9799.21, 9799.22, 9799.23 of this title; section 4915.1 of Title 18 (Crimes and Offenses).

§ 9799.37. Exemption from notification for certain licensees and their employees.

Nothing in this subchapter shall be construed as imposing a duty upon a person licensed under the act of February 19, 1980 (P.L.15, No.9), known as the Real Estate Licensing and Registration Act, or an employee of the person, to disclose any information regarding an individual required to be included in the registry pursuant to this subchapter.
(Dec. 20, 2011, P.L.446, No.111, eff. one year)

2021 Unconstitutionality. Section 9799.37 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.37 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2011 Amendment. Act 111 added section 9799.37.

§ 9799.38. Annual performance audit.

(a) Duties of the Attorney General.--The Attorney General has the following duties:

(1) To conduct a performance audit annually to determine compliance with the requirements of this subchapter and Subchapter I (relating to continued registration of sexual offenders) and any guidelines promulgated under this subchapter and Subchapter I. The audit shall, at a minimum, include a review of the practices, procedures and records of the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts and any other State or local agency the Attorney General deems necessary in order to conduct a thorough and accurate performance audit.

(2) To prepare an annual report of its findings and any action that it recommends be taken by the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, other State or local agencies and the General Assembly to ensure compliance with this subchapter and Subchapter I. The first report shall be released to the general public no fewer than 18 months after December 20, 2012.

(3) To provide a copy of its report to the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, State or local agencies referenced in the report, the chairman and the minority chairman of the Judiciary Committee of the Senate and the chairman and the minority chairman of the Judiciary Committee of the House of Representatives no fewer than 30 days prior to its release to the general public.

(b) Cooperation required.--Notwithstanding any other provision of law to the contrary, the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, the Pennsylvania Commission on Sentencing and any other State or local agency requested to do so shall fully cooperate with the Attorney General and assist the Office of Attorney General in satisfying the requirements of this section. For purposes of this subsection, full cooperation shall include, at a minimum, complete access to unredacted records, files, reports and data systems.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Unconstitutionality. Section 9799.38 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.38 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended subsec. (a)(1) and (2) and Act 29 reenacted and amended subsec. (a)(1) and (2). Act 29 overlooked the amendment by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.38. Section 20(1) of Act 10 provided that the amendment of section 9799.38 shall apply to an individual who commits an offense on or after December 20, 2012.

§ 9799.39. Photographs and fingerprinting.

An individual subject to registration under section 9799.13 (relating to applicability) shall submit to fingerprinting and photographing as required by this subchapter. Fingerprinting as required by this subchapter shall, at a minimum, require submission of a full set of fingerprints and palm prints. Photographing as required by this subchapter shall, at a

minimum, require submission to photographs of the face and any scars, marks, tattoos or other unique features of the individual. Fingerprints and photographs obtained under this subchapter may be maintained for use under this subchapter and for general law enforcement purposes.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.39 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.39 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended section 9799.39 and Act 29 reenacted section 9799.39. Section 20(1) of Act 10 provided that the amendment of section 9799.39 shall apply to an individual who commits an offense on or after December 20, 2012.

§ 9799.40. Duties of Pennsylvania Commission on Sentencing.

The Pennsylvania Commission on Sentencing shall establish procedures to enable courts to classify sexual offenders as provided in section 9799.23 (relating to court notification and classification requirements).
(Dec. 20, 2011, P.L.446, No.111, eff. one year)

2021 Unconstitutionality. Section 9799.40 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.40 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2011 Amendment. Act 111 added section 9799.40.

§ 9799.41. Expiration.

The following provisions shall expire December 20, 2012:

Section 9718.3 (relating to sentence for failure to comply with registration of sexual offenders).

Section 9791 (relating to legislative findings and declaration of policy).

Section 9792 (relating to definitions).

Section 9795.1 (relating to registration).

Section 9795.2 (relating to registration procedures and applicability).

Section 9795.3 (relating to sentencing court information).

Section 9795.4 (relating to assessments).

Section 9795.5 (relating to exemption from certain notifications).

Section 9796 (relating to verification of residence).

Section 9797 (relating to victim notification).

Section 9798 (relating to other notification).

Section 9798.1 (relating to information made available on the Internet and electronic notification).

Section 9798.2 (relating to administration).

Section 9798.3 (relating to global positioning system technology).

Section 9799 (relating to immunity for good faith conduct).

Section 9799.1 (relating to duties of Pennsylvania State Police).

Section 9799.2 (relating to duties of Pennsylvania Board of Probation and Parole).

Section 9799.3 (relating to board).
Section 9799.4 (relating to counseling of sexually violent predators).
Section 9799.7 (relating to exemption from notification for certain licensees and their employees).
Section 9799.8 (relating to annual performance audit).
Section 9799.9 (relating to photographs and fingerprinting).

(Dec. 20, 2011, P.L.446, No.111, eff. imd.; July 5, 2012, P.L.880, No.91, eff. imd.)

2021 Unconstitutionality. Section 9799.41 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.41 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

§ 9799.42. Standing for Pennsylvania State Police.

Except for petitions filed under section 9799.15(a.2) (relating to period of registration), the Pennsylvania State Police shall have standing to appear and contest a filing in a court of this Commonwealth which seeks to challenge in any way the obligation of an individual required to register with the Pennsylvania State Police under this subchapter.

(Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendments. Act 10 added section 9799.42 and Act 29 reenacted section 9799.42. Section 20(1) of Act 10 provided that the addition of section 9799.42 shall apply to an individual who commits an offense on or after December 20, 2012.

SUBCHAPTER I
CONTINUED REGISTRATION OF SEXUAL OFFENDERS

Sec.

9799.51. Legislative findings and declaration of policy.
9799.52. Scope.
9799.53. Definitions.
9799.54. Applicability.
9799.55. Registration.
9799.56. Registration procedures and applicability.
9799.57. Sentencing court information.
9799.58. Assessments.
9799.59. Exemption from certain notifications.
9799.60. Verification of residence.
9799.61. Victim notification.
9799.62. Other notification.
9799.63. Information made available on Internet and electronic notification.
9799.64. Administration.
9799.65. Global positioning system technology.
9799.66. Immunity for good faith conduct.
9799.67. Duties of Pennsylvania State Police.
9799.68. Duties of Department of Corrections.
9799.69. Board.
9799.70. Counseling of sexually violent predators.
9799.71. Exemption from notification for certain licensees and their employees.
9799.72. Annual performance audit.
9799.73. Photographs and fingerprinting.

9799.74. Standing for Pennsylvania State Police.
9799.75. Construction of subchapter.

Enactment. Subchapter I was added February 21, 2018, P.L.27, No.10, effective immediately.

Subchapter Heading. The heading of Subchapter I was reenacted June 12, 2018, P.L.140, No.29, effective immediately.

Special Provisions in Appendix. See section 20(2) of Act 10 of 2018 in the appendix to this title for special provisions relating to applicability.

See section 21 of Act 29 of 2018 in the appendix to this title for special provisions relating to applicability.

Cross References. Subchapter I is referred to in sections 5920, 9774.1, 9799.16, 9799.25, 9799.38 of this title; sections 3130, 3141, 4915.2, 9122.1 of Title 18 (Crimes and Offenses); sections 2511, 6338.1, 6707 of Title 23 (Domestic Relations); sections 3903, 4103, 4503, 6137.1, 6138, 6139 of Title 61 (Prisons and Parole).

§ 9799.51. Legislative findings and declaration of policy.

(a) Legislative findings.--It is hereby determined and declared as a matter of legislative finding:

(1) If the public is provided adequate notice and information about sexually violent predators and offenders as well as those sexually violent predators and offenders who do not have a fixed place of habitation or abode, the community can develop constructive plans to prepare itself for the release of sexually violent predators and offenders. This allows communities to meet with law enforcement to prepare and obtain information about the rights and responsibilities of the community and to provide education and counseling to their children.

(2) These sexually violent predators and offenders pose a high risk of engaging in further offenses even after being released from incarceration or commitments, and protection of the public from this type of offender is a paramount governmental interest.

(3) The penal and mental health components of our justice system are largely hidden from public view, and lack of information from either may result in failure of both systems to meet this paramount concern of public safety.

(4) Overly restrictive confidentiality and liability laws governing the release of information about sexually violent predators and offenders have reduced the willingness to release information that could be appropriately released under the public disclosure laws and have increased risks to public safety.

(5) Persons found to have committed a sexual offense have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government.

(6) Release of information about sexually violent predators and offenders to public agencies and the general public will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems so long as the information released is rationally related to the furtherance of those goals.

(b) Declaration of policy.--It is hereby declared to be the intention of the General Assembly to:

(1) Protect the safety and general welfare of the people of this Commonwealth by providing for registration, community notification and access to information regarding sexually

violent predators and offenders who are about to be released from custody and will live in or near their neighborhood.

(2) Require the exchange of relevant information about sexually violent predators and offenders among public agencies and officials and to authorize the release of necessary and relevant information about sexually violent predators and offenders to members of the general public, including information available through the publicly accessible Internet website of the Pennsylvania State Police, as a means of assuring public protection and shall not be construed as punitive.

(3) Address the Superior Court's opinion in the case of Commonwealth v. Wilgus, 975 A.2d 1183 (2009), by requiring sexually violent predators and offenders without a fixed place of habitation or abode to register under this subchapter.

(4) Address the Pennsylvania Supreme Court's decision in Commonwealth v. Muniz, No. 47 MAP 2016 (Pa. 2016), and the Pennsylvania Superior Court's decision in Commonwealth v. Butler, 173 A.3d 1212 (Pa. Super. 2017).

(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.51.

References in Text. The citation, Commonwealth v. Butler, 173 A.3d 1212 (Pa. Super. 2017), referred to in subsec. (b)(4), was incorrectly cited as Commonwealth v. Butler (2017 WL 3882445) in Acts 10 and 29 of 2018. The 2018 Pamphlet Law Volume contains the correct Westlaw citation, (2017 4914155).

§ 9799.52. Scope.

This subchapter shall apply to individuals who were:

(1) convicted of a sexually violent offense committed on or after April 22, 1996, but before December 20, 2012, whose period of registration with the Pennsylvania State Police, as described in section 9799.55 (relating to registration), has not expired; or

(2) required to register with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth on or after April 22, 1996, but before December 20, 2012, whose period of registration has not expired.

(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.52.

§ 9799.53. 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:

"Active notification." Notification in accordance with section 9799.62 (relating to other notification) or a process whereby law enforcement, pursuant to the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, notifies persons in the community in which the individual resides, including a person identified in section 9799.62(b), of the residence, employment or school location of the individual.

"Approved registration site." A site in this Commonwealth approved by the Pennsylvania State Police as required by section 9799.67(2) (relating to duties of Pennsylvania State Police):

(1) at which individuals subject to this subchapter may register, verify information or be fingerprinted or photographed as required by this subchapter;

(2) which is capable of submitting fingerprints utilizing the Integrated Automated Fingerprint Identification System or in another manner and in the form as the Pennsylvania State Police shall require; and

(3) which is capable of submitting photographs utilizing the Commonwealth Photo Imaging Network or in another manner and in the form as the Pennsylvania State Police shall require.

"Board." The State Sexual Offenders Assessment Board.

"Common interest community." Includes a cooperative, a condominium and a planned community where an individual by virtue of an ownership interest in a portion of real estate is or may become obligated by covenant, easement or agreement imposed upon the owner's interest to pay an amount for real property taxes, insurance, maintenance, repair, improvement, management, administration or regulation of any part of the real estate other than the portion or interest owned solely by the individual.

"Commonwealth Photo Imaging Network." The computer network administered by the Commonwealth and used to record and store digital photographs of an individual's face and scars, marks, tattoos or other unique features of the individual.

"Employed." Includes a vocation or employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during a calendar year, whether financially compensated, volunteered, under a contract or for the purpose of government or educational benefit.

"Integrated Automated Fingerprint Identification System." The national fingerprint and criminal history system maintained by the Federal Bureau of Investigation providing automated fingerprint search capabilities, latent searching capability, electronic image storage and electronic exchange of fingerprints and responses.

"Mental abnormality." A congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

"Minor." As used in section 9799.55 (relating to registration), an individual under 18 years of age unless the age of the victim who is considered a minor is otherwise defined in section 9799.55.

"Municipality." A city, borough, incorporated town or township.

"Offender." Subject to section 9799.75 (relating to construction of subchapter), an individual required to register under section 9799.55(a), (b)(1) or (2) (relating to registration).

"Passive notification." Notification in accordance with section 9799.63 (relating to information made available on Internet and electronic notification) or a process whereby persons, under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, are able to access information pertaining to an individual as a result of the individual having been convicted or sentenced by a court for an offense similar to an offense listed in section 9799.55 (relating to registration).

"Penetration." Includes any penetration, however slight, of the genitals, anus or mouth of another person with a part

of the person's body or a foreign object for a purpose other than good faith medical, hygienic or law enforcement procedures.

"Predatory." An act directed at a stranger or at a person with whom a relationship has been initiated, established, maintained or promoted, in whole or in part, in order to facilitate or support victimization.

"Residence." With respect to an individual required to register under this subchapter, any of the following:

(1) A location where an individual resides or is domiciled or intends to be domiciled for 30 consecutive days or more during a calendar year.

(2) In the case of an individual who fails to establish a residence as specified in paragraph (1), a temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park, where the individual is lodged.

"Sexually violent offense." The following criminal offenses:

(1) Except as provided in paragraph (2):

(i) a criminal offense specified in section 9799.55 (relating to registration) committed on or after April 22, 1996, but before December 20, 2012, for which the individual was convicted; or

(ii) a criminal offense for which an individual was required to register with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth on or after April 22, 1996, but before December 20, 2012, whose period of registration has not expired.

(2) The following criminal offenses committed on or after January 26, 2005, but before December 20, 2012, for which the individual was convicted:

(i) 18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).

(ii) 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).

"Sexually violent predator." Subject to section 9799.75 (relating to construction of subchapter), a person who has been convicted of a sexually violent offense and who is determined to be a sexually violent predator under section 9799.58 (relating to assessments) due to a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses or who has ever been determined by a court to have a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses under a former sexual offender registration law of this Commonwealth. The term includes an individual determined to be a sexually violent predator where the determination occurred in the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico, a foreign nation or by court martial.

"Student." A person who is enrolled on a full-time or part-time basis in a public or private educational institution, including a secondary school, trade or professional institution or institution of higher education.

(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted and amended section 9799.53. Act 29 overlooked the addition of section 9799.53 by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.53.

Cross References. Section 9799.53 is referred to in sections 9718.1, 9799.56, 9799.57, 9799.60, 9799.61, 9799.62, 9799.63, 9799.67 of this title; section 4915.2 of Title 18 (Crimes and Offenses).

§ 9799.54. Applicability.

(a) Registration.--The following individuals shall register with the Pennsylvania State Police as provided in this subchapter:

(1) An individual who committed a sexually violent offense within this Commonwealth and whose period of registration with the Pennsylvania State Police, as specified in section 9799.55 (relating to registration), as of February 21, 2018, has not expired. The individual shall register for the period of time under section 9799.55 less any credit for time spent registered with the Pennsylvania State Police prior to February 21, 2018.

(2) An individual who committed a sexually violent offense within this Commonwealth and who has failed to register with the Pennsylvania State Police. In such a case, the individual shall register for the period of time under section 9799.55.

(3) An individual who committed a sexually violent offense within this Commonwealth and is an inmate in a State or county correctional facility of this Commonwealth, including a community corrections center or a community contract facility, is being supervised by the Department of Corrections or county probation or parole, is subject to a sentence of intermediate punishment or has supervision transferred under the Interstate Compact for Adult Supervision in accordance with section 9799.62(e) (relating to other notification). The individual shall register for the period of time under section 9799.55, except that the period required in section 9799.55 shall be tolled for any period of time the individual is recommitted for a parole violation or sentenced to a term of imprisonment.

(4) An individual who was convicted of an offense similar to an offense set forth in section 9799.55 under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico, a foreign nation or under a former law of this Commonwealth or who was court martialed for a similar offense and who, as of February 21, 2018, has not completed registration requirements. The period of registration shall be as set forth in section 9799.56(b)(4) (relating to registration procedures and applicability) less any credit for time spent on a sexual offender registry of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico, a foreign nation or with the Pennsylvania State Police prior to February 21, 2018.

(b) Initial registration.--Individuals required to register under this section shall have 90 days from February 21, 2018, to initially register with the Pennsylvania State Police. The individual shall appear at an approved registration site to be photographed, fingerprinted and to verify information. The Pennsylvania State Police shall send a notice by first class United States mail to the individual's last reported residence in order to inform the individual of the requirements of this subchapter. The notice shall specifically inform the individual of the duties specified in section 9799.57 (relating to sentencing court information). The notice shall be sent no later than 30 days from February 21, 2018. The notice shall also

provide a list of approved registration sites. Neither failure on the part of the Pennsylvania State Police to send nor failure of an individual to receive notice or information under this paragraph shall relieve the individual of the requirements of this subchapter.
(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (a)(3).
2018 Amendment. Act 29 reenacted and amended section 9799.54. Act 29 overlooked the addition of section 9799.54 by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.54.
Cross References. Section 9799.54 is referred to in sections 9799.55, 9799.56, 9799.67 of this title; section 4915.2 of Title 18 (Crimes and Offenses).

§ 9799.55. Registration.

(a) Ten-year registration.--Except as provided under subsection (a.1) or (b), the following individuals shall be required to register with the Pennsylvania State Police for a period of 10 years:

(1) (i) (A) Individuals convicted within this Commonwealth of any of the following offenses committed on or after April 22, 1996, but before December 20, 2012:

18 Pa.C.S. § 2901 (relating to kidnapping) where the victim is a minor.

18 Pa.C.S. § 3126 (relating to indecent assault) where the offense is graded as a misdemeanor of the first degree or higher.

18 Pa.C.S. § 4302 (relating to incest) where the victim is 12 years of age or older but under 18 years of age.

18 Pa.C.S. § 5902(b) or (b.1) (relating to prostitution and related offenses) where the actor promotes the prostitution of a minor.

18 Pa.C.S. § 5903(a)(3), (4), (5) or (6) (relating to obscene and other sexual materials and performances) where the victim is a minor.

18 Pa.C.S. § 6312 (relating to sexual abuse of children).

18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(B) Individuals convicted within this Commonwealth of an offense set forth in clause (A) who were required to register with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth on or after April 22, 1996, but before December 20, 2012, whose period of registration has not expired.

(ii) Individuals convicted within this Commonwealth of any of the following offenses committed on or after January 26, 2005, but before December 20, 2012:

18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).

18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).

(2) Individuals convicted of an attempt, conspiracy or solicitation to commit any of the offenses under paragraph (1)(i) or (ii) or subsection (b)(2).

(3) Individuals who currently have a residence in this Commonwealth who have been convicted of offenses similar to the crimes cited in paragraphs (1)(i) or (ii) and (2) under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation or under a former law of this Commonwealth.

(a.1) Exception to 10-year registration.--Except as provided under subsection (b), an individual considered to be an offender under section 9799.56(b) (relating to registration procedures and applicability) shall be required to register with the Pennsylvania State Police for a period less than life, the duration of which is to be determined under sections 9799.54 (relating to applicability) and 9799.56(b).

(b) Lifetime registration.--The following individuals shall be subject to lifetime registration:

(1) An individual with two or more convictions of any of the offenses set forth in subsection (a).

(2) Individuals convicted:

(i) (A) in this Commonwealth of the following offenses, if committed on or after April 22, 1996, but before December 20, 2012:

18 Pa.C.S. § 3121 (relating to rape);

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);

18 Pa.C.S. § 3124.1 (relating to sexual assault);

18 Pa.C.S. § 3125 (relating to aggravated indecent assault); or

18 Pa.C.S. § 4302 when the victim is under 12 years of age; or

(B) in this Commonwealth of offenses set forth in clause (A) who were required to register with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth on or after April 22, 1996, but before December 20, 2012, whose period of registration has not expired; or

(ii) of offenses similar to the crimes cited in subparagraph (i) under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation or under a former law of this Commonwealth, if committed, or for which registration with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth was required, on or after April 22, 1996, but before December 20, 2012, who currently reside in this Commonwealth.

(3) Sexually violent predators.

(4) An individual who is considered to be a sexually violent predator under section 9799.56(b) or who is otherwise required to register for life under section 9799.56(b), if the sexual offense which is the basis for the consideration or requirement for which the individual was convicted was committed, or for which registration with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth was required, on or after April 22, 1996, but before December 20, 2012.

(c) Natural disaster.--The occurrence of a natural disaster or other event requiring evacuation of residences shall not

relieve an individual of the duty to register or any other duty imposed by this subchapter.

(d) Residents in group-based homes.--

(1) A group-based home may not provide concurrent residence in the group-based home to more than five individuals in total who are required to register under Subchapter H (relating to registration of sexual offenders) and this subchapter as sexually violent predators.

(2) A group-based home that violates paragraph (1) shall be subject to a civil penalty in the amount of $2,500 for a first violation and in the amount of $5,000 for a second or subsequent violation.

(3) The Pennsylvania State Police or local law enforcement agency of jurisdiction shall investigate compliance with this subsection, and the Attorney General or district attorney may commence a civil action in the court of common pleas of the county in which a group-based home is located to impose and collect from the group-based home the penalty under paragraph (2).

(4) As used in this subsection, the term "group-based home" has the meaning given to it in 61 Pa.C.S. § 5007(c) (relating to certain offenders residing in group-based homes).

(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (d)(4).

2018 Amendment. Act 29 reenacted section 9799.55. Section 21 of Act 10 of 2018 provided that the addition of subsec. (d) shall apply to all group-based homes and their residents, regardless of when the group-based homes began to provide housing or the residents began their residency. Section 22 of Act 29 provided that the reenactment of subsec. (d) shall apply to all group-based homes and their residents, regardless of when the group-based homes began to provide housing or the residents began their residency.

Cross References. Section 9799.55 is referred to in sections 9799.14, 9799.52, 9799.53, 9799.54, 9799.56, 9799.58, 9799.59, 9799.60, 9799.67, 9799.70, 9799.73 of this title; sections 4915.2, 9122.1, 9122.3 of Title 18 (Crimes and Offenses); section 6303 of Title 23 (Domestic Relations).

§ 9799.56. Registration procedures and applicability.

(a) Registration.--

(1) (i) Offenders and sexually violent predators shall be required to register with the Pennsylvania State Police as specified in section 9799.54 (relating to applicability).

(ii) Offenders and sexually violent predators shall be required to register with the Pennsylvania State Police upon release from incarceration, upon parole from a State or county correctional facility or upon the commencement of a sentence of intermediate punishment or probation.

(iii) For purposes of registration, offenders and sexually violent predators shall provide the Pennsylvania State Police with all current or intended residences, all information concerning current or intended employment and all information concerning current or intended enrollment as a student.

(2) Offenders and sexually violent predators shall inform the Pennsylvania State Police within three business days of:

(i) A change of residence or establishment of an additional residence or residences. In the case of an individual who has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53 (relating to definitions), the individual shall inform the Pennsylvania State Police of the following:

(A) the location of a temporary habitat or other temporary place of abode or dwelling, including a homeless shelter or park, where the individual is lodged;

(B) a list of places the individual eats, frequents and engages in leisure activities and any planned destinations, including those outside this Commonwealth; and

(C) the place the individual receives mail, including a post office box.

The duty to provide the information specified in this subparagraph shall apply until the individual establishes a residence as defined in paragraph (1) of the definition of "residence" in section 9799.53. If the individual who has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53 changes or adds to the places listed in this subparagraph during a 30-day period, the individual shall list these when reregistering during the next 30-day period.

(ii) A change of employer or employment location for a period of time that will exceed 14 days or for an aggregate period of time that will exceed 30 days during a calendar year, or termination of employment.

(iii) A change of institution or location at which the person is enrolled as a student, or termination of enrollment.

(iv) Becoming employed or enrolled as a student if the person has not previously provided that information to the Pennsylvania State Police.

(2.1) Registration with a new law enforcement agency shall occur no later than three business days after establishing residence in another state.

(3) The registration period required in section 9799.55(a) and (a.1) (relating to registration) shall be tolled when an offender is recommitted for a parole violation or sentenced to an additional term of imprisonment. In such cases, the Department of Corrections or county correctional facility shall notify the Pennsylvania State Police of the admission of the offender.

(4) This paragraph shall apply to all offenders and sexually violent predators:

(i) Where the offender or sexually violent predator was granted parole by the Pennsylvania Parole Board or the court or is sentenced to probation or intermediate punishment, probation with restrictions or is placed in the State drug treatment program, the board or county office of probation and parole shall collect registration information from the offender or sexually violent predator and forward that registration information to the Pennsylvania State Police. The Department of Corrections or county correctional facility shall not release the offender or sexually violent predator until it receives verification from the Pennsylvania State Police that the Pennsylvania State Police have received the registration information. Verification by the Pennsylvania State Police may occur by electronic means,

including e-mail or facsimile transmission. Where the offender or sexually violent predator is scheduled to be released from a State or county correctional facility because of the expiration of the maximum term of incarceration, the Department of Corrections or county correctional facility shall collect the information from the offender or sexually violent predator no later than 10 days prior to the maximum expiration date. The registration information shall be forwarded to the Pennsylvania State Police.

(ii) Where the offender or sexually violent predator scheduled to be released from a State or county correctional facility due to the maximum expiration date refuses to provide the registration information, the Department of Corrections or county correctional facility shall notify the Pennsylvania State Police or police department with jurisdiction over the facility of the failure to provide registration information and of the expected date, time and location of the release of the offender or sexually violent predator.

(b) Individuals convicted or sentenced by a court or adjudicated delinquent in jurisdictions outside this Commonwealth or sentenced by court martial.--

(1) (Reserved).

(2) (Reserved).

(3) (Reserved).

(4) An individual who has a residence, is employed or is a student in this Commonwealth and who has been convicted of or sentenced by a court or court martialed for a sexually violent offense or a similar offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or who was required to register under a sexual offender statute in the jurisdiction where convicted, sentenced or court martialed, shall register at an approved registration site within three business days of the individual's arrival in this Commonwealth. The provisions of this subchapter shall apply to the individual as follows:

(i) If the individual has been classified as a sexually violent predator as defined in section 9799.53 or determined under the laws of the other jurisdiction or by reason of court martial to be subject to active notification and lifetime registration on the basis of a statutorily authorized administrative or judicial decision or on the basis of a statute or administrative rule requiring active notification and lifetime registration based solely on the offense for which the individual was convicted, sentenced or court martialed, the individual shall, notwithstanding section 9799.53, be considered a sexually violent predator and subject to lifetime registration under section 9799.55(b). The individual shall also be subject to the provisions of this section and sections 9799.60 (relating to verification of residence), 9799.62 (relating to other notification) and 9799.63(c)(1) (relating to information made available on Internet and electronic notification), except that the individual shall not be required to receive counseling unless required to do so by the other jurisdiction or by reason of court martial.

(ii) Except as provided in subparagraphs (i) and (iv), if the individual has been convicted or sentenced

by a court or court martialed for an offense listed in section 9799.55(b) or an equivalent offense, the individual shall, notwithstanding section 9799.53, be considered an offender and be subject to lifetime registration under section 9799.55(b). The individual shall also be subject to the provisions of this section and sections 9799.60 and 9799.63(c)(2).

(iii) Except as provided in subparagraphs (i), (ii), (iv) and (v), if the individual has been convicted or sentenced by a court or court martialed for an offense listed in section 9799.55(a) or an equivalent offense, the individual shall be, notwithstanding section 9799.53, considered an offender and subject to registration under this subchapter. The individual shall also be subject to the provisions of this section and sections 9799.60 and 9799.63(c)(2). The individual shall be subject to this subchapter for a period of 10 years or for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, whichever is greater, less any credit due to the individual as a result of prior compliance with registration requirements.

(iv) Except as provided in subparagraph (i) and notwithstanding subparagraph (v), if the individual is subject to active notification in the other jurisdiction or subject to active notification by reason of court martial, the individual shall, notwithstanding section 9799.53, be considered an offender and subject to this section and sections 9799.60, 9799.62 and 9799.63(c)(1). If the individual was convicted of or sentenced in the other jurisdiction or sentenced by court martial for an offense listed in section 9799.55(b) or an equivalent offense, the individual shall be subject to this subchapter for the individual's lifetime. If the individual was convicted of or sentenced in the other jurisdiction or sentenced by court martial for an offense listed in section 9799.55(a) or an equivalent offense, the individual shall be subject to this subchapter for a period of 10 years or for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, whichever is greater, less any credit due to the individual as a result of prior compliance with registration requirements. Otherwise, the individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, less any credit due to the individual as a result of prior compliance with registration requirements.

(v) Except as provided in subparagraphs (i), (ii), (iii) and (iv), if the individual is subject to passive notification in the other jurisdiction or subject to passive notification by reason of court martial, the individual shall, notwithstanding section 9799.53, be considered an offender and subject to this section and sections 9799.60 and 9799.63(c)(2). The individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to

register by reason of court martial, less any credit due to the individual as a result of prior compliance with registration requirements.

(5) Notwithstanding the provisions of Chapter 63 (relating to juvenile matters) and except as provided in paragraph (4), an individual who has a residence, is employed or is a student in this Commonwealth and who is required to register as a sex offender under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation as a result of a juvenile adjudication shall register at an approved registration site within three business days of the individual's arrival in this Commonwealth. The provisions of this subchapter shall apply to the individual as follows:

(i) If the individual has been classified as a sexually violent predator as defined in section 9799.53 or determined under the laws of the other jurisdiction to be subject to active notification and lifetime registration on the basis of a statutorily authorized administrative or judicial decision or on the basis of a statute or administrative rule requiring active notification and lifetime registration based solely on the offense for which the individual was adjudicated, the individual shall, notwithstanding section 9799.53, be considered a sexually violent predator and subject to lifetime registration under section 9799.55(b). The individual shall also be subject to the provisions of this section and sections 9799.60 and 9799.63(c)(1), except that the individual shall not be required to receive counseling unless required to do so by the other jurisdiction.

(ii) Except as provided in subparagraph (i), if the individual is subject to active notification in the other jurisdiction, the individual shall, notwithstanding section 9799.53, be considered an offender and subject to registration under this subchapter. The individual shall also be subject to the provisions of this section and sections 9799.60, 9799.62 and 9799.63(c)(1). The individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction, less any credit due to the individual as a result of prior compliance with registration requirements.

(iii) Except as provided in subparagraphs (i) and (ii), if the individual is subject to passive notification in the other jurisdiction, the individual shall, notwithstanding section 9799.53, be considered an offender and be subject to this section and sections 9799.60 and 9799.63(c)(2). The individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction, less any credit due to the individual as a result of prior registration compliance.

(c) Registration information to local police.--

(1) The Pennsylvania State Police shall provide the information obtained under this section and sections 9799.57 (relating to sentencing court information) and 9799.60 to the chief law enforcement officers of the police departments of the municipalities in which the individual will establish a residence or be employed or enrolled as a student. In

addition, the Pennsylvania State Police shall provide this officer with the address at which the individual will establish a residence or be employed or enrolled as a student following the individual's release from incarceration, parole or probation.

(2) The Pennsylvania State Police shall provide notice to the chief law enforcement officers of the police departments of the municipalities notified under paragraph (1) when an individual fails to comply with the registration requirements of this section or section 9799.60 and request, as appropriate, that these police departments assist in locating and apprehending the individual.

(3) The Pennsylvania State Police shall provide notice to the chief law enforcement officers of the police departments of the municipalities notified under paragraph (1) when they are in receipt of information indicating that the individual will no longer have a residence or be employed or be enrolled as a student in the municipality.

(d) Penalty.--An individual subject to registration under this subchapter who fails to register with the Pennsylvania State Police as required by this section may be subject to prosecution under 18 Pa.C.S. § 4915.2 (relating to failure to comply with 42 Pa.C.S. Ch. 97 Subch. I registration requirements).

(e) Registration sites.--An individual subject to section 9799.55 shall register and submit to fingerprinting and photographing as required by this subchapter at approved registration sites.

(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (a)(4)(i).

2018 Amendment. Act 29 reenacted section 9799.56.

Cross References. Section 9799.56 is referred to in sections 9799.54, 9799.55, 9799.61, 9799.62, 9799.63, 9799.67 of this title; section 4915.2 of Title 18 (Crimes and Offenses).

§ 9799.57. Sentencing court information.

The sentencing court shall inform offenders and sexually violent predators convicted on or after February 21, 2018, at the time of sentencing of the provisions of this subchapter. The court shall:

(1) Specifically inform the offender or sexually violent predator of the duty to register and provide the information required for each registration, including verification as required in section 9799.60(a) (relating to verification of residence).

(2) Specifically inform the offender or sexually violent predator of the duty to inform the Pennsylvania State Police within three business days if the offender or sexually violent predator changes residence or establishes an additional residence or residences, changes employer or employment location for a period of time that will exceed 14 days or for an aggregate period of time that will exceed 30 days during a calendar year or terminates employment or changes institution or location at which the person is enrolled as a student or terminates enrollment. In order to fulfill the requirements of this paragraph, the sentencing court shall specifically inform the offender or sexually violent predator of the duty to inform the Pennsylvania State Police of:

(i) the location of a temporary habitat or other temporary place of abode or dwelling, including a homeless shelter or park, where the individual is lodged;

(ii) the places the individual eats, frequents and engages in leisure activities and any planned destinations, including those outside this Commonwealth; and

(iii) the place the individual receives mail, including a post office box,

if the individual fails to establish a residence as defined in paragraph (1) of the definition of "residence" in section 9799.53 (relating to definitions).

(2.1) Specifically inform the offender or sexually violent predator of the duty to inform the Pennsylvania State Police within three business days of becoming employed or enrolled as a student if the person has not previously provided that information to the Pennsylvania State Police.

(3) Specifically inform the offender or sexually violent predator of the duty to register with a new law enforcement agency if the offender or sexually violent predator moves to another state no later than three business days after establishing residence in another state.

(4) Order the fingerprints and photograph of the offender or sexually violent predator to be provided to the Pennsylvania State Police upon sentencing.

(5) Specifically inform the offender or sexually violent predator of the duty to register with the appropriate authorities in a state in which the offender or sexually violent predator is employed, carries on a vocation or is a student if the state requires the registration.

(6) Require the offender or sexually violent predator to read and sign a form stating that the duty to register under this subchapter has been explained. Where the offender or sexually violent predator is incapable of reading, the court shall certify the duty to register was explained to the offender or sexually violent predator and the offender or sexually violent predator indicated an understanding of the duty.

(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted and amended section 9799.57. Act 29 overlooked the addition of section 9799.57 by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.57.

Cross References. Section 9799.57 is referred to in sections 9799.54, 9799.56 of this title.

§ 9799.58. Assessments.

(a) Order for assessment.--After conviction but before sentencing, a court shall order an individual convicted of an offense specified in section 9799.55 (relating to registration) to be assessed by the board. The order for an assessment shall be sent to the administrative officer of the board within 10 days of the date of conviction.

(b) Assessment.--Upon receipt from the court of an order for an assessment, a member of the board as designated by the administrative officer of the board shall conduct an assessment of the individual to determine if the individual should be classified as a sexually violent predator. The board shall establish standards for evaluations and for evaluators conducting the assessments. An assessment shall include, but not be limited to, an examination of the following:

(1) Facts of the current offense, including:
(i) Whether the offense involved multiple victims.
(ii) Whether the individual exceeded the means necessary to achieve the offense.
(iii) The nature of the sexual contact with the victim.
(iv) Relationship of the individual to the victim.
(v) Age of the victim.
(vi) Whether the offense included a display of unusual cruelty by the individual during the commission of the crime.
(vii) The mental capacity of the victim.
(2) Prior offense history, including:
(i) The individual's prior criminal record.
(ii) Whether the individual completed any prior sentences.
(iii) Whether the individual participated in available programs for sexual offenders.
(3) Characteristics of the individual, including:
(i) Age of the individual.
(ii) Use of illegal drugs by the individual.
(iii) A mental illness, mental disability or mental abnormality.
(iv) Behavioral characteristics that contribute to the individual's conduct.
(4) Factors that are supported in a sexual offender assessment field as criteria reasonably related to the risk of reoffense.

(c) Release of information.--All State, county and local agencies, offices or entities in this Commonwealth, including juvenile probation officers, shall cooperate by providing access to records and information as requested by the board in connection with the court-ordered assessment and the assessment requested by the Pennsylvania Parole Board or the assessment of a delinquent child under section 6358 (relating to assessment of delinquent children by the State Sexual Offenders Assessment Board).

(d) Submission of report by board.--The board shall have 90 days from the date of conviction of the individual to submit a written report containing its assessment to the district attorney.

(d.1) Summary of offense.--The board shall prepare a description of the offense or offenses which trigger the application of this subchapter to include, but not be limited to:

(1) A concise narrative of the offender's conduct.
(2) Whether the victim was a minor.
(3) The manner of weapon or physical force used or threatened.
(4) If the offense involved unauthorized entry into a room or vehicle occupied by the victim.
(5) If the offense was part of a course or pattern of conduct involving multiple incidents or victims.
(6) Previous instances in which the offender was determined guilty of an offense subject to this subchapter or of a crime of violence as defined in section 9714(g) (relating to sentences for second and subsequent offenses).

(e) Hearing.--

(1) A hearing to determine whether the individual is a sexually violent predator shall be scheduled upon the praecipe filed by the district attorney. The district attorney upon filing a praecipe shall serve a copy of the

same upon defense counsel together with a copy of the report of the board.

(2) The individual and district attorney shall be given notice of the hearing and an opportunity to be heard, the right to call witnesses, the right to call expert witnesses and the right to cross-examine witnesses. In addition, the individual shall have the right to counsel and to have a lawyer appointed to represent the individual if he or she cannot afford one. If the individual requests another expert assessment, the individual shall provide a copy of the expert assessment to the district attorney prior to the hearing.

(3) At the hearing prior to sentencing, the court shall determine whether the Commonwealth has proved by clear and convincing evidence that the individual is a sexually violent predator.

(4) A copy of the order containing the determination of the court shall be immediately submitted to the individual, the district attorney, the Pennsylvania Parole Board, the Department of Corrections, the board and the Pennsylvania State Police.

(f) Presentence investigation.--In all cases where the board has performed an assessment under this section, copies of the report shall be provided to the agency preparing the presentence investigation.

(g) Parole assessment.--The Pennsylvania Parole Board may request of the board an assessment of an offender or sexually violent predator be conducted and provide a report to the Pennsylvania Parole Board prior to considering an offender or sexually violent predator for parole.

(h) Delinquent children.--Except where section 6358(b.1) is applicable, the probation officer shall notify the board 90 days prior to the 20th birthday of the child of the status of the delinquent child who is committed to an institution or other facility under section 6352 (relating to disposition of delinquent child) after having been found delinquent for an act of sexual violence which if committed by an adult would be a violation of 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault), 3126 (relating to indecent assault) or 4302 (relating to incest), together with the location of the facility where the child is committed. The board shall conduct an assessment of the child, which shall include the board's determination of whether or not the child is in need of commitment due to a mental abnormality as defined in section 6402 (relating to definitions) or a personality disorder, either of which results in serious difficulty in controlling sexually violent behavior, and provide a report to the court within the time frames under section 6358(c). The probation officer shall assist the board in obtaining access to the child and records or information as requested by the board in connection with the assessment. The assessment shall be conducted under subsection (b).

(i) Other assessments.--Upon receipt from the court of an order for an assessment under section 9799.59 (relating to exemption from certain notifications), a member of the board as designated by the administrative officer of the board shall conduct an assessment of the individual to determine if the relief sought, if granted, is likely to pose a threat to the safety of any other person. The board shall establish standards for evaluations and for evaluators conducting these assessments.

(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsecs. (c), (e)(4) and (g).

2018 Amendment. Act 29 reenacted section 9799.58.

Cross References. Section 9799.58 is referred to in sections 9799.53, 9799.61 of this title; section 6303 of Title 23 (Domestic Relations).

§ 9799.59. Exemption from certain notifications.

(a) General rule.--An individual required to register under section 9799.55(a.1) and (b) (relating to registration) may be exempt from the requirement to register, the requirement to verify residence, employment and enrollment in an educational institution, the requirement to appear on the publicly accessible Internet website maintained by the Pennsylvania State Police and all other requirements of this subchapter if:

(1) At least 25 years have elapsed prior to filing a petition with the sentencing court to be exempt from the requirements of this subchapter, during which time the petitioner has not been convicted in this Commonwealth or any other jurisdiction or foreign country of an offense punishable by imprisonment of more than one year, or the petitioner's release from custody following the petitioner's most recent conviction for an offense, whichever is later.

(2) Upon receipt of a petition filed under paragraph (1), the sentencing court shall enter an order directing that the petitioner be assessed by the board. Upon receipt from the court of an order for an assessment under this section, a member of the board designated by the administrative officer of the board shall conduct an assessment of the petitioner to determine if the relief sought, if granted, is likely to pose a threat to the safety of any other persons. The board shall establish standards for evaluations and for evaluators conducting assessments.

(3) The order for an assessment under this section shall be sent to the administrative officer of the board within 10 days of the entry. No later than 90 days following receipt of the order, the board shall submit a written report containing the board's assessment to the sentencing court, the district attorney and the attorney for the sexual offender.

(4) Within 120 days of filing the petition under paragraph (1), the sentencing court shall hold a hearing to determine whether to exempt the petitioner from the application of any or all of the requirements of this subchapter. The petitioner and the district attorney shall be given notice of the hearing and an opportunity to be heard, the right to call witnesses and the right to cross-examine witnesses. The petitioner shall have the right to counsel and to have a lawyer appointed to represent the petitioner if the petitioner cannot afford one.

(5) The sentencing court shall exempt the petitioner from application of any or all of the requirements of this subchapter, at the discretion of the court, only upon a finding of clear and convincing evidence that exempting the petitioner from a particular requirement or all of the requirements of this subchapter is not likely to pose a threat to the safety of any other person.

(6) A court granting relief under this section shall notify the Pennsylvania State Police in writing within 10 days from the date relief is granted.

(7) The petitioner and the Commonwealth shall have the right to appellate review of the actions of the sentencing court under this section. An appeal by the Commonwealth shall stay the order of the sentencing court. A court granting relief under this section shall notify the Pennsylvania State Police in writing within 10 days from the date the relief is granted. If a memorandum of understanding has been entered into under section 9799.61 (relating to victim notification) with respect to relief granted to the petitioner, the Pennsylvania State Police shall transmit the information about the relief to the Office of Victim Advocate as soon as is practicable. The Office of Victim Advocate shall notify the victim of the relief, in accordance with the memorandum of understanding, as specified in section 9799.61.

(8) The petitioner may file an additional petition with the sentencing court no sooner than five years from the date of the final determination of a court regarding the petition and every five years thereafter.

(9) If a petitioner is exempt from any provisions of this subchapter and the petitioner is subsequently convicted under 18 Pa.C.S. § 4915.2 (relating to failure to comply with 42 Pa.C.S. Ch. 97 Subch. I registration requirements), relief granted under this section shall be void, and the petitioner shall automatically and immediately again be subject to the provisions of this subchapter, as previously determined by this subchapter.

(b) Agency cooperation.--All State, county and local agencies, offices and entities in this Commonwealth, including juvenile probation officers, shall cooperate by providing access to records and information as requested by the board in connection with the court-ordered assessment under subsection (a).

(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.59.

Cross References. Section 9799.59 is referred to in sections 9799.58, 9799.61, 9799.63, 9799.74 of this title; section 4915.2 of Title 18 (Crimes and Offenses).

§ 9799.60. Verification of residence.

(a) Quarterly verification by sexually violent predators.--The Pennsylvania State Police shall verify the residence and compliance with counseling as provided for in section 9799.70 (relating to counseling of sexually violent predators) of sexually violent predators every 90 days through the use of a nonforwardable verification form to the last reported residence. For the period of registration required by section 9799.55 (relating to registration), a sexually violent predator shall appear quarterly within 10 days of the dates designated by the Pennsylvania State Police each calendar year at an approved registration site to complete a verification form and to be photographed.

(a.1) Facilitation of quarterly verification.--The Pennsylvania State Police shall facilitate and administer the verification process required by subsection (a) by:

(1) sending a notice by first class United States mail to all registered sexually violent predators at their last reported residence addresses. This notice shall be sent not more than 30 days nor less than 15 days prior to each of the quarterly verification periods specified in subsection (a) and shall remind sexually violent predators of their quarterly verification requirement and provide them with a list of approved registration sites; and

(2) providing verification and compliance forms as necessary to each approved registration site not less than 10 days before each of the quarterly verification periods.

(b) Annual verification by offenders.--The Pennsylvania State Police shall verify the residence of offenders. For the period of registration required by section 9799.55, an offender shall appear within 10 days before each annual anniversary date of the offender's initial registration under section 9799.55 at an approved registration site to complete a verification form and to be photographed.

(b.1) Facilitation of annual verification.--The Pennsylvania State Police shall facilitate and administer the verification process required by subsection (b) by:

(1) sending a notice by first class United States mail to all registered offenders at their last reported residence addresses. This notice shall be sent not more than 30 days nor less than 15 days prior to each offender's annual anniversary date and shall remind the offender of the annual verification requirement and provide the offender with a list of approved registration sites; and

(2) providing verification and compliance forms as necessary to each approved registration site.

(b.2) Monthly verification by individuals with temporary habitats located within this Commonwealth.--The Pennsylvania State Police shall verify the residence of individuals required to register under this subchapter who have a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53 (relating to definitions) every 30 days through the use of a nonforwardable verification form to the last reported location where the individual receives mail. The individual shall appear every 30 days at an approved registration site to complete a verification form and to be photographed. The individual shall appear within three business days of the date designated by the Pennsylvania State Police.

(b.3) Facilitation of monthly verification.--The Pennsylvania State Police shall facilitate and administer the verification process required by subsection (b.2) by:

(1) sending a notice by first class United States mail to an individual required to register under this subchapter who has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53 at the last reported location where the individual receives mail. This notice shall be sent not more than 10 days nor less than five days prior to each of the monthly verification periods and shall remind the individual of the monthly verification requirement and provide a list of approved registration sites; and

(2) providing verification and compliance forms as necessary to each approved registration site.

(c) Notification of law enforcement agencies of change of residence.--A change of residence of an offender or sexually violent predator required to register under this subchapter reported to the Pennsylvania State Police shall be immediately reported by the Pennsylvania State Police to the appropriate law enforcement agency having jurisdiction of the offender's or the sexually violent predator's new place of residence. The Pennsylvania State Police shall, if the offender or sexually violent predator changes residence to another state, notify the law enforcement agency with which the offender or sexually violent predator must register in the new state.

(d) Failure to provide verification.--Where an offender or sexually violent predator fails to provide verification of

residence defined in paragraph (1) of the definition of "residence" in section 9799.53 within the 10-day period or three business days in the case of an offender or sexually violent predator who has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53, as specified in this section, the Pennsylvania State Police shall immediately notify the municipal police department of the offender's or the sexually violent predator's last verified residence. The local municipal police shall locate the offender or sexually violent predator and arrest the individual for violating this section. The Pennsylvania State Police shall assume responsibility for locating and arresting the offender or sexually violent predator in jurisdictions where no municipal police jurisdiction exists. The Pennsylvania State Police shall assist a municipal police department requesting assistance with locating and arresting an offender or sexually violent predator who fails to verify the offender's or sexually violent predator's residence.

(e) Penalty.--An individual subject to registration under section 9799.55(a) or (b) who fails to verify the individual's residence or to be photographed as required by this section may be subject to prosecution under 18 Pa.C.S. § 4915.2 (relating to failure to comply with 42 Pa.C.S. Ch. 97 Subch. I registration requirements).

(f) Effect of notice.--Neither failure on the part of the Pennsylvania State Police to send nor failure of a sexually violent predator or offender to receive notice or information under subsection (a.1), (b.1) or (b.3) shall relieve that predator or offender from the requirements of this subchapter. (June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.60.

Cross References. Section 9799.60 is referred to in sections 9799.56, 9799.57, 9799.67 of this title; section 4915.2 of Title 18 (Crimes and Offenses).

§ 9799.61. Victim notification.

(a) Duty to inform victim.--

(1) Where the individual is determined to be a sexually violent predator by a court under section 9799.58 (relating to assessments), the local municipal police department or the Pennsylvania State Police where no municipal police jurisdiction exists shall give written notice to the sexually violent predator's victim when the sexually violent predator registers initially and when the sexually violent predator notifies the Pennsylvania State Police of a change of residence. In the case of a sexually violent predator who has a residence as defined in paragraph (1) of the definition of "residence" in section 9799.53 (relating to definitions), notice shall be given within 72 hours after the sexually violent predator registers or notifies the Pennsylvania State Police of a change of address. The notice shall contain the sexually violent predator's name and the address or addresses where the individual has a residence. In the case of a sexually violent predator who has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53, the notice shall contain the sexually violent predator's name and the information specified in section 9799.56(a)(2)(i)(A) and (B) (relating to registration procedures and applicability). The notice shall be given to the victim within 72 hours after the sexually violent predator registers or notifies the Pennsylvania State Police of a change of residence.

(2) A victim may terminate the duty to inform described in paragraph (1) by providing the local municipal police department or the Pennsylvania State Police where no local municipal police department exists with a written statement releasing that agency from the duty to comply with this section as it pertains to that victim.

(b) Where an individual is not determined to be a sexually violent predator.--Where an individual is not determined to be a sexually violent predator by a court under section 9799.58, the victim shall be notified in accordance with section 201 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act. This subsection includes the circumstance of an offender having a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53.

(c) Alternate means of notifying victims.--

(1) The Pennsylvania State Police may enter into a memorandum of understanding with the Office of Victim Advocate to assist the Pennsylvania State Police in notifying victims and providing the information under subsection (a). In addition, the memorandum of understanding may also include the Office of Victim Advocate's notifying a victim of relief granted to a petitioner under section 9799.59 (relating to exemption from certain notifications). The memorandum of understanding must set forth the manner and method of notifying victims and the duties of the Pennsylvania State Police and the Office of Victim Advocate under this section and section 9799.59(a). A memorandum of understanding entered into under this subsection shall be valid for no more than 10 years. There shall be no limit to the number of memoranda of understanding which may be executed by the Pennsylvania State Police and the Office of Victim Advocate under this subsection.

(2) As used in this subsection, the term "Office of Victim Advocate" shall mean the office established under section 301 of the Crime Victims Act.

(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.61.

Cross References. Section 9799.61 is referred to in section 9799.59 of this title.

§ 9799.62. Other notification.

(a) Notice by municipality's chief law enforcement officer.--Notwithstanding any of the provisions of 18 Pa.C.S. Ch. 91 (relating to criminal history record information), the chief law enforcement officer of the full-time or part-time police department of the municipality where a sexually violent predator lives shall be responsible for providing written notice as required under this section.

(1) The notice shall contain:

(i) The name of the convicted sexually violent predator.

(ii) The address or addresses at which the sexually violent predator has a residence. If, however, the sexually violent predator has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53 (relating to definitions), the notice shall be limited to that provided for under section 9799.56(a)(2)(i)(C) (relating to registration procedures and applicability).

(iii) The offense for which the sexually violent predator was convicted, sentenced by a court, adjudicated delinquent or court martialed.

(iv) A statement that the individual has been determined by court order to be a sexually violent predator, which determination has or has not been terminated as of a date certain.

(v) A photograph of the sexually violent predator, if available.

(2) The notice shall not include information that might reveal the victim's name, identity and residence.

(b) To whom written notice is provided.--The chief law enforcement officer shall provide written notice, under subsection (a), to the following persons:

(1) Neighbors of the sexually violent predator. As used in this paragraph, where the sexually violent predator lives in a common interest community, the term "neighbor" includes the unit owners' association and residents of the common interest community.

(2) The director of the county children and youth service agency of the county where the sexually violent predator has a residence.

(3) The superintendent of each school district and the equivalent official for private and parochial schools enrolling students up through grade 12 in the municipality where the sexually violent predator has a residence.

(3.1) The superintendent of each school district and the equivalent official for each private and parochial school located within a one-mile radius of where the sexually violent predator has a residence.

(4) The licensee of each certified day-care center and licensed preschool program and owner/operator of each registered family day-care home in the municipality where the sexually violent predator has a residence.

(5) The president of each college, university and community college located within 1,000 feet of a sexually violent predator's residence.

(c) Urgency of notification.--The municipal police department's chief law enforcement officer shall provide notice within the following time frames:

(1) To neighbors, notice shall be provided within five days after information of the sexually violent predator's release date and residence has been received by the chief law enforcement officer. Notwithstanding the provisions of subsections (a) and (b), verbal notification may be used if written notification would delay meeting this time requirement.

(2) To the persons specified in subsection (b)(2), (3), (4) and (5), notice shall be provided within seven days after the chief law enforcement officer receives information regarding the sexually violent predator's release date and residence.

(d) Public notice.--All information provided in accordance with subsection (a) shall be available, upon request, to the general public. The information may be provided by electronic means.

(e) Interstate transfers.--The duties of police departments under this section shall also apply to individuals who are transferred to this Commonwealth under the Interstate Compact for the Supervision of Adult Offenders or the Interstate Compact for Juveniles.

(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.62.

Cross References. Section 9799.62 is referred to in sections 9799.53, 9799.54, 9799.56, 9799.66, 9799.67 of this title.

§ 9799.63. Information made available on Internet and electronic notification.

(a) Legislative findings.--It is hereby declared to be the finding of the General Assembly that public safety will be enhanced by making information about sexually violent predators, lifetime registrants and other sex offenders available to the public through the Internet and electronic notification. Knowledge of whether a person is a sexually violent predator, lifetime registrant or other sex offender could be a significant factor in protecting oneself and one's family members, or those in care of a group or community organization, from recidivist acts by sexually violent predators, lifetime registrants and other sex offenders. The technology afforded by the Internet and electronic notification would make this information readily accessible to parents and private entities, enabling them to undertake appropriate remedial precautions to prevent or avoid placing potential victims at risk. Public access to information about sexually violent predators, lifetime registrants and other sex offenders is intended solely as a means of public protection and shall not be construed as punitive.

(b) Internet posting of sexually violent predators, lifetime registrants, other offenders and electronic notification.--The Commissioner of the Pennsylvania State Police shall, in the manner and form directed by the Governor:

(1) Develop and maintain a system for making the information described in subsection (c) publicly available by electronic means so that the public may, without limitation, obtain access to the information via an Internet website to view an individual record or the records of all sexually violent predators, lifetime registrants and other offenders who are registered with the Pennsylvania State Police. The publicly accessible Internet website created under this subchapter and the information required to be posted under this subchapter shall be included on the publicly accessible Internet website created and maintained by the Pennsylvania State Police under Subchapter H (relating to registration of sexual offenders).

(2) Ensure that the Internet website contains warnings that a person who uses the information contained on the Internet website to threaten, intimidate or harass another or who otherwise misuses that information may be criminally prosecuted.

(3) Ensure that the Internet website contains:

(i) An explanation of its limitations, including statements advising that a positive identification of a sexually violent predator, lifetime registrant or other offender whose record has been made available may be confirmed only by fingerprints.

(ii) A statement that some information contained on the Internet website may be outdated or inaccurate.

(iii) A statement that the Internet website is not a comprehensive listing of every person who has ever committed a sex offense in Pennsylvania.

(4) Strive to ensure that:

(i) the information contained on the Internet website is accurate;

(ii) the data on the Internet website is revised and updated as appropriate in a timely and efficient manner; and

(iii) instructions are included on how to seek correction of information which a person contends is erroneous.

(5) Provide on the Internet website general information designed to inform and educate the public about sex offenders and sexually violent predators and the operation of this subchapter as well as pertinent and appropriate information concerning crime prevention and personal safety, with appropriate links to other relevant Internet websites operated by the Commonwealth.

(6) Identify when the victim is a minor with a special designation. The identity of a victim of a sex offense shall not be published or posted on the Internet website.

(7) Notwithstanding 18 Pa.C.S. Ch. 91 (relating to criminal history record information), develop, implement and maintain a process which allows members of the public to receive electronic notification when an individual required to register under this subchapter moves into or out of a user-designated location.

(c) Information permitted to be disclosed regarding individuals.--Notwithstanding 18 Pa.C.S. Ch. 91, the Internet website shall contain the following information on each individual:

(1) For sexually violent predators, the following information shall be posted on the Internet website:

(i) name and all known aliases;

(ii) year of birth;

(iii) in the case of an individual who has a residence as defined in paragraph (1) of the definition of "residence" in section 9799.53 (relating to definitions), the street address, municipality, county and zip code of all residences, including, where applicable, the name of the prison or other place of confinement;

(iv) the street address, municipality, county, zip code and name of an institution or location at which the person is enrolled as a student;

(v) the municipality, county and zip code of an employment location;

(vi) a photograph of the individual, which shall be updated not less than annually;

(vii) a physical description of the offender, including sex, height, weight, eye color, hair color and race;

(viii) identifying marks, including scars, birthmarks and tattoos;

(ix) the license plate number and description of a vehicle owned or registered to the offender;

(x) whether the offender is currently compliant with registration requirements;

(xi) whether the victim is a minor;

(xii) a description of the offense or offenses which triggered the application of this subchapter;

(xiii) the date of the offense and conviction, if available; and

(xiv) in the case of an individual who has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53, the information listed in section 9799.56(a)(2)(i)(C) (relating to registration procedures and applicability), including, where applicable, the name of the prison or other place of confinement.

(2) For all other lifetime registrants and offenders subject to registration, the information specified in paragraph (1) shall be posted on the Internet website.

(d) Duration of Internet posting.--

(1) The information listed in subsection (c) about a sexually violent predator shall be made available on the Internet for the lifetime of the sexually violent predator.

(2) The information listed in subsection (c) about an offender who is subject to lifetime registration shall be made available on the Internet for the lifetime of the offender unless the offender is granted relief under section 9799.59 (relating to exemption from certain notifications).

(3) The information listed in subsection (c) about any other offender subject to registration shall be made available on the Internet for the entire period during which the offender is required to register, including an extension of this period under section 9799.56(a)(3).

(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.63.

Cross References. Section 9799.63 is referred to in sections 9799.53, 9799.56 of this title.

§ 9799.64. Administration.

The Governor shall direct the Pennsylvania State Police, the Pennsylvania Parole Board, the board, the Department of Corrections, the Department of Transportation and any other agency of this Commonwealth the Governor deems necessary to collaboratively design, develop and implement an integrated and secure system of communication, storage and retrieval of information to assure the timely, accurate and efficient administration of this subchapter.

(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

§ 9799.65. Global positioning system technology.

The Pennsylvania Parole Board, the Department of Corrections and county probation authorities may impose supervision conditions that include offender tracking through global positioning system technology.

(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

§ 9799.66. Immunity for good faith conduct.

The following entities shall be immune from liability for good faith conduct under this subchapter:

(1) The Pennsylvania State Police and local law enforcement agencies and employees of law enforcement agencies.

(2) District attorneys and their agents and employees.

(3) Superintendents, administrators, teachers, employees and volunteers engaged in the supervision of children of a public, private or parochial school.

(4) Directors and employees of county children and youth agencies.

(5) Presidents or similar officers of universities and colleges, including community colleges.

(6) The Pennsylvania Parole Board and its agents and employees.

(7) County probation and parole offices and their agents and employees.

(8) Licensees of certified day-care centers and directors of licensed preschool programs and owners/operators of registered family day-care homes, and their agents and employees.

(9) The Pennsylvania Department of Corrections and its agents and employees.

(10) County correctional facilities and their agents and employees.

(11) Members of the Sexual Offenders Assessment Board and its agents and employees.

(12) The unit owners' association of a common interest community and its agents and employees as it relates to distributing information regarding sexually violent predators obtained under section 9799.62(b)(1) (relating to other notification).

(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended par. (6).

2018 Amendment. Act 29 reenacted section 9799.66.

§ 9799.67. Duties of Pennsylvania State Police.

The Pennsylvania State Police shall:

(1) Create and maintain a State registry of offenders and sexually violent predators required to register under this subchapter. The registry shall be incorporated as part of the registry established under Subchapter H (relating to registration of sexual offenders).

(2) In consultation with the Department of Corrections, the Office of Attorney General and the chairperson and the minority chairperson of the Judiciary Committee of the Senate and the chairperson and the minority chairperson of the Judiciary Committee of the House of Representatives, promulgate guidelines necessary for the general administration of this subchapter. These guidelines shall establish procedures to allow an individual subject to the requirements of sections 9799.55 (relating to registration) and 9799.60 (relating to verification of residence) to fulfill these requirements at approved registration sites throughout this Commonwealth. This paragraph includes the duty to establish procedures to allow an individual who has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53 (relating to definitions) to fulfill the requirements regarding registration at approved registration sites throughout this Commonwealth. The Pennsylvania State Police shall publish a list of approved registration sites in the Pennsylvania Bulletin and provide a list of approved registration sites in any notices sent to individuals required to register under section 9799.55. An approved registration site shall be capable of submitting fingerprints, photographs and other information required electronically to the Pennsylvania State Police. The Pennsylvania State Police shall require that approved registration sites submit fingerprints utilizing the Integrated Automated Fingerprint Identification System or in another manner and in the form as the Pennsylvania State Police shall require. The Pennsylvania State Police shall require that approved registration sites submit photographs utilizing the Commonwealth Photo Imaging Network or in another manner and in the form as the Pennsylvania State Police shall require. Approved registration sites shall not be limited to sites managed by the Pennsylvania State Police and shall include sites managed by local law enforcement agencies that meet the criteria for approved registration sites specified in this paragraph.

(3) Write regulations regarding neighbor notification of the current residence of sexually violent predators.

(4) Notify, within five business days of receiving the offender's or the sexually violent predator's registration, the chief law enforcement officers of the police departments having primary jurisdiction of the municipalities in which an offender or sexually violent predator has a residence, is employed or enrolled as a student of the fact that the offender or sexually violent predator has been registered with the Pennsylvania State Police under sections 9799.56 (relating to registration procedures and applicability) and 9799.60.

(5) In consultation with the Department of Education and the Department of Corrections, promulgate guidelines directing licensed day-care centers, licensed preschool programs, schools, universities and colleges, including community colleges, on the proper use and administration of information received under section 9799.62 (relating to other notification).

(6) Immediately transfer the information received from the Department of Corrections under section 9799.68(2) and (3) (relating to duties of Department of Corrections) and the fingerprints of a sexually violent predator to the Federal Bureau of Investigation.

(7) Notify individuals of the requirements under this subchapter, as specified in section 9799.54 (relating to applicability).

(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended pars. (2), (5) and (6).

2018 Amendment. Act 29 reenacted section 9799.67.

Cross References. Section 9799.67 is referred to in section 9799.53 of this title.

§ 9799.68. Duties of Department of Corrections.

The Department of Corrections shall:

(1) Create a notification form which will inform State and county prison and probation and parole personnel how to inform offenders and sexually violent predators required to register under this subchapter of their duty under the law.

(2) In cooperation with other Commonwealth agencies, obtain the following information regarding offenders and sexually violent predators:

(i) Name, including aliases.

(ii) Identifying factors.

(iii) Anticipated future residence.

(iv) Offense history.

(v) Documentation of treatment received for the mental abnormality or personality disorder.

(vi) Photograph of the offender or sexually violent predator.

(3) Immediately transmit the information in paragraph (2) to the Pennsylvania State Police for immediate entry into the State registry of offenders and sexually violent predators and the criminal history record of the individual as provided in 18 Pa.C.S. Ch. 91 (relating to criminal history record information).

(4) Apply for Federal funding as provided in the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 120 Stat. 587) to support and enhance programming using satellite global positioning system technology.

(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

Cross References. Section 9799.68 is referred to in section 9799.67 of this title.

§ 9799.69. Board.

(a) Composition.--The State Sexual Offenders Assessment Board shall be composed of psychiatrists, psychologists and criminal justice experts, each of whom is an expert in the field of the behavior and treatment of sexual offenders.

(b) Appointment.--The Governor shall appoint the board members.

(c) Term of office.--Members of the board shall serve four-year terms.

(d) Compensation.--The members of the board shall be compensated at a rate of $350 per assessment and receive reimbursement for their actual and necessary expenses while performing the business of the board. The chairman shall receive $500 additional compensation per annum.

(e) Staff.--The board shall employ an executive director and other staff as necessary to carry out the board's duties under this chapter. The executive director shall direct the operations, management and administration of the board and organize and oversee the work of the staff. Legal counsel for the board shall be provided in accordance with the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act. Upon request by the board, the Department of Corrections shall make available facilities, administrative support and other assistance to the board.

(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (e).

2018 Amendment. Act 29 reenacted section 9799.69.

§ 9799.70. Counseling of sexually violent predators.

(a) Counseling required.--For the period of registration required by section 9799.55(b) (relating to registration), a sexually violent predator shall be required to attend at least monthly counseling sessions in a program approved by the board and be financially responsible for all fees assessed from the counseling sessions. The board shall monitor the compliance of the sexually violent predator. If the sexually violent predator can prove to the satisfaction of the court that the person cannot afford to pay for the counseling sessions, that person shall still attend the counseling sessions and the parole office shall pay the requisite fees.

(b) Notice.--A provider of counseling sessions under subsection (a) shall notify the district attorney of the county and the chief law enforcement officer as defined in section 8951 (relating to definitions) of the municipality where the provider is located that the provider is counseling sexually violent predators. Notice under this subsection must be submitted in writing no later than January 15 of each year and shall include the address of the provider.

(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted and amended section 9799.70. Act 29 overlooked the addition of section 9799.70 by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.70.

Cross References. Section 9799.70 is referred to in section 9799.60 of this title; section 4915.2 of Title 18 (Crimes and Offenses).

§ 9799.71. Exemption from notification for certain licensees and their employees.

Nothing in this subchapter shall be construed as imposing a duty upon a person or an employee of a person licensed under the act of February 19, 1980 (P.L.15, No.9), known as the Real Estate Licensing and Registration Act, to disclose information regarding:

(1) a sexually violent predator; or

(2) an individual who is transferred to this Commonwealth under the Interstate Compact for the Supervision of Adult Offenders or the Interstate Compact for Juveniles.

(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.71.

§ 9799.72. Annual performance audit.

(a) Duties of Attorney General.--The Attorney General shall:

(1) Conduct a performance audit annually to determine compliance with the requirements of this subchapter and guidelines promulgated under this subchapter. The audit shall, at a minimum, include a review of the practices, procedures and records of the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts and any other State or local agency the Attorney General deems necessary in order to conduct a thorough and accurate performance audit.

(2) Prepare an annual report of its findings and actions it recommends be taken by the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, other State or local agencies and the General Assembly to ensure compliance with this subchapter. The first report shall be released to the general public electronically on the Attorney General's publicly accessible Internet website not less than 18 months after February 21, 2018.

(3) Provide a copy of its report to the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, State or local agencies referenced therein, the chairperson and the minority chairperson of the Judiciary Committee of the Senate and the chairperson and the minority chairperson of the Judiciary Committee of the House of Representatives no less than 30 days prior to the report's release to the general public.

(b) Cooperation required.--Notwithstanding any other provision of law to the contrary, the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, the Pennsylvania Commission on Sentencing and any other State or local agency requested to do so shall fully cooperate with the Attorney General and assist the office in satisfying the requirements of this section. For purposes of this subsection, full cooperation shall include, at a minimum, complete access to unredacted records, files, reports and data systems.

(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

§ 9799.73. Photographs and fingerprinting.

An individual subject to section 9799.55 (relating to registration) shall submit to fingerprinting and photographing as required by this subchapter at approved registration sites. Fingerprinting as required by this subchapter shall, at a minimum, require submission of a full set of fingerprints. Photographing as required by this subchapter shall, at a minimum, require submission to photographs of the face and

scars, marks, tattoos or other unique features of the individual. Fingerprints and photographs obtained under this subchapter may be maintained for use under this subchapter and for general law enforcement purposes.
(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.73.

§ 9799.74. Standing for Pennsylvania State Police.

Except for petitions filed under section 9799.59(a) (relating to exemptions from certain notifications), the Pennsylvania State Police shall have standing to appear and contest a filing in a court of this Commonwealth which seeks to challenge in any way the obligation of an individual required to register with the Pennsylvania State Police under this subchapter.
(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.74.

§ 9799.75. Construction of subchapter.

(a) Registration.--Nothing in this subchapter shall be construed to relieve an individual from the obligation to register with the Pennsylvania State Police under this subchapter if the individual:

(1) committed a sexually violent offense within this Commonwealth or committed an offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation which is similar or equivalent to a sexually violent offense, or who was court martialed for a similar or equivalent offense, whether or not the offense is designated as a sexually violent offense; and

(2) was required to register with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth that was enacted before December 20, 2012, or would have been required to register with the Pennsylvania State Police under the act of November 24, 2004 (P.L.1243, No.152), entitled "An act amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, defining the offense of failure to comply with registration of sexual offenders requirements; imposing penalties; further providing for six months limitation and for two year limitation; providing for limitation and application for asbestos claim; further providing for deficiency judgments, for definitions, for registration, for registration procedures and applicability and for assessments; providing for exemption from certain notifications; further providing for verification of residence and for other notification; providing for information made available on the Internet and for certain administration; further providing for immunity for good faith conduct, for duties of Pennsylvania State Police and for exemption from notification for certain licensees and their employees; and providing for annual performance audit and for photographs and fingerprinting," but for the decision by the Pennsylvania Supreme Court in Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013).

(b) Reregistration.--Nothing in this subchapter shall be construed to require an individual who had previously registered with the Pennsylvania State Police for a sexually violent offense prior to July 9, 2000, to reregister under this subchapter if the individual's registration requirements were satisfied.

(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted and amended section 9799.75. Act 29 overlooked the addition of section 9799.75 by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.75.

Cross References. Section 9799.75 is referred to in section 9799.53 of this title.

CHAPTER 98
COUNTY INTERMEDIATE PUNISHMENT

Sec.

9801. Short title of chapter.
9802. Definitions.
9803. Purpose.
9804. County intermediate punishment programs.
9805. Boards.
9806. County intermediate punishment plan.
9807. Commission.
9808. Funding and audits.
9809. Prohibitions.
9810. Continued eligibility.
9811. Nonapplication of certain provisions.
9812. Construction.
9813. Work release or other court order and purposes.

Enactment. Chapter 98 was added June 22, 2000, P.L.345, No.41, effective in 60 days.

§ 9801. Short title of chapter.

This chapter shall be known and may be cited as the County Intermediate Punishment Act.

§ 9802. Definitions.

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

"Board." A county prison board, in counties of the first and second class, the Criminal Justice Coordinating Commission or its successor agency.

"Commission." The Pennsylvania Commission on Crime and Delinquency.

"County intermediate punishment plan." A document which describes a proposed intermediate punishment program.

"County intermediate punishment program." A residential or nonresidential program provided in a community for eligible offenders.

"Court." The trial judge exercising sentencing jurisdiction over an eligible offender under this chapter. Trial judge may include a magisterial district judge if use of intermediate punishment programs by the minor judiciary is approved by the court of common pleas via administrative order or local rule.

"Eligible offender." Subject to section 9721(a.1) (relating to sentencing generally), a person convicted of an offense who would otherwise be sentenced to a county correctional facility, who does not demonstrate a present or past pattern of violent behavior and who would otherwise be sentenced to partial confinement pursuant to section 9724 (relating to partial confinement) or total confinement pursuant to section 9725 (relating to total confinement). The term does not include an offender who has been convicted or adjudicated delinquent of a

crime requiring registration under Subchapter H of Chapter 97 (relating to registration of sexual offenders) or an offender with a current conviction or a prior conviction within the past ten years for any of the following offenses:

18 Pa.C.S. § 2502 (relating to murder).

18 Pa.C.S. § 2503 (relating to voluntary manslaughter).

18 Pa.C.S. § 2702 (relating to aggravated assault).

18 Pa.C.S. § 2703 (relating to assault by prisoner).

18 Pa.C.S. § 2704 (relating to assault by life prisoner).

18 Pa.C.S. § 2901(a) (relating to kidnapping).

18 Pa.C.S. § 3122.1(a)(1) (relating to statutory sexual assault).

18 Pa.C.S. § 3301 (relating to arson and related offenses).

18 Pa.C.S. § 3502 (relating to burglary) when graded as a felony of the first degree.

18 Pa.C.S. § 3701 (relating to robbery).

18 Pa.C.S. § 3923 (relating to theft by extortion).

18 Pa.C.S. § 4302(a) (relating to incest).

18 Pa.C.S. § 5121 (relating to escape).

"Nonprofit agency." A not-for-profit human service organization which provides treatment, guidance, counseling, training or rehabilitation services to individuals, families or groups.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Dec. 1, 2004, P.L.1778, No.233, eff. 60 days; July 5, 2012, P.L.1050, No.122, eff. 60 days)

2012 Amendment . Act 122 amended the def. of "eligible offender."

2004 Amendment. Act 207 amended the def. of "court." See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 9803. Purpose.

County intermediate punishment programs shall be developed, implemented and operated for the following purposes:

(1) To protect society and promote efficiency and economy in the delivery of corrections services.

(2) To promote accountability of offenders to their local community.

(3) To fill gaps in local correctional systems and address local needs through expansion of punishment and services available to the court.

(4) To provide opportunities for offenders who demonstrate special needs to receive services which enhance their ability to become contributing members of the community.

§ 9804. County intermediate punishment programs.

(a) Description.--County intermediate punishment programs are restrictive conditions of probation imposed under section 9763(c) or (d) (relating to conditions of probation), which may be subject to guidelines adopted under section 2154.1 (relating to adoption of guidelines for restrictive conditions).

(1) (Deleted by amendment).

(2) (Deleted by amendment).

(b) Eligibility.--

(1) (i) Upon adoption of guidelines for imposing restrictive conditions adopted by the Pennsylvania Commission on Sentencing under section 2154.1, only eligible persons may have restrictive conditions imposed.

(ii) The prosecuting attorney, in the prosecuting

attorney's sole discretion, may advise the court that the Commonwealth has elected to waive the eligibility requirements if the victim has been given notice of the prosecuting attorney's intent to waive the eligibility requirements and an opportunity to be heard on the issue.

(iii) The court, after considering victim input, may refuse to accept the prosecuting attorney's waiver of the eligibility requirements.

(2) Only programs that meet the requirements of restrictive conditions of probation under section 9763(c) or (d) and are certified in accordance with section 2154.1(b) shall be eligible for county intermediate punishment program funding.

(3) (Deleted by amendment).

(4) (Deleted by amendment).

(5) (Deleted by amendment).

(Sept. 30, 2003, P.L.120, No.24, eff. Feb. 1, 2004; Nov. 19, 2004, P.L.855, No.112, eff. 180 days; July 8, 2007, P.L.82, No.27, eff. imd.; July 5, 2012, P.L.1050, No.122, eff. 60 days; Dec. 18, 2019, P.L.776, No.115, eff. imd.)

§ 9805. Boards.

(a) Duty of board.--To qualify for funding under this chapter, a board must develop a county intermediate punishment program plan to be submitted to the commission.

(b) Joint judicial districts.--Where two counties comprise a joint judicial district, the counties may jointly submit a plan which shall require the concurrence of a majority of members from the boards of each county. The president judge of the judicial district shall chair the meetings of both boards for actions necessary pursuant to this chapter.

(c) Counties with no board.--If a county of the sixth, seventh or eighth class does not have a prison board, the county shall establish an intermediate punishment board for the purpose of complying with the requirements of this chapter. The intermediate punishment board shall consist of the president judge of the court of common pleas or his designee, the district attorney, the sheriff, the controller and the county commissioners.

(d) Powers and duties.--A board has the following powers and duties:

(1) To assess available countywide correctional services and future needs.

(2) To work with the county office of probation and parole in developing the county intermediate punishment plan.

(3) To adopt a county intermediate punishment plan, including program polices for administration.

(4) To make recommendations to the board of county commissioners, or chief executive officer in counties of the first class, on contracts with private providers or nonprofit agencies for the provision of intermediate punishment programs.

(5) To monitor the effectiveness of county correctional services and identify needed modifications.

(6) To make recommendations to the board of county commissioners, or chief executive officer in counties of the first class, regarding the purchase, lease or transfer of lands, buildings and equipment necessary to carry out the intermediate punishment plan.

(7) To designate the appropriate county office to maintain a case record for each individual admitted to a county intermediate punishment program within the county.

(8) To make an annual report on the program to the governing body of the county, the Pennsylvania Commission on Sentencing and the commission.

(9) To develop the county intermediate punishment plan under section 9806 (relating to county intermediate punishment plan).

(e) Advice to board.--

(1) When developing the county intermediate punishment plan, the board shall consult with county criminal justice and related human service providers as well as the public.

(2) At a minimum, the following shall be consulted for the purpose of developing the plan:

(i) Court of common pleas.

(ii) Board of county commissioners.

(iii) Intermediate Punishment Office.

(iv) Adult Probation and Parole Office.

(v) County jail.

(vi) District attorney.

(vii) Public defender or defense bar.

(viii) Single county authority.

(ix) Mental Health/Mental Retardation Office.

(x) Citizen input.

(xi) Victim input.

(3) The board may elect one of the following methods to solicit plan input from providers and the public:

(i) Expand the membership of the board for purposes of developing the county intermediate punishment plan to include those listed in paragraph (2).

(ii) Appoint an intermediate punishment advisory committee to include those listed in paragraph (2) to undertake any duties assigned by the board.

(iii) Develop an alternate process approved by the Pennsylvania Commission on Crime and Delinquency and involving those listed in paragraph (2).

§ 9806. County intermediate punishment plan.

(a) Requirement.--The board may develop a plan for the implementation and operation of intermediate punishment programs in the county. The plan shall provide for all of the following:

(1) An assessment of available countywide correctional services and future needs.

(2) A review of current sentencing procedures and the impact these procedures have on county correctional resources.

(3) A review of current alternatives to pretrial detention and the potential these programs have for affecting the jail population.

(4) A description of the existing resources in the county which can be used as intermediate punishments or services to offenders sentenced to intermediate punishment.

(5) The formulation of policy statements targeted to the needs identified by the county and the impact these policies will have on the use of confinement and intermediate punishment.

(6) The development of goals and objectives which are aimed at effective utilization of existing and projected correctional resources.

(7) The development of an evaluation strategy which measures the qualitative and quantitative performances of all programs.

(b) Technical assistance.--The commission shall provide technical assistance to develop community corrections plans.

(c) Review and approval.--The plan shall be submitted to the commission for review and approval in the format designated by the commission. The commission shall complete its review within 90 days of submission. Failure to disapprove or recommend amendment within 90 days shall constitute approval.

(d) Formal submission.--The plan and any proposed changes thereto shall be submitted on an annual basis.

Cross References. Section 9806 is referred to in section 9805 of this title.

§ 9807. Commission.

(a) Powers and duties.--The commission shall have the following powers and duties:

(1) Subject to the provisions of subsection (b), to adopt rules and regulations pursuant to this act regarding:

(i) The submission, review and approval of county intermediate punishment plans.

(ii) Standards for the development, operation and evaluation of programs and services. In promulgating regulations under this subparagraph, the commission shall consider comments submitted by the counties.

(iii) The administration and disbursement of funds under this chapter.

(2) To provide training and technical assistance to boards and program staff.

(3) To ensure that all programs are in compliance with applicable Federal, State and local law.

(4) To monitor county intermediate punishment programs to determine their impact on offenders.

(5) To remit funds as provided for under section 9808 (relating to funding and audits).

(b) Interim regulations.--Pending adoption and publication of final rules and regulations, the commission shall have the power and authority to suspend existing regulations and to promulgate, adopt, publish and use interim regulations for the implementation of this chapter for a period of one year immediately following the effective date of this chapter or until the effective date of final rules and regulations, whichever first occurs. Notwithstanding any other provision of law to the contrary, the interim regulations proposed under the authority of this section shall be subject to review by the Office of General Counsel and the Attorney General in the manner provided for the review of proposed rules and regulations pursuant to the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, and shall not be subject to review pursuant to the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

§ 9808. Funding and audits.

(a) Eligibility.--Subject to the availability of funding, counties with approved plans shall be eligible for direct funding determined by the commission to support the cost of intermediate punishment programs. This chapter shall not be construed to prohibit the use of Federal funds.

(b) Audit.--Annual reports and all financial records shall be subject to annual audit by the Auditor General.

Cross References. Section 9808 is referred to in section 9807 of this title.

§ 9809. Prohibitions.

(a) General rule.--Recipients may not use funds granted under this chapter to supplant existing funds from the State or local government for existing correctional programs or for

the construction, renovation or operation of a State, county or municipal incarceration facility.

(b) Administrative costs.--Administrative costs connected with the expenditure of county intermediate punishment funds under this chapter may not exceed a percentage amount established by the commission.

§ 9810. Continued eligibility.

(a) Evaluation.--In order to remain eligible for county intermediate punishment funding, a county shall comply with commission standards and regulations and participate in an evaluation to determine program effectiveness. The form of the evaluation shall be determined by the commission and shall include certification by the Pennsylvania Commission on Sentencing under section 2154.1(b) (relating to adoption of guidelines for restrictive conditions).

(b) Suspension of funding.--

(1) If the commission determines that there are reasonable grounds to believe that a county is not complying with its plan or minimum standards, the commission shall give 30 days' written notice to the board.

(2) If the commission finds noncompliance, it shall require the board to provide a written agreement as to how and when the specific deficiencies identified will be corrected.

(3) If no agreement is submitted to the commission within the time limit or if the deficiencies are not corrected within 45 days after an agreement has been approved by the commission, the commission may suspend part or all of the funding until compliance is achieved.

(Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 amended subsec. (a).

§ 9811. Nonapplication of certain provisions.

The provisions of the act of July 12, 1972 (P.L.762, No.180), referred to as the Intergovernmental Cooperation Law, shall not apply to counties which jointly submit a plan under the provisions of this chapter.

References in Text. The act of July 12, 1972, P.L.762, No.180, referred to as the Intergovernmental Cooperation Law, referred to in this section, was repealed by the act of December 19, 1996, P.L.1158, No.177. The subject matter is now contained in Subchapter A of Chapter 23 of Title 53 (Municipalities Generally).

§ 9812. Construction.

Nothing in this chapter shall be construed as creating an enforceable right in any person to participate in an intermediate punishment program in lieu of incarceration. Nothing in this chapter shall be construed as requiring any county to appropriate funds for the implementation of an intermediate punishment program except as may be necessary to qualify for funds under this chapter.

§ 9813. Work release or other court order and purposes.

(a) Generally.--Notwithstanding any provision of law, if any offender has been sentenced to undergo imprisonment in a county jail for a term of less than five years, the court, at the time of sentence or at any time thereafter upon application made in accordance with this section, may enter an order making the offender eligible to leave the jail during necessary and reasonable hours for the purpose of working at his employment, conducting his own business or other self-employed occupation, including housekeeping and attending to the needs of family,

seeking employment, attending an educational institution, securing medical treatment or for other lawful purposes as the court shall consider necessary and appropriate.

(b) Procedure.--At the time of imposition of a county jail sentence, a crime victim receiving notice of the sentence imposed shall be informed that the offender may be eligible for an order under this section. An application for an order under this section shall be served on the attorney for the Commonwealth. Prior to granting any order under this section, the court shall ensure that the attorney for the Commonwealth and a registered crime victim have received notice of the application and had a reasonable opportunity to be heard on the application.

(c) Revocation or modification of previously entered order.--The county jail officials may detain and recommit the offender or preclude the offender from leaving the county jail if the offender violates the conditions set by the jail officials or the court, or if allowing the offender to leave the county jail poses a risk to community safety or the orderly and safe management of the jail. The jail officials shall notify the court of such action. In addition, the order of court may be revoked or modified at any time with notice to the prisoner. (Sept. 25, 2008, P.L.1026, No.81, eff. 60 days)

2008 Amendment. Act 81 added section 9813.

CHAPTER 99
OTHER CRIMINAL PROVISIONS

Subchapter

A. County Probation Officers

Enactment. Chapter 99 was added August 11, 2009, P.L.147, No.33, effective in 60 days unless otherwise noted.

Prior Provisions. Former Chapter 99, which related to State Intermediate Punishment, was added November 19, 2004, P.L.855, No.112, and repealed August 11, 2009, P.L.147, No.33, effective in 60 days.

SUBCHAPTER A
COUNTY PROBATION OFFICERS

Sec.

9911. Definitions.
9912. Supervisory relationship to offenders.
9913. Peace officer power for probation officers.
9914. Meetings.

Special Provisions in Appendix. See section 12 of Act 33 of 2009 in the appendix to this title for special provisions relating to references in text.

§ 9911. Definitions.

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

"ARD." Accelerated Rehabilitative Disposition.

"Conditions of supervision." Any terms or conditions of an offender's supervision whether imposed by the court or an officer, including compliance with all requirements of Federal, State and local law.

"Contraband." Any item that an offender is not permitted to possess under the conditions of supervision, including any item whose possession is forbidden by any Federal, State or local law.

"Court." The court of common pleas or any judge thereof, the Philadelphia Municipal Court or any judge thereof, the Pittsburgh Magistrates Court or any judge thereof or any magisterial district judge.

"Exigent circumstances." The term includes, but is not limited to, suspicion that contraband or other evidence of violations of the conditions of supervision might be destroyed or suspicion that a weapon might be used. Exigent circumstances always exist with respect to a vehicle.

"Offender." A person released on county probation, intermediate punishment or county parole. The term shall not include any person serving a period of probation pursuant to Accelerated Rehabilitative Disposition, except as authorized under section 9912(b) (relating to supervisory relationship to offenders).

"Officer." A probation or parole officer appointed or employed by any court or by any county department of probation and parole to supervise persons released on county probation or parole.

"Personal search." A warrantless search of an offender's person, including, but not limited to, the offender's clothing and any personal property which is in the possession, within the reach or under the control of the offender.

"Probation officer." As defined in section 6304 (relating to powers and duties of probation officers).

"Property search." A warrantless search of real property, vehicle or personal property which is in the possession or under the control of an offender.

"Real property." Any residence or business property of an offender, including all portions of the property to which the offender has access.

"Supervisor." An individual acting in a supervisory or administrative capacity.

"Technology portal." A device, including a cellular phone and other electronic device, that allows simultaneous voice and video communication in real time between the offender and the probation officer.

(July 7, 2022, P.L.492, No.46, eff. 60 days)

2022 Amendment. Act 46 added the defs. of "probation officer" and "technology portal."

§ 9912. Supervisory relationship to offenders.

(a) General rule.--Officers are in a supervisory relationship with their offenders. The purpose of this supervision is to assist the offenders in their rehabilitation and reassimilation into the community and to protect the public.

(b) Searches and seizures authorized.--

(1) Officers and, where they are responsible for the supervision of county offenders, State parole agents may search the person and property of offenders in accordance with the provisions of this section.

(2) (i) Officers may search, in accordance with the provisions of this section, the person and property of any offender who accepts ARD as a result of a charge of a violation of 18 Pa.C.S. Ch. 31 (relating to sexual offenses) if the court has determined that the offender shall be subject to personal and property searches as a

condition of the offender's participation in the ARD program.

(ii) The court shall notify each offender so offered ARD, prior to admission to an ARD program, that the offender shall be subject to searches in accordance with this section.

(iii) Nothing in this section shall be construed to permit searches or seizures in violation of the Constitution of the United States or section 8 of Article I of the Constitution of Pennsylvania.

(c) Effect of violation.--No violation of this section shall constitute an independent ground for suppression of evidence in any probation and parole or criminal proceeding.

(d) Grounds for personal search.--

(1) A personal search of an offender may be conducted by an officer:

(i) if there is a reasonable suspicion to believe that the offender possesses contraband or other evidence of violations of the conditions of supervision;

(ii) when an offender is transported or taken into custody; or

(iii) upon an offender entering or leaving the securing enclosure of a correctional institution, jail or detention facility.

(2) A property search may be conducted by an officer if there is reasonable suspicion to believe that the real or other property in the possession of or under the control of the offender contains contraband or other evidence of violations of the conditions of supervision.

(3) Prior approval of a supervisor shall be obtained for a property search absent exigent circumstances. No prior approval shall be required for a personal search.

(4) A written report of every property search conducted without prior approval shall be prepared by the officer who conducted the search and filed in the offender's case record. The exigent circumstances shall be stated in the report.

(5) The offender may be detained if he is present during a property search. If the offender is not present during a property search, the officer in charge of the search shall make a reasonable effort to provide the offender with notice of the search, including a list of the items seized, after the search is completed.

(6) The existence of reasonable suspicion to search shall be determined in accordance with constitutional search and seizure provisions as applied by judicial decision. In accordance with such case law, the following factors, where applicable, may be taken into account:

(i) The observations of officers.

(ii) Information provided by others.

(iii) The activities of the offender.

(iv) Information provided by the offender.

(v) The experience of the officers with the offender.

(vi) The experience of officers in similar circumstances.

(vii) The prior criminal and supervisory history of the offender.

(viii) The need to verify compliance with the conditions of supervision.

(e) Nonresident offenders.--No officer shall conduct a personal or property search of an offender who is residing in a foreign state except for the limited purposes permitted under

the Interstate Compact for the Supervision of Parolees and Probationers. The offender is held accountable to the rules of both the sending state and the receiving state. Any personal or property search of an offender residing in another state shall be conducted by an officer of the receiving state.

(e.1) Status of seized items.--

(1) Notwithstanding the provisions of Article XIII.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, to the contrary, all contraband that is seized from an offender shall be considered abandoned and unclaimed, and no property right may exist in it, except as otherwise provided in this section, if the following criteria have been met:

(i) The parolee or probationer from whom the item was seized is no longer under the jurisdiction of the court.

(ii) Two years have elapsed from the date the parolee or probationer was no longer under the jurisdiction of the court under subparagraph (i).

(iii) Notice that the item will be declared abandoned was mailed to the last known address of the parolee or probationer from whom the item was seized at least 60 days prior to the date the item is to be declared abandoned.

(iv) No other claimant of the item has notified the county adult probation and parole department of his claim or is known to the county adult probation and parole department.

(v) The item has not been forfeited in accordance with any forfeiture statute, including, but not limited to, Chapter 68 (relating to forfeitures) and as permitted by Pennsylvania common law.

(2) Contraband seized under this section may not be subject to replevin, but shall be deemed to be in the custody of the county adult probation and parole department. The county adult probation and parole department shall tag and secure the contraband at a place designated by it for such time as is necessary to secure its use as evidence in a violation, revocation or criminal proceeding. In no event may the county adult probation and parole department retain the property for a period of less than 180 days after the hearing conducted under paragraph (3).

(3) (i) No later than the time of the first-level hearing to determine whether probable cause exists to believe that a violation of probation, parole or intermediate punishment has been committed, the county adult probation and parole department shall provide notice to the offender that abandonment will be sought if the offender does not claim the seized contraband within two years after sentence completion.

(ii) If the hearing is waived or there is a new criminal charge arising from the incident that included the seizure of the contraband, then notice under this paragraph shall be given at least five days before an abandonment hearing is held and the hearing shall be scheduled by the county adult probation and parole department within a reasonable time.

(4) If it has been determined that property is contraband that shall be declared abandoned, the contraband shall be retained by the county adult probation and parole department until all appeal periods are exhausted to provide an opportunity for any additional parties to assert a claim

of ownership or lienhold interest in the contraband. If the county adult probation and parole department receives notice of such a claim, the claimant or claimants shall be provided a hearing pursuant to paragraph (3).

(5) (i) Whenever contraband is declared abandoned under this subchapter, the contraband shall be transferred to the custodial care of the county adult probation and parole department. After the expiration of the necessary time period specified in this section, the county adult probation and parole department shall itemize all such abandoned contraband within its custodial care in a report to the Treasury Department.

(ii) Within 10 business days following receipt of an itemized contraband report from a county adult probation and parole department, the Treasury Department shall provide an itemized list of all such abandoned contraband that it will not accept into its custodial care.

(iii) All abandoned contraband not accepted by the Treasury Department pursuant to this section shall remain under the custodial control of the county adult probation and parole department. Abandoned contraband not otherwise refused by the Treasury Department shall be transferred to the custodial control of the Treasury Department as directed by the Treasury Department.

(6) All abandoned contraband refused by the Treasury Department and remaining under the custodial control of the county adult probation and parole department shall be deemed property of the county department and title to the property shall transfer. Thereafter, the county probation and parole department shall be entitled to any or all of the following:

(i) Retain the contraband for official use.

(ii) Destroy the contraband.

(iii) Donate the contraband to a nonprofit organization or governmental entity.

(iv) Sell any contraband that is not required to be destroyed by law.

(v) If the item is of de minimis value, as determined by the county adult probation and parole department, dispose of the item, without sale.

(7) The county treasurer of each county shall establish and administer a community correction forfeiture fund consisting of all cash or proceeds obtained under this section. The county treasurer shall disburse money from this fund only at the discretion of the president judge of the court of common pleas, subject to paragraph (8).

(8) Cash or proceeds generated by the sale of any abandoned contraband shall first be made available to satisfy any restitution owed by the offender to crime victims who are known at the time of the seizure by the Pennsylvania Commission on Crime and Delinquency's Office of Victim Services or by the courts of the Commonwealth where the offender was sentenced.

(9) The county adult probation and parole department and its employees shall be immune from liability for good faith conduct under this section.

(10) The Department of Corrections may enact regulations that are necessary to implement this subsection on a uniform basis throughout this Commonwealth. If regulations are promulgated, a county adult probation and parole department must comply with the regulations.

(11) The provisions set forth in this subsection shall apply to all contraband seized after the effective date of this subsection.

(12) Contraband seized prior to the effective date of this subsection may be disposed of in the manner set forth in paragraph (5) after notice is given to the offender from whom it was seized and any claimant known to the county adult probation and parole department. The county adult probation and parole department shall provide the notice within a reasonable time prior to holding a hearing at which abandonment shall be determined.

(13) (i) An appeal of an abandonment determination may be made by filing an appeal with the court of common pleas. The appeal must be received by the court of common pleas within 30 days of the mailing date of the county adult probation and parole department's order.

(ii) When a timely appeal of an abandonment determination has been filed, the abandonment may not be deemed final for purpose of appeal to a court until the court has mailed its decision on the appeal.

(iii) The scope of review of an appeal shall be limited to whether the decision is supported by substantial evidence, an error of law has been committed or there has been a violation of constitutional law.

(iv) The failure of an appeal to present with accuracy, brevity, clearness and specificity whatever is essential to a ready and adequate understanding of the factual and legal points requiring consideration shall be a sufficient reason for denying the appeal.

(v) A second or subsequent appeal and an appeal that is untimely filed under this paragraph shall not be received.

(vi) The procedure for appeal contained in this subsection may not be construed to alter or replace any procedures provided by law for the timely filing of appeals to appellate courts.

(14) The county adult probation and parole department shall annually post a report specifying the abandoned property or proceeds of the abandoned property obtained under this section on the county's publicly accessible Internet website and make the report available as a public document. The report shall give an accounting of all proceeds derived from the sale of abandoned property and the use made of unsold abandoned property.

(f) When authority is effective.--The authority granted to the officers under this section shall be effective upon enactment of this section, without the necessity of any further regulation by the board.

(July 20, 2016, P.L.833, No.96, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (e.1)(10).

2016 Amendment. Act 96 added subsec. (e.1).

Cross References. Section 9912 is referred to in section 9911 of this title.

§ 9913. Peace officer power for probation officers.

An officer is declared to be a peace officer and shall have police powers and authority throughout this Commonwealth to arrest, with or without warrant, writ, rule or process, any person on probation, intermediate punishment or parole under the supervision of the court for failing to report as required by the terms of that person's probation, intermediate punishment

or parole or for any other violation of that person's probation, intermediate punishment or parole.

§ 9914. Meetings.

Notwithstanding section 6.1(h)(5) of the act of November 22, 1978 (P.L.1166, No.274), referred to as the Pennsylvania Commission on Crime and Delinquency Law, in lieu of requiring an offender who has been released on probation to appear in person at a meeting, a probation officer may utilize technology portals.

(July 7, 2022, P.L.492, No.46, eff. 60 days)

2022 Amendment. Act 46 added section 9914.

APPENDIX TO TITLE 42

JUDICIARY AND JUDICIAL PROCEDURE

Supplementary Provisions of Amendatory Statutes

1976, JULY 9, P.L.586, NO.142

§ 8. Pending actions and proceedings.

(a) Jurisdiction of court continued.--Except as otherwise provided in this section, no appeal or other matter pending in any court on the effective date of this act shall be affected by the provisions of this act changing the jurisdiction of courts, and all such matters shall proceed to a final determination in such court, which court shall have continuing jurisdiction over such matter, including jurisdiction on remand following any appellate review of any order entered in such matter, whether such appellate review was had before or after the effective date of this act.

(b) Transfer of jurisdiction by consent.--A court vested with continuing jurisdiction over a pending matter under subsection (a) may at any time, with the consent of the transferee court, transfer jurisdiction of such matter to the court which would have been vested with jurisdiction of such matter if the action or proceeding had been commenced in or the appeal had been taken to such transferee court after the effective date of this act. Such transfers shall be effected with due regard for the interests of justice and the convenience of the parties. In every such case the clerk of the transferor court shall transfer to the custody of the clerk of the transferee court all dockets, records, pleadings and other papers, or certified copies thereof, relating to the matter so transferred.

§ 9. Philadelphia Municipal Court.

(a) President judge.--(Repealed).

(b) Temporary assignment of judges.--The President Judge of the Court of Common Pleas of Philadelphia County may assign temporarily judges of the municipal court to the Court of Common Pleas of Philadelphia County when required to expedite the business of the court.

(c) Limitation on powers of certain judges.--(Repealed).

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

1982 Repeal. Act 326 repealed subsec. (b) in part. The repealed provisions have been deleted from the text.

1980 Repeal. Act 142 repealed subsecs. (a) and (c).

§ 10. Concurrent jurisdiction of Court of Common Pleas of Philadelphia County.

The Court of Common Pleas of Philadelphia County shall have concurrent jurisdiction over the matters specified in 42 Pa.C.S. § 1123(a)(2) (relating to jurisdiction and venue) and the assignment of cases between the two courts shall be determined by rule prescribed by the President Judge of the Court of Common Pleas of Philadelphia County.

(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

1982 Repeal. Act 326 repealed section 10 in part. The repealed provisions have been deleted from the text.

§ 11. Loan Interest and Protection Law.

Nothing in 42 Pa.C.S. § 1722(b) (relating to enforcement and effect of orders and process) or in any other provision of this act shall in any way repeal, modify or otherwise affect the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law.

§ 12. Allegheny County appointments.

Notwithstanding the provisions of 42 Pa.C.S. § 2301(a)(1) (relating to appointment of personnel), until otherwise provided or prescribed by law (and subject to the provisions of 42 Pa.C.S. § 2301(c)) the President Judge of the Court of Common Pleas of Allegheny County shall:

(1) Appoint necessary personal staff of the judges of such court upon the designation of the appointee by the affected judge.

(2) Appoint necessary personal staff of district justices elected or appointed to magisterial districts established within Allegheny County upon the designation of the appointee by the affected district justice.

References in Text. Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

§ 14. Continuation of existing judicial boards, commissions and committees.

The enactment of this act shall not affect the existence or membership of the following bodies:

(1) The Advisory Committee on Appellate Court Rules.

(2) Civil Procedural Rules Committee.

(3) Criminal Procedural Rules Committee.

(4) The Disciplinary Board of the Supreme Court of Pennsylvania.

(5) Judicial Council of Pennsylvania.

(6) Minor Court Civil Procedural Rules Committee.

(7) Philadelphia Judicial Council.

(8) State Board of Law Examiners.

(9) Supreme Court Committee for Proposed Standard Jury Instructions.

(10) Supreme Court Orphans' Court Rules Committee.

§ 15. Minor Judiciary Education Board.

The Minor Judiciary Education Board is hereby transferred to the unified judicial system. All personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations and other material which are used, employed or expended in connection with the powers, duties or functions of the Minor Judiciary Education Board are hereby transferred to the unified judicial system. The terms of the members of the Minor Judiciary Education Board in office on the effective date of this act shall not be affected by this act. Until otherwise provided pursuant to 42 Pa.C.S. § 2132(c) (relating to compensation) each member of the board shall be paid $50 for each day or part thereof upon which he attends a board meeting or performs any duty assigned to him by the chairman and he shall be reimbursed for reasonable traveling or other expenses incurred incident to such attendance and to such assigned duty.

§ 16. Boards of viewers.

Appointments and removals of persons as members of the county board of viewers pursuant to 42 Pa.C.S. § 2142 (relating to composition of boards) shall be made by a majority of the judges of the court of common pleas of the appropriate judicial district.

§ 17. Landlord and tenant officers and writ servers.

Appointments and removals of landlord and tenant officers and writ servers for the Philadelphia Municipal Court under 42 Pa.C.S. § 2301 (relating to appointment of personnel) shall be by the president judge of that court.

§ 18. Traffic court writ servers.

Appointments and removals of writ servers for the Traffic Court of Philadelphia pursuant to 42 Pa.C.S. § 2301 (relating to appointment of personnel) shall be by the president judge of that court from among persons who shall possess such qualifications as the judges of that court shall prescribe.

§ 19. Applicability of minor judiciary education requirements.

Subchapter B of Chapter 31 of Title 42 (relating to qualifications of certain minor judiciary) shall not apply to any judge or district justice in office on the effective date of this act.

References in Text. Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

§ 22. Existing judges of the Traffic Court of Philadelphia.

In the event of the establishment of a community court in the City and County of Philadelphia prior to the expiration of the current term of office of a judge of the Traffic Court of Philadelphia holding office on the effective date of this act, the status of such judge shall be determined under subsection (z) of section 16, Schedule to Article V of the Constitution of Pennsylvania, adopted April 23, 1968, and not by the provisions of 42 Pa.C.S. § 3321(b) (relating to establishment of community courts).

§ 23. Existing judicial officers.

Notwithstanding 42 Pa.C.S. § 3351 (relating to automatic retirement on age) a judge or justice in office on January 1,

1969 may complete the term of office which he was serving on that date.

§ 24. Financial matters.

(a) Existing fees and charges continued.--All existing fees and charges and all fees and charges hereafter fixed by statute or pursuant to existing statutory authority shall continue in effect until superseded by fees and charges fixed pursuant to 42 Pa.C.S. § 1725 (relating to establishment of fees and charges).

(b) Pittsburgh Magistrates Court.--Notwithstanding any other provision of this act, the salary and expenses of the judges of the Pittsburgh Magistrates Court shall be paid by the City of Pittsburgh.

(c) Pennsylvania Judicial Center.--For the purposes of 42 Pa.C.S. § 3703(b) (relating to local chamber facilities) and 42 Pa.C.S. § 3704(b) (relating to local facilities for holding sessions of Statewide courts) the Pennsylvania Judicial Center shall not be deemed to be located in a county until the facilities specified in 42 Pa.C.S. § 3703(a) and 42 Pa.C.S. § 3704(a) are provided by the center.

(d) Philadelphia Law Library.--Until otherwise provided by statute, in every county of the first class:

(1) There shall be charged and set apart by the officer receiving the fees fixed under 42 Pa.C.S. § 1725 and remitted monthly to the treasurer of the bar association or other nonprofit corporation operating the public law library of such county an amount equal to 20% of the filing fees at the time in effect for the probate of wills, the issue of letters testamentary, the issue of letters of administration and the filing of accounts with the register of wills, the filing of accounts of trustees and guardians in the court of common pleas of the county and of all filings in the office of the prothonotary of the county.

(2) The provisions of paragraph (1) shall not apply to any actions taken or initiated by any political subdivision.

(3) The written receipt for said moneys of the treasurer of such bar association or nonprofit corporation, as the case may be, shall be the only legal discharge of such officer.

(4) The Department of General Services shall annually, and free of charge, distribute to the treasurer of each such bar association or nonprofit corporation, as the case may be, for the use of its library, 60 copies of the Laws of Pennsylvania for the purpose of enabling the said library to exchange a copy of the said laws for a copy of similar publications of other states and of the territories of the United States of America.

(e) Allegheny County Law Library.--(Repealed).

(e.1) Second class A county law libraries.--(Repealed).

(f) Manner of expenditure of local funds.--(Repealed).

(July 20, 1979, P.L.166, No.54, eff. 60 days; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 5, 1980, P.L.1108, No.191, eff. imd.; July 3, 1985, P.L.162, No.44; Dec. 14, 1992, P.L.870, No.140, eff. 60 days)

1992 Repeal. Act 140 repealed subsecs. (e) and (e.1)

1985 Amendment. Act 44 amended subsec. (d), effective immediately, and added subsec. (e.1), effective in 20 days. Section 3 of Act 44 provided that, notwithstanding the provisions of laws requiring that the fees be established at

the beginning of each year for the year 1985, new fees may be established upon the effective date of Act 44.

1980 Amendments. Act 142 repealed subsec. (f) and Act 191 amended subsec. (d).

1979 Amendment. Act 54 amended subsec. (e).

1984 Partial Repeals. Section 20 of Act 127 of 1984, known as the Sheriff Fee Act, provided that section 24(a) is repealed insofar as it is inconsistent with Act 127.

Section 4 of Act 188 of 1984, referred to as the Philadelphia Quarter Sessions Clerk Fee Law, provided that section 24(a) is repealed insofar as it relates to fees collected by the Clerk of Quarter Sessions of Philadelphia.

1982 Partial Repeals. Section 7 of Act 85 of 1982, known as the Second Class County Prothonotary Fee Act, provided that section 24(a) is repealed insofar as it is inconsistent with Act 85.

Section 2 of Act 158 of 1982, referred to as the Clerk of Courts Fee Law, provided that section 24(a) is repealed insofar as it is inconsistent with Act 158.

Section 6 of Act 203 of 1982, referred to as the Prothonotary Fee Law, provided that section 24(a) is repealed insofar as it is inconsistent with Act 203.

1981 Partial Repeals. Section 3 of Act 57 of 1981 provided that section 24(a) is repealed insofar as it relates to fees collected by registers of wills in second through eighth class counties. Section 1 of Act 57 established fees for fifth through eighth class counties and section 2 continued existing fees and charges in second through fourth class counties and prohibited their increase except by an act of the Legislature.

Section 3 of Act 58 of 1981 provided that section 24(a) is repealed insofar as it relates to fees collected by clerks of the orphans' courts in second through eighth class counties. Section 1 of Act 58 established fees for fifth through eighth class counties and section 2 continued existing fees and charges in second through fourth class counties and prohibited their increase except by an act of the Legislature.

§ 25. Effect of act on periods of limitation.

(a) Civil actions and proceedings.--Any civil action or proceeding:

(1) the time heretofore limited by statute for the commencement of which is reduced by any provision of this act; and

(2) which is not fully barred by statute on the day prior to the effective date of this act;

may be commenced within one year after the effective date of this act, or within the period heretofore limited by statute, whichever is less, notwithstanding any provisions of Subchapter B of Chapter 55 of Title 42 (relating to civil actions and proceedings) or any other provision of this act providing a shorter limitation.

(b) Barred causes of action not revived.--No cause of action fully barred prior to the effective date of this act shall be revived by reason of the enactment of this act.

(c) Prior crimes and offenses.--The period of limitations specified in this act with respect to crimes and offenses shall not apply to crimes and offenses committed before the effective date of Title 18 (relating to crimes and offenses) and the prior statutes of limitation are hereby continued in force as to such crimes and offenses.

§ 26. Repeals and related provisions.

(a) Suspension of constitutional provisions by statute.--Section 1 (except insofar as it relates to the powers of the Supreme Court), first sentence of section 2, sections 4 and 13, subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (r), (s), (t), (u), (w) and (except as provided in section 22 of this act) (z) of section 16, sections 18, 20, 21 and 27, Schedule to Article V of the Constitution of Pennsylvania, adopted April 23, 1968, are hereby superseded and suspended absolutely.

(b) Suspension of constitutional provisions by general rule.--Subsections (o), (p) and (q) of section 16, and sections 17 and 25, Schedule to Article V of the Constitution of Pennsylvania, adopted April 23, 1968, are hereby superseded and suspended absolutely effective upon the date upon which the provision is or was suspended absolutely by general rule.

(c) Applicability of Statutory Construction Act.--The provisions of 1 Pa.C.S. § 1952 (relating to effect of separate amendments on code provisions enacted by same General Assembly) and 1 Pa.C.S. § 1974 (relating to effect of separate repeals on code provisions by same General Assembly) shall not be applicable to this act insofar as relates to acts of the present General Assembly through the act of April 17, 1976 (P.L.118, No.52).

(d) Repeals relating to county offices and officers.--The following provisions are hereby repealed insofar as they relate to any county office or officer any of the fees and charges of which are established by the governing authority of the unified judicial system pursuant to 42 Pa.C.S. § 1725 (relating to establishment of fees and charges):

(1) Any provision of law limiting the salary of any officer of the City and County of Philadelphia by reference to the net fees received and paid in or earned and due the said city and county for services rendered by his office, after deduction of payments to deputies and clerks.

(2) Section 1806, act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code."

(e) Repeal relating to budget estimate blanks.--Section 601 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," is hereby repealed insofar as it authorizes or requires the Budget Secretary to distribute blanks necessary for the preparation of budget estimates to the prothonotaries of the various courts of the Commonwealth.

(f) Miscellaneous repeals.--

(1) Last sentence of clause (7) of subsection (b) of section 605, act of March 16, 1972 (P.L.108, No.39), known as the "Environmental Improvement Compact," is hereby repealed absolutely.

(2) Subsections (c) and (d) of section 18, act of December 6, 1972 (P.L.1614, No.335), known as the "Pennsylvania Blood Bank Act," are hereby repealed absolutely.

§ 27. Effect on certain officers.

(a) General rule.--Neither this act nor any provision of Title 42 (relating to judiciary and judicial procedure) as added by this act shall impair or limit the existing rights, powers, functions or immunities of any district attorney, sheriff, register of wills or coroner.

(b) Construction of section.--The provisions of subsection (a) shall not affect the power of the governing authority under 42 Pa.C.S. § 1725 (relating to establishment of fees and charges) and 42 Pa.C.S. § 1726 (relating to establishment of

taxable costs), it being hereby declared that such sections relate to the fees, charges and costs to be collected from the public and not to the remuneration and official expense reimbursement to be received by system and related personnel. (Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

1982 Repeal. Act 326 repealed subsec. (a) in part. The repealed provisions have been deleted from the text.

1978 Partial Repeal. Section 27 was repealed April 28, 1978, P.L.202, No.53, effective in 60 days, insofar as inconsistent with Act 53.

§ 28. Short title.

This act shall be known and may be cited as the "Judiciary Act of 1976."

§ 29. Effective date.

This act shall take effect as follows:

(1) This section shall take effect immediately.

(2) 42 Pa.C.S. § 1725 (relating to establishment of fees and charges) and 42 Pa.C.S. § 503(b) (relating to procedures), insofar as applicable to 42 Pa.C.S. § 1725, and section 24(a), (d) and (e) of this act and 42 Pa.C.S. § 102 (relating to definitions), insofar as applicable to all of the foregoing shall take effect January 1, 1977.

(3) The provisions of this act relating to budgeting and financial matters shall take effect with respect to fiscal years commencing July 1, 1977.

(4) All other provisions of this act shall take effect upon the absolute repeal of this paragraph (4). This act shall expire December 31, 1978 unless this paragraph is repealed absolutely prior thereto.

(April 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Repeal. Act 53 repealed par. (4).

Political Subdivisions. Section 42 of Act 53 of 1978 provided that, notwithstanding section 29(3) of the act of July 9, 1976 (P.L.586, No.142), known as the Judiciary Act of 1976, the provisions of Act 142 relating to budgeting and financial matters shall take effect as to political subdivisions with respect to fiscal years commencing on or after July 1, 1978.

1978, APRIL 28, P.L.202, NO.53

§ 1. Short title.

This act shall be known and may be cited as the "Judiciary Act Repealer Act."

§ 2. Repeals.

* * *

(c) Statutes designating agent for service of process.--All acts and parts of acts heretofore enacted which require the execution and filing with any government unit or other person of any document expressly evidencing a designation of a person to whom process may be delivered within this Commonwealth with the same effect as if served personally within this Commonwealth are hereby repealed insofar as such acts require such execution and filing in circumstances where the tribunals of this Commonwealth would exercise personal jurisdiction under Chapter 53 of Title 42 of the Pennsylvania Consolidated Statutes (relating to bases of jurisdiction and interstate and

international procedure) notwithstanding the absence of such designation.

(d) Statutes repealed by Penal Code of 1939.--All acts and parts of acts heretofore specially repealed by section 1201 of the act of June 24, 1939 (P.L.872, No.375), known as "The Penal Code," are hereby repealed absolutely.

* * *

(f) Statutes vesting jurisdiction.--All acts and parts of acts heretofore enacted are hereby repealed insofar as such acts vest jurisdiction in any court or district justice in addition to or in any manner inconsistent with the jurisdiction provided by Title 42 of the Pennsylvania Consolidated Statutes, as amended hereby.

* * *

(k) Statutes relating to constables.--Nothing in this act or the act to which this is a supplement shall affect existing laws relating to the election or appointment of constables or impair or limit the existing rights, powers, functions or immunities of any constable, it being hereby declared that the General Assembly intends to codify the law relating to constables in separate legislation.

* * *

References in Text. Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

§ 3. Cross reference and interpretation.

(a) Cross reference.--This act shall be deemed a part of the act of July 9, 1976 (P.L.586, No.142), known as the "Judiciary Act of 1976," for the purposes of 1 Pa.C.S. § 1975 (relating to effect of repeal on limitations) and § 1978 (relating to repeal as obsolete does not affect substantive rights).

(b) Interpretation.--The specific repeals effected by section 2 are intended to eliminate obsolete, unnecessary or suspended statutory provisions. General rules promulgated pursuant to the Constitution of Pennsylvania and the Judicial Code in effect on the effective date of the repeal of a statute, shall prescribe and provide the practice and procedure with respect to the enforcement of any right, remedy or immunity where the practice and procedure had been governed by the repealed statute on the date of its repeal. If no such general rules are in effect with respect to the repealed statute on the effective date of its repeal, the practice and procedure provided in the repealed statute shall continue in full force and effect, as part of the common law of the Commonwealth, until such general rules are promulgated. Nothing in this act is intended to revive any act heretofore supplied and repealed by later inconsistent legislation. The fact that this act specifically repeals part of an act shall not create any implication that the unrepealed parts of such act are consistent with or are not supplied by the applicable provisions of the Pennsylvania Consolidated Statutes or other later statutes.

(c) Prior laws.--(Repealed).

(d) District justices.--An express reference in any statute or other law to a justice of the peace or to the office of justice of the peace shall hereafter be deemed a reference to a district justice or to the office of district justice. Any person appointed or elected to judicial office in a magisterial district shall be known as and hereafter shall be commissioned

as the "district justice" in and for the appropriate magisterial district.
(Dec. 20, 1982, P.L.1409, No.326, eff. 60 days)

1982 Repeal. Act 326 repealed subsec. (c).

References in Text. Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

§ 23. Confinement of children with adults.

Until December 31, 1979, a child may be detained in a facility with adults if there is no appropriate facility available within a reasonable distance or a contiguous county, whichever is nearer, for the detention of the child in which case the child shall be kept separate and apart from such adults at all times and shall be detained under such circumstances for not more than five days.

§ 25. Confinement of children in jails.

Until December 31, 1979, a jail may be used for the detention of a child who is alleged to be delinquent but only if the detention is necessary for the safety of the public and if the jail has been approved for the detention of the child by the Department of Public Welfare in good faith and the detention has been ordered by the court pursuant to Chapter 63 of Title 42 of the Pennsylvania Consolidated Statutes (relating to juvenile matters). The Department of Public Welfare shall approve for use for purposes of and in accordance with the provisions of this section any jail which it finds maintains, for the detention of the child, an appropriate room under adequate supervision: Provided, That the Department of Public Welfare shall have, no later than October 2, 1977, by regulation promulgated standards governing the operations of such portions of such jails as are used for the detention of children pursuant to this section and shall cause the jails to be inspected by the Department of Public Welfare at least once every six months until this confinement is terminated in accordance with provisions in this act.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 27. Required county detention services.

(a) General rule.--Each county, acting alone or in conjunction with other counties as provided in section 28, shall by December 31, 1978, submit to the Department of Public Welfare for approval a plan for the removal of children from adult facilities. If no such plan is submitted or accepted by the department within the allocated period, the department, after determining the detention needs of individual counties, shall thereafter take whatever steps it deems necessary to provide the required detention services for any such county or counties; including the construction of a regional detention facility to meet the needs of the counties insofar as is consistent with prohibitions against the use of adult facilities for juvenile offenders as provided in Chapter 63 of Title 42 of the Pennsylvania Consolidated Statutes (relating to juvenile matters). The department, after exhausting all other available funds including Law Enforcement Assistance Administration funds and any other Federal or State funds available for such purpose,

shall charge the cost of establishing the necessary regional detention facilities to the counties that will utilize its services.

(b) Charges imposed upon counties.--The amount due the Commonwealth for the services or facilities provided pursuant to subsection (a) shall be paid by the county within 15 months after receipt of notice of the amount due. In determining the amount which each county shall be charged for the establishment of a regional detention facility, the department shall take into account the extent to which the participating counties shall utilize the facilities.

(c) Limitation on charges.--Except as provided in subsection (d), the charges made by the department against any county pursuant to this subsection shall not exceed $50,000.

(d) Additional charges.--In addition to the charges authorized for the providing of regional detention facilities and notwithstanding the limitations on such charges set forth in subsection (c), the Commonwealth shall be entitled to an additional amount for providing such facilities equivalent to 7% of the costs imposed on the county.

(e) Disposition of charges.--All sums collected from the counties pursuant to this subsection shall be paid into the General Fund and credited to the Department of Public Welfare.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 28. Regional detention facilities.

(a) General rule.--Where the operation of an approved detention facility by a single county would not be feasible, economical or conducive to the best interest of a child needing detention care, the Department of Public Welfare shall:

(1) Make provisions directly or by contract with a single county for the implementation and operation, in accordance with the regulations promulgated by the Department of Public Welfare, of regional detention facilities serving the needs of two or more counties.

(2) Arrive at mutually agreeable arrangements with counties participating in the use of such regional detention facilities for the equitable sharing in the costs of constructing and operating such regional detention facilities, including necessary expenditures to transport children and, if financially indigent, their parents, guardians, or custodians to and from such regional detention facilities with funds contributed by the State and by such counties. The department shall only operate a regional detention facility, established under section 27(a), upon refusal of the counties participating in its use to operate the facility pursuant to department regulations.

(b) Use of Commonwealth facilities.--The Department of General Services shall make available any vacant Commonwealth building which the Department of Public Welfare certifies as appropriate for renovation as a regional detention facility.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 31. County liability for new shelter care program operating costs.

Excluding probation services, no county shall be required to pay more than 10% of the costs of operating new shelter care programs required to implement the reclassification provided for in paragraph (6) of the definition of "dependent child" in 42 Pa.C.S. § 6302 (relating to definitions), provided that:

(1) the county has applied for existing Federal funds to implement paragraph (6) of the definition of "dependent child" in 42 Pa.C.S. § 6302;

(2) the county has not been deemed ineligible for these Federal funds; and

(3) the programs are approved as necessary by the Department of Public Welfare to implement paragraph (6) of the definition of "dependent child" in 42 Pa.C.S. § 6302.

For the purposes of this section, shelter care shall not include institutional facilities.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 41. Applicability of Statutory Construction Act (Repealed).

1980 Repeal. Section 41 was repealed October 5, 1980, P.L.693, No.142, effective in 60 days.

§ 42. Political subdivision effective date.

(a) General rule.--Notwithstanding section 29(3) of the act of July 9, 1976 (P.L.586, No.142), known as the "Judiciary Act of 1976," the provisions of said act relating to budgeting and financial matters shall take effect as to political subdivisions with respect to fiscal years commencing on or after July 1, 1978.

(b) Effective date of section.--This section shall take effect immediately.

§ 43. Effective date.

Except as otherwise provided in this act, this act shall take effect 60 days after final enactment.

1978, NOVEMBER 26, P.L.1264, NO.301

§ 4. Election of additional judges.

(a) General rule.--At the municipal election in November 1979, the qualified electors of the judicial districts in which the judges authorized herein are added shall elect, in the same manner prescribed by law for the election of president judge of the court of common pleas of the districts, competent persons learned in the law to serve as additional law judges of the court of common pleas of the respective judicial districts from the first Monday in January 1980, for terms of ten years each. The offices hereby created shall come into existence on the first Monday of January 1980. Vacancies in the offices hereby created whether caused by death, resignation, expiration of term or otherwise shall be filled in the same manner as is required by law in case of similar vacancies in the office of president judge of the courts.

(b) Other provisions inapplicable.--The provisions of 42 Pa.C.S. § 3135 (relating to increase in number of judges) shall not apply to the additional judges herein authorized.

Explanatory Note. Act 301 amended section 911 of Title 42.

1979, JULY 20, P.L.157, NO.52

§ 8. Savings provision.

The provisions of this amendatory act shall not affect any act done, liability or cost incurred or right accrued or vested or affect any suit or prosecution pending or to be instituted to enforce any right or penalty or punish any offense under the authority of any statutory provisions amended by this act.

Explanatory Note. Act 52 amended, added or repealed sections 102, 1515, 1722, 1725.1, 1725.2, 3113, 3118, 3302, 3571, 4102, 4122 and 4123 of Title 42.

1980, JUNE 26, P.L.266, NO.78

§ 5. Applicability and implementation.

This act shall apply and be implemented as follows:

(1) This act shall apply in all counties on and after January 1, 1981.

(2) By order of the president judge of the court of common pleas, this act, except 42 Pa.C.S. § 4561 (relating to compensation of jurors), may be put into effect in the respective county, in whole or in part or in successive stages, at any time prior to January 1, 1981.

(3) Encumbent jury commissioners shall continue in office until successors are duly qualified.

Explanatory Note. Act 78 amended or added sections 2121, 2122, 2123 and 3531 and added the provisions of Chapter 45 of Title 42.

§ 6. Validity of interim proceedings.

Proceedings occurring on and after the effective date of this act and prior to January 1, 1981, which relate to matters affected by this act shall be valid if conducted in a manner that would be or was authorized either under this act or any act or part of an act repealed or superseded by this act or repealed or suspended by the act of April 28, 1978 (P.L.202, No.53), known as the "Judiciary Act Repealer Act."

1980, OCTOBER 5, P.L.693, NO.142

§ 101. Short title.

This act shall be known and may be cited as the "JARA Continuation Act of 1980."

§ 210. Codification of Act No. 1978-140.

* * *

(d) Construction of section.--Notwithstanding 1 Pa.C.S. § 1957 (relating to ineffective provisions not revived by reenactment in amendatory statutes), it is hereby declared to be the intent of subsections (a) through (c) to restore such provisions to their status prior to the partial repeal effected by section 5 of the act of July 8, 1978 (P.L.752, No.140), known as the "Public Employee Pension Forfeiture Act," except as otherwise expressly provided by such provisions as reenacted and amended hereby.

(e) Retroactivity.--The provisions of this section shall be retroactive to the effective date of the "Public Employee Pension Forfeiture Act."

Explanatory Note. Section 210(a), (b) and (c) reenacted and amended section 8533 of Title 24 (Education), section 8124(b) of Title 42 and section 5953(a) of Title 71 (State Government), respectively.

§ 216. Codification of Act Nos. 1978-271 and 1979-50.

(a) Investigating grand juries.--

(1) Renumbering.--In printing the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes the Legislative Reference Bureau pursuant to 1 Pa.C.S. § 1105(d)(1) shall renumber Subchapters D and E of Chapter 45 and sections 4541 and 4542 of Title 42, as added by the act of June 26, 1980 (P.L.266, No.78), as Subchapters E and F and sections 4531 and 4532, respectively.

* * *

Explanatory Note. Section 216(a)(2) added Subchapter D of Chapter 45 of Title 42.

§ 218. Codification of Act No. 1978-319.

* * *

(b) Initial sentencing guidelines.--The Pennsylvania Commission on Sentencing shall adopt and publish in the Pennsylvania Bulletin pursuant to 42 Pa.C.S. § 2155(a)(2) (relating to publication of guidelines for sentencing) the initial sentencing guidelines within 18 months of the first meeting of the commission. The provisions of 18 Pa.C.S. § 1386 (redesignated by this act as 42 Pa.C.S. § 9781) (relating to appellate review of sentence) shall take effect upon the effective date of such initial sentencing guidelines pursuant to 42 Pa.C.S. § 2155(c) (relating to effective date).

(c) Severability.--(Repealed).

(d) Repealer.--Subchapter G of Chapter 13 (relating to Pennsylvania Commission on Sentencing) of Title 18, and sections 7 and 8(a) and (b) of the act of November 26, 1978 (P.L.1316, No.319), entitled "An act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for sentencing and providing for alteration of identification marks on personal property," are repealed except as follows:

(1) Section 1386 is hereby expressly saved from repeal and shall be redesignated as provided by Article IV of this act.

(2) The original terms of members of the Pennsylvania Commission on Sentencing shall be staggered as provided by the former provisions of 18 Pa.C.S. § 1381(a) (relating to composition).

(e) Expiration.--(Repealed).

(Apr. 30, 1986, P.L.135, No.41, eff. May 1, 1986)

1986 Repeal. Section 5 of Act 41 repealed subsecs. (c) and (e).

Explanatory Note. Section 218(a) added Subchapter F of Chapter 21 of Title 42. The subject matter was formerly contained in Subchapter G of Chapter 13 of Title 18 (Crimes and Offenses).

Initial Sentencing Guidelines. The initial sentencing guidelines, as revised, were adopted by the commission on

January 5, 1982, and published in 12 Pa. B. 431 et seq. on January 23, 1982, and became effective July 22, 1982, as a result of the failure of the General Assembly to reject them in their entirety by concurrent resolution within 90 days of their publication. The guidelines are contained in 204 Pa. Code § 303.1 et seq.

§ 221. Codification of Act Nos. 1978-330, 1978-152 and 1980-43.

* * *

(i) Six months limitation.--

* * *

(2) Construction of amendment.--Notwithstanding 1 Pa.C.S. § 1957 (relating to ineffective provisions not revived by reenactment in amendatory statutes), it is hereby declared to be the intent of paragraph (1) to restore 42 Pa.C.S. § 5522 (relating to six months limitation) to its status prior to the repeal effected by section 802(b) of the act of November 26, 1978 (P.L.1399, No.330), known as the "Political Subdivision Tort Claims Act," except as otherwise expressly provided by such section as reenacted and amended hereby.

(j) References in repealed statute.--References in the act of September 28, 1978 (P.L.788, No.152), to "this act" and to "42 Pa.C.S. § 5110" shall be deemed to be references to Subchapter B of Chapter 85 (relating to actions against Commonwealth parties) of Title 42.

* * *

Explanatory Note. Section 221, among other things, repealed and added section 5522, repealed sections 5110 and 5111 and repealed and added Chapter 85 of Title 42.

§ 333. Language added by Act No. 1978-330.

* * * Actions under Subchapter C of Chapter 85 (relating to actions against local parties) of Title 42 of the Pennsylvania Consolidated Statutes for claims against a local agency may be brought in and only in a county in which the local agency is located or in which the cause of action arose or where a transaction or occurrence took place out of which the cause of action arose. No interest shall accrue in any such action prior to any entry of judgment. A local agency may intervene in any action brought against an employee thereof for damages on account of an injury to a person or property based on claims arising from, or reasonably related to, the office or the performance of the duties of the employee.

Explanatory Note. Section 333 repealed the act of November 26, 1978, P.L.1399, No.330, known as the Political Subdivision Tort Claims Act.

§ 401. Transfer of Chapter 13 of Title 18 to Title 42.

* * *

(b) Renumbering.--In printing the Laws of Pennsylvania for the 1979-1980 Sessions of the General Assembly and the Pennsylvania Consolidated Statutes the Legislative Reference Bureau shall change any reference or citation to the Sentencing Code to conform to the change in title and chapter number effected by subsection (a).

Explanatory Note. Section 401(a) amended and renumbered Chapter 13 of Title 18 (Crimes and Offenses) to Chapter 97 of Title 42.

§ 501. Miscellaneous amendments to Title 42.

* * *

(b) Statutory arbitration.--The provisions of 42 Pa.C.S. § 7302(d)(2) (relating to special application) shall be applicable to any nonjudicial arbitration pursuant to:

(1) An agreement made prior to the effective date of this act which expressly provides that it shall be interpreted pursuant to the law of this Commonwealth and which expressly provides for statutory arbitration.

(2) An agreement heretofore or hereafter made which expressly provides for arbitration pursuant to the former provisions of the act of April 25, 1927 (P.L.381, No.248), relating to statutory arbitration.

* * *

Explanatory Note. Section 501(a), among other things, added section 7302 of Title 42.

§ 601. Applicability of Statutory Construction Act (Repealed).

1982 Repeal. Section 601 was repealed December 20, 1982, P.L.1409, No.326, effective in 60 days.

§ 602. Effect of Article III.

Article III of this act shall be deemed a part of section 2(a) of the act of April 28, 1978 (P.L.202, No.53), known as the "Judiciary Act Repealer Act" for purposes of section 3 of that act.

Explanatory Note. Article III repealed inconsistent legislation of the 1977-1980 General Assemblies.

1982, DECEMBER 20, P.L.1409, NO.326

§ 101. Short title.

This act shall be known and may be cited as the "JARA Continuation Act of 1982."

§ 401. Applicability of Statutory Construction Act.

This act is intended to integrate into Title 42 of the Pennsylvania Consolidated Statutes all relevant legislation of the 1979-1981 General Assemblies through Act No. 1981-18. The provisions of 1 Pa.C.S. §§ 1952 (relating to effect of separate amendments on code provisions enacted by same General Assembly) and 1974 (relating to effect of separate repeals on code provisions by same General Assembly) shall not be applicable to any act of the 1979-1981 General Assemblies through Act No. 1981-18 insofar as relates to Title 42 of the Pennsylvania Consolidated Statutes. Section 601 of the act of October 5, 1980 (P.L.693, No.142), known as the "JARA Continuation Act of 1980," is repealed.

§ 402. Effect of Article III.

Article III of this act shall be deemed a part of section 2(a) of the act of April 28, 1978 (P.L.202, No.53), known as the "Judiciary Act Repealer Act," for purposes of section 3 of that act.

Explanatory Note. Article III repealed inconsistent legislation.

§ 403. Applicability of amendments.

Except as provided in section 404, the amendments to 42 Pa.C.S. Ch. 55 (relating to limitation of time) effected by this act shall apply only to causes of action which accrue after the effective date of this act.

§ 404. Effective date.

This act shall take effect in 60 days except that:

(1) The amendment adding 42 Pa.C.S. § 762(a)(1)(ii) (relating to appeals from courts of common pleas) shall take effect immediately and shall be retroactive to December 5, 1980.

(2) The amendments to 42 Pa.C.S. §§ 4303(a) (relating to effect of judgments and orders as liens), 5501(a) (relating to scope of chapter) and 8301 (relating to death action) effected by this act shall take effect immediately and shall be retroactive to June 27, 1978.

1984, JULY 10, P.L.708, NO.150

§ 3. Election of additional judges.

The vacancies created by the new judgeships added by section 1 of this act shall be filled by election at the first municipal election occurring after the effective date of this act, except that the vacancies created in the fifth, twenty-fourth and thirty-second judicial districts shall be filled pursuant to 42 Pa.C.S. § 3135 (relating to increase in number of judges).

Explanatory Note. Act 150 amended or added sections 911, 4122 and 4124 of Title 42.

1986, APRIL 30, P.L.135, NO.41

§ 6. Effect on existing guidelines, rules, regulations and members.

(a) Guidelines, rules and regulations.--Each guideline, rule and regulation of the commission in effect on the effective date of this act shall remain in effect after such date until amended by the commission, provided that the commission shall immediately initiate the repeal or amendment of any rule or regulation which is inconsistent with the provisions of this act.

(b) Members.--Members of the Pennsylvania Commission on Sentencing constituted under 42 Pa.C.S. § 2152 (relating to composition of commission), as of the effective date of this act, shall continue to serve as members until their present terms of office expire, provided that any present commission member whose term has expired on or before the effective date of this act shall serve until a successor has been appointed and qualified, but no longer than six months after the effective date of this act.

Explanatory Note. Act 41 reestablished the Pennsylvania Commission on Sentencing and amended or added sections 2151, 2152, 2153 and 2156 of Title 42.

§ 7. Reestablishment of Pennsylvania Commission on Sentencing.

This act, with respect to the Pennsylvania Commission on Sentencing, constitutes the legislation required to reestablish

an agency under the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

§ 8. Effective date.
This act shall take effect May 1, 1986.

1986, DECEMBER 22, P.L.1744, NO.213

§ 2. Election of additional judges.
The vacancies created by the new judgeships added by section 1 of this act shall be filled pursuant to 42 Pa.C.S. § 3135 (relating to increase in number of judges), except that the vacancies created in the fourteenth, twenty-third, thirty-second, thirty-third, thirty-eighth, forty-second and forty-fifth judicial districts shall be filled by election at the first municipal election occurring after the effective date of this act.

Explanatory Note. Act 213 amended section 911 of Title 42.

§ 3. Applicability.
This act shall apply to the twenty-sixth judicial district on January 1, 1989.

1988, MARCH 22, P.L.240, NO.26

§ 2. Legislative review of sentencing guidelines.
Any sentencing guidelines adopted by the Pennsylvania Commission on Sentencing and disapproved by the General Assembly prior to the effective date of this act shall be deemed null and void upon the adoption of sentencing guidelines subsequent to the effective date of this act and pursuant to this section. Notwithstanding the requirements set forth in 42 Pa.C.S. § 2155 (relating to publication of guidelines for sentencing), those guidelines published in the Pennsylvania Bulletin on December 5, 1987, and adopted by the commission on February 22, 1988, shall be submitted to the standing committee of each house of the General Assembly which has been designated to perform the responsibilities established pursuant to the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, relevant to the commission within five days of the effective date of this act; and the General Assembly may, by concurrent resolution, reject in their entirety said guidelines within 30 days from the date that said guidelines are submitted to the designated standing committee of each house of the General Assembly, and said guidelines shall become effective 30 days after such submittal unless disapproved pursuant to this section. The guidelines shall apply to all offenses committed on or after the effective date of the adopted guidelines.

Explanatory Note. Act 26 amended section 2155 of Title 42.

1990, DECEMBER 7, P.L.619, NO.159

§ 2. Judgeships in First Judicial District.
The first judges elected to the five judgeships in the First Judicial District established by section 1 shall, for five years, devote their full time to presiding over criminal cases involving violations of the act of April 14, 1972 (P.L.233,

No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, and other related offenses.

Explanatory Note. Act 159 amended section 911 of Title 42.

§ 3. Filling of new judgeships.

(a) Election.--Except as provided in subsection (b), the vacancies created by the new judgeships added by section 1 (section 911) shall be filled by election at the first municipal election occurring after the effective date of this act.

(b) Appointment.--The new judgeship added by section 1 (section 911) in the Seventh Judicial District shall be filled by appointment of the Governor.

1992, DECEMBER 18, P.L.1269, NO.167

§ 5. Increases in court costs.

(a) Applicability.--The increases in court costs authorized by this act and their corresponding inflators that are payable to the Commonwealth shall be exempt from the provisions of 42 Pa.C.S. § 3733(a). The balance of the court costs payable to the Commonwealth and their corresponding inflators shall be subject to the provisions of 42 Pa.C.S. § 3733(a).

(b) Distribution of partial payments.--Any partial payment of court costs shall be distributed on a pro rata basis among those entitled to receive such costs.

Explanatory Note. Act 167 amended or added sections 1515, 1725.1, 1726 and 3571, Subchapter F of Chapter 35 and section 9730 of Title 42 and section 153 of Title 15 (Corporations and Unincorporated Associations).

§ 6. Revision of official revenue estimate.

Notwithstanding any other provisions of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, to the contrary, the Department of Revenue, in conjunction with the Secretary of the Budget, may, within 60 days of the effective date of this act, revise the official revenue estimate for the Commonwealth to account for additional revenues anticipated to be generated by changes to court costs included in this act.

§ 8. Commencement of compensation increases.

Any increase in the compensation of any official provided for in this act shall commence when permitted by the Constitution of Pennsylvania.

1993, JULY 2, P.L.395, NO.56

§ 10. Transition provisions.

(a) Members, proceedings and records of Judicial Inquiry and Review Board.--The members of the Judicial Inquiry and Review Board shall vacate their offices on the effective date of this act, and all proceedings pending before the Judicial Inquiry and Review Board and all records shall be transferred to the Judicial Conduct Board for further proceedings.

(b) Transfers to new board and court.--There are hereby transferred to the Judicial Conduct Board to be used, employed and expended in connection with the functions, powers and duties of the board, the personnel, contract obligations, if any,

files, property and equipment of the Judicial Inquiry and Review Board and two-thirds of the unexpended balances of appropriations, allocations or other funds available or to be made available to the Judicial Inquiry and Review Board for the 1992-1993 and 1993-1994 fiscal years. There are hereby transferred to the Court of Judicial Discipline to be used, employed and expended in connection with the functions, powers and duties of the court, one-third of the unexpended balances of appropriations, allocations or other funds available or to be made available to the Judicial Inquiry and Review Board for the 1992-1993 and 1993-1994 fiscal years.

Explanatory Note. Act 56 amended, added or repealed sections 725 and 727, Article F of Subpart A of Part II, section 1722, Subchapter A of Chapter 21, section 3305, the heading of Subchapter C of Chapter 33 and sections 3331, 3332, 3333, 3334, 3352, 3571 and 4581 of Title 42.

§ 11. Terms of initial members of Judicial Conduct Board.
Of the members initially appointed to the Judicial Conduct Board, the judge appointed by the Supreme Court shall serve a four-year term and the judge appointed by the Governor shall serve a three-year term. The district justice initially appointed shall serve a two-year term. Of the three nonjudge members of the bar of this Commonwealth initially appointed, the first appointed by the Governor shall serve a three-year term, the next appointed by the Governor shall serve a two-year term and the nonjudge member of the bar of this Commonwealth appointed by the Supreme Court shall serve a one-year term. Of the six nonlawyer electors initially appointed, the first appointed by the Governor and the first appointed by the Supreme Court shall serve a four-year term, the next appointed by the Governor and the next appointed by the Supreme Court shall serve a three-year term and the next appointed by the Governor and the next appointed by the Supreme Court shall serve a two-year term. All such appointments shall compute from the effective date of this act. The Governor shall convene the board for its first meeting.

References in Text. Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

§ 12. Terms of initial members of Court of Judicial Discipline.
Of the three judges initially appointed to the Court of Judicial Discipline, the first appointed by the Supreme Court shall serve a four-year term, the next appointed by the Supreme Court shall serve a three-year term and the judge appointed by the Governor shall serve a two-year term. The district justice initially appointed shall serve a one-year term. Of the nonjudge members of the bar of this Commonwealth initially appointed, the first appointed shall serve a four-year term and the next appointed shall serve a three-year term. Of the two nonlawyer electors initially appointed, the nonlawyer elector appointed by the Governor shall serve a three-year term and the nonlawyer elector appointed by the Supreme Court shall serve a two-year term. All such appointments shall compute from the effective date of this act.

References in Text. Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district

justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

1994, APRIL 21, P.L.131, NO.17

Preamble

The General Assembly finds and declares as follows:

(1) For the health, safety and welfare of the residents of this Commonwealth, the laws designed to deter the defacement of public and private property through the use of aerosol spray-paint cans, broad-tipped indelible markers and other marking devices should be strengthened.

(2) Where appropriate, the court should require those who commit acts of defacement to restore the damaged property to its original condition.

Explanatory Note. Act 17 amended section 3304 of Title 18 and added section 9720 of Title 42.

1995, JUNE 13, 1st SP.SESS., P.L.1024, NO.17

Preamble

The General Assembly hereby declares that the purpose of this act is to provide support to law enforcement in the area of crime prevention and control, that it is not the purpose of this act to place any undue or unnecessary restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, transfer, transportation or use of firearms, rifles or shotguns for personal protection, hunting, target shooting, employment or any other lawful activity, and that this act is not intended to discourage or restrict the private ownership and use of firearms by law-abiding citizens for lawful purposes or to provide for the imposition by rules or regulations of any procedures or requirements other than those necessary to implement and effectuate the provisions of this act. The General Assembly hereby recognizes and declares its support of the fundamental constitutional right of Commonwealth citizens to bear arms in defense of themselves and this Commonwealth.

Explanatory Note. Act 17 amended, added, reenacted or repealed sections 913, 6101, 6102, 6103, 6104, 6105, 6106.1, 6107, 6109, 6110, 6110.1, 6111, 6111.1, 6111.2, 6111.3, 6111.4, 6111.5, 6112, 6113, 6114, 6115, 6116, 6117, 6118 and 6125 of Title 18 and sections 6308 and 9712 of Title 42.

1995, OCTOBER 11, 1st SP.SESS., P.L.1058, NO.21

§ 5. Projected increases in State prison population.

Within 180 days of the effective date of this act, the Pennsylvania Commission on Sentencing shall, for the purpose of advising the General Assembly concerning future prison construction expenditures, publish projected increases in the State prison population resulting from implementation of this act.

Explanatory Note. Act 21 amended section 1103 of Title 18 and sections 6335, 9712, 9713 and 9714 of Title 42.

1995, NOVEMBER 17, 1st SP.SESS., P.L.1118, NO.32

§ 3. Applicability.

This act shall apply as follows:

(1) The amendment of 42 Pa.C.S. §§ 9542, 9543, 9544, 9545 and 9546 shall apply to petitions filed after the effective date of this act; however, a petitioner whose judgment has become final on or before the effective date of this act shall be deemed to have filed a timely petition under 42 Pa.C.S. Ch. 95 Subch. B if the petitioner's first petition is filed within one year of the effective date of this act.

(2) The addition of 42 Pa.C.S. Ch. 95 Subch. D shall apply in all cases in which the death penalty is imposed on or after January 1, 1996.

Explanatory Note. Act 32 amended or added sections 9542, 9543, 9544, 9545 and 9546 and Subchapter D of Chapter 95 of Title 42.

1997, FEBRUARY 14, P.L.3, NO.2

§ 2. Election of additional judges.

(a) Applicability of section 3135.--The provisions of 42 Pa.C.S. § 3135 shall not be applicable to the selection of judges for the judgeships created in the amendment of 42 Pa.C.S. § 911(a).

(b) Judgeships created January 5, 1998.--Except as provided in subsections (c) and (d), the new judgeships added by the amendment of 42 Pa.C.S. § 911(a) shall be created on January 5, 1998, and shall be initially filled by election at the 1997 municipal election.

(c) Judgeships created January 3, 2000.--The new judgeships for the eleventh, twelfth, twenty-third, forty-third, fiftieth and fifty-seventh districts added by the amendment of 42 Pa.C.S. § 911(a) shall be created on January 3, 2000, and shall be initially filled by election at the 1999 municipal election.

(d) Judgeships in second and fifteenth districts.--The new judgeships for the second and fifteenth districts added by the amendment of 42 Pa.C.S. § 911(a) shall be created as follows: one judgeship in each district shall be created on January 5, 1998, and shall be initially filled by election at the 1997 municipal election, and one judgeship in each district shall be created on January 3, 2000, and shall be initially filled by election at the 1999 municipal election.

Explanatory Note. Act 2 amended sections 911, 1121 and 1321 of Title 42.

1999, JUNE 22, P.L.75, NO.12

Preamble

Pursuant to the Judiciary Article of the Constitution of Pennsylvania and its establishment of the Unified Judicial System and consistent with the authority of the General Assembly regarding expenditure of Commonwealth funds pursuant to Article III, section 24, and while otherwise expressly reserving its appropriation and other legislative authority as to the funding of the Unified Judicial System, it is the intent of the General Assembly to facilitate the administration of the Unified

Judicial System by providing for inclusion of key designated county-level court administrators and their designated deputies, associates and assistant administrators and special courts administrators within the State judicial personnel system and for their compensation by the Commonwealth.

Explanatory Note. Act 12 added section 1905, the heading of Subchapter A and Subchapters B through I (Reserved) and J of Chapter 23 of Title 42 and amended or added sections 5102, 5301, 5302, 5303, 5303.1, 5304, 5306, 5308, 5309, 5504, 5505, 5507, 5705, 5903, 5905, 5905.1, 5906, 5907, 5934 and 5953.5 of Title 71 (State Government).

§ 18. Applicability to county court administrators.

This act shall apply to the county employees who become State employees pursuant to 42 Pa.C.S. § 1905.

§ 19. Required membership in State Employees' Retirement System.

County employees transferred to State employment pursuant to 42 Pa.C.S. § 1905 who are annuitants of the State Employees' Retirement System shall be required to be active members of the State Employees' Retirement System and shall have their annuities stopped pursuant to 71 Pa.C.S. §§ 5301(d) and 5706, governing annuitants of the State Employees' Retirement System who return to State service. Upon subsequent termination and application for annuity, the transferred State Employees' Retirement System annuitants shall have their benefits calculated according to the provisions of 71 Pa.C.S. Pt. XXV, regarding annuities after subsequent termination. For purposes of calculating eligibility points for the application of 71 Pa.C.S. § 5706(c)(1), only eligibility points earned after the date of transfer may be included unless the member has converted county service to State service pursuant to 71 Pa.C.S. § 5303.1. If a former annuitant has converted county service to State service, the eligibility points subsequent to the most recent receipt of an annuity that is not returned to the State Employees' Retirement System as a result of the converted service shall also be included in calculating the eligibility points under 71 Pa.C.S. § 5706(c)(1).

§ 20. Membership terms and conditions.

Except as otherwise set forth in this act, county employees who are transferred to State employment pursuant to 42 Pa.C.S. § 1905 shall be subject to the terms and conditions of 71 Pa.C.S. Pt. XXV in the same manner and extent as any other individual commencing State employment who is eligible for the benefits and obligations of Class A membership with a superannuation age of 60 years.

§ 21. Notification of transfer and certification of credited service.

Upon the filing by a county employee transferred to State employment pursuant to 42 Pa.C.S. § 1905 of an election to convert county service to State service, the State Employees' Retirement Board shall notify the appropriate county retirement system or pension plan administrator. Within 30 days of notification, the county retirement system or pension plan administrator shall certify to the State Employees' Retirement Board the total amount of service credited to the electing member's account, and such information on how it was earned or acquired, in the county retirement system or pension plan,

including, but not limited to, the nature of the underlying service or legal authority on which the credit was based and the dates covered by the credit as requested by the State Employees' Retirement Board. The administrators, employees, trustees and fiduciaries of all retirement systems or pension plans operated for the transferred employees shall provide whatever information and records are requested by the State Employees' Retirement System within 30 days of the request for the transferred employees. If a county retirement system or pension plan fails to provide the information required by this section, the county shall be subject to a penalty of $100 per day for each of the transferred employees until the information is provided.

§ 22. Termination of employment and continuation of contributions in county retirement system.

(a) Termination of employment by transferred employee.--County employees who are transferred to State employment pursuant to 42 Pa.C.S. § 1905 shall have their county employment by virtue of judicial system employment terminated effective the day before the transfer. No further rights in any county retirement system by virtue of employment with the State shall accrue, but such transferred member shall have the rights, privileges and obligations in the retirement system of the county enjoyed by any other involuntarily terminated employee who is a member of that plan of the same gender and with the same age, years of service, compensation, contributions and other factors that enter into the calculation of benefits.

(b) Contributions left in county retirement system.--Notwithstanding subsection (a) or any other provision of this act, including, but not limited to, the addition of 71 Pa.C.S. §§ 5301(e) and 5303.1(d) and section 23 of this act, and notwithstanding any other provision of law, ordinance, collective bargaining agreement, arbitration award, contract or term or condition of any retirement system or pension plan, any transferred member who elects to convert county service to State service may elect to leave in the county retirement system or pension plan any contributions of whatever nature made by the employee, including, but not limited to, pickup contributions, and any interest paid on those contributions. Upon making such an election, the retirement system or pension plan shall treat the contributions and interest as if the member had remained in full-time active service as an employee of the county for the period the transferred employee is a State employee, including the crediting of interest if and as otherwise provided for by the retirement system or pension plan. Upon termination of State service, the transferred employee may make application to the county pension plan or retirement system as if the transferred employee was terminating county service and shall be granted whatever rights and benefits, including an immediate lump sum distribution or an annuity from the county pension plan or retirement system equal to the contributions and interest in the member's account with the county, provided to a terminating member with the age and service the member would have possessed had the member remained a full-time employee of the county. Such election must be in writing filed with the administrator of the county pension plan or retirement system from which the county service is being converted and must be made within 30 days after the election to convert county service to State service.

§ 24. Transfer of inactive participants or contributors or employees on leave.

For purposes of this act, any county employee who is transferred to State employment pursuant to 42 Pa.C.S. § 1905, who is on leave at the time of the transfer or who is not an active participant or contributor to the county retirement system or pension plan but is still an employee of the county judicial system at the time of the transfer shall be deemed an active member for purposes of the implementation of this act and the elections required herein.

§ 28. Nonseverability or invalidation.

(a) General rule.--The General Assembly declares that the provisions of this act are expressly nonseverable and that in the event a court of competent jurisdiction rules finally that any provision mandated in this act is legally or constitutionally impermissible, this entire act shall be void.

(b) Invalidation by judicial action.--This entire act shall be void if the provisions of 42 Pa.C.S. § 1905(d)(1) are:

(1) suspended by the judiciary;

(2) superseded by rule of court promulgated hereafter;

(3) ruled finally by a court of competent jurisdiction to be regulation of the practice of law; or

(4) otherwise rendered inoperative by judicial action.

2000, DECEMBER 20, P.L.721, NO.98

Preamble

It is the intent of the General Assembly to protect our most vulnerable and precious citizens, the Commonwealth's children, from the ravages of sexual abuse. Because sexual crimes committed against children are among the most heinous imaginable, the General Assembly declares it to be in the public interest to enact this act.

Explanatory Note. Act 98 amended sections 2902, 2903 and 5903 of Title 18 and added section 9718.1 of Title 42.

§ 3. Applicability.

This act shall apply as follows:

(1) The amendment of 18 Pa.C.S. §§ 2902, 2903 and 5903(h)(2) and the addition of 42 Pa.C.S. § 9718.1 shall apply to offenses committed on or after the effective date of this act.

(2) The addition of 42 Pa.C.S. § 9718.1 shall not preclude consideration of the factors set forth in that section in granting or denying parole for offenses committed before the effective date of this act, except to the extent that consideration of such factors is precluded by the Constitution of the United States or the Constitution of the Commonwealth of Pennsylvania.

2000, DECEMBER 20, P.L.742, NO.105

§ 7. Election of additional judges.

(a) Application of section 3135.--The provisions of 42 Pa.C.S. § 3135 shall not be applicable to the selection of judges for the judgeships created in the amendment of 42 Pa.C.S. § 911(a).

(b) Creation and filling of new judgeships.--

(1) Except as provided in paragraphs (2), (3), (4) and (5), the new judgeships added by the amendment of 42 Pa.C.S. §911(a) shall be created on January 2, 2002, and shall be initially filled by election at the 2001 municipal election.

(2) The new judgeships for the second district added by the amendment of 42 Pa.C.S. § 911(a) shall be created as follows:

(i) One judgeship shall be created on January 2, 2002, and shall be initially filled at the 2001 municipal election.

(ii) One judgeship shall be created on January 5, 2004, and shall be initially filled at the 2003 municipal election.

(3) The new judgeships for the fifteenth district added by the amendment of 42 Pa.C.S. § 911(a) shall be created on January 5, 2004, and shall be initially filled at the 2003 municipal election.

(4) The new judgeship for the thirty-first district added by the amendment of 42 Pa.C.S. § 911(a) shall be created on January 5, 2004, and shall be initially filled at the 2003 municipal election.

(5) The new judgeship for the nineteenth district added by the amendment of 42 Pa.C.S. § 911(a) shall be created on January 5, 2004, and shall be initially filled at the 2003 municipal election.

Explanatory Note. Act 105 added or amended sections 911, 914, 2737.1, 3721, 4545, 5945.1, 5945.2 and 8124 of Title 42.

Creation of Judgeships. Section 3 of Act 113 of 2001 provided that notwithstanding the provisions of section 7(b)(1) and (2)(i) of Act 105, the new judgeships authorized by section 911(a) of Title 42 and initially filled by election at the 2001 municipal election shall be created on January 7, 2002.

2001, JUNE 22, P.L.388, NO.28

§ 2. Election of additional judges.

(a) Application of section 3135.--The provisions of 42 Pa.C.S. § 3135 shall not be applicable to the selection of the judge for the judgeship created by the addition of 42 Pa.C.S. § 911(a.1).

(b) Creation and filling of new judgeships.--The new judgeship added by the addition of 42 Pa.C.S. § 911(a.1) shall be created on January 7, 2002, and shall be initially filled by election at the 2001 municipal election.

(c) Judgeships in fourteenth district.--Notwithstanding any other provision of law to the contrary, the person or persons nominated in the primary election held for a judgeship in the Fourteenth Judicial District on May 15, 2001, shall be deemed to have been nominated for the new judgeship added by the addition of 42 Pa.C.S. § 911(a.1).

(d) Application of Pennsylvania Election Code.--Except as provided by subsection (c), the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, shall apply to the election for the newly created judgeship.

Explanatory Note. Act 28 amended section 911 of Title 42.

§ 3. Legislative findings.

The General Assembly finds and declares as follows:

(1) Acting pursuant to the duties prescribed in section 903 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, the Secretary of the Commonwealth determined that an election should be held in 2001 for the office of Judge of the Court of Common Pleas of the Fourteenth Judicial District. The secretary made her determination in accordance with the Constitution of Pennsylvania by anticipating the mandatory retirement of a commissioned judge of the Court of Common Pleas of the Fourteenth Judicial District then scheduled to occur on the judge's 70th birthday on January 6, 2002, prior to the first Monday in January in the year following the municipal election. The primary for that election was held as directed by the secretary on May 15, 2001.

(2) As a result of the approval of the electors on May 15, 2001, of an amendment to section 16(b) of Article V of the Constitution of Pennsylvania altering the dates on which a justice, judge or district justice must retire from the date of his 70th birthday to the last day of the calendar year on which he reaches his 70th birthday, the secretary can no longer legally anticipate the mandatory retirement of a judge of the Court of Common Pleas of the Fourteenth Judicial District by reason of age prior to the first Monday in January 2002, the date on which a newly elected judge would commence his elective term.

(3) For these reasons, the election for the judgeship on the Court of Common Pleas of the Fourteenth Judicial District previously designated by the secretary to be conducted in the municipal election scheduled for November 7, 2001, shall be cancelled.

(4) Because the primary election conducted May 15, 2001, in the Fourteenth Judicial District was properly conducted in ordinary course for an anticipated vacancy on the court of common pleas that now cannot proceed based on a change in the Constitution of Pennsylvania, it is proper and in the public interest that the person or persons nominated in the primary election held for a judgeship in the Fourteenth Judicial District on May 15, 2001, be deemed to have been nominated for the new judgeship as provided by section 2(c) of this act.

References in Text. Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

2001, JUNE 25, P.L.697, NO.66

Preamble

The General Assembly finds and declares as follows:

(1) The willingness of antidrug and town-watch volunteers to offer their services has been increasingly deterred by a perception that they put personal assets at risk in the event of tort actions seeking damages arising from their activities as volunteers.

(2) The contributions of antidrug and town-watch programs, activities and services to communities are diminished by the resulting unwillingness of individuals to serve either as volunteers or as officers, directors and trustees of nonprofit public and private organizations.

(3) It is in the public interest to strike a balance between the right of a person to seek redress for injury and the right of an individual to freely give time and energy without compensation as a volunteer working to reduce crime and drug use in the community, without fear of personal liability for acts undertaken in good faith, absent willful or wanton conduct on the part of the volunteer.

(4) This act is intended to encourage volunteers to contribute their services to reduce the amount of crime and drug use in their communities and at the same time provide a reasonable basis for redress of claims which may arise relating to those services.

Explanatory Note. Act 66 added section 8332.6 of Title 42.

2002, DECEMBER 9, P.L.1705, NO.215

§ 7. Election of additional judges.

The provisions of 42 Pa.C.S. § 3135 shall not be applicable to the selection of judges for the judgeships created in the amendment of 42 Pa.C.S. § 911(a). The new judgeships for the 3rd and 49th districts added by the amendment of 42 Pa.C.S. § 911(a) shall be created on January 2, 2006, and shall be initially filled at the 2005 election. The new judgeships for the 7th, 32nd, 35th, 38th, 40th, 43rd and 48th districts added by the amendment of 42 Pa.C.S. § 911(a) shall be created on January 5, 2004, and shall be initially filled at the 2003 municipal election.

Explanatory Note. Act 215 amended or added sections 911, 5101.1, 5571, 6304, 6307, 6324, 6332, 6336.1, 6341, 6902, 8127, 8332.7, 8332.8, 903 and 9765 of Title 42.

2004, NOVEMBER 30, P.L.1618, NO.207

§ 28. Applicability.

This act shall apply as follows:

(1) Except as otherwise provided in paragraph (2), any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

(2) Paragraph (1) shall not apply to the provisions of 71 Pa.C.S.

Explanatory Note. Act 207 amended sections 102, 301, 503, 723, 726, 912, 931, 1102, 1103, 1105, 1141, 1302, 1341, 1342 and 1503, the heading of Subchapter B of Chapter 15, sections 1512, 1513, 1514, 1515, 1516, 1520, 1522, 1523, 1602, 1722, 1723, 1725, 1725.1, 1728, 1903, 2102, 2132, 2301, 2502, 2942, 2943, 2949, 2950, 3101, 3112, 3113, 3114, 3115, 3116, 3118, 3131, 3132, 3132.1, 3152, 3302, 3304, 3305, 3307, 3321, 3322, 3331, 3351, 3352, 3501, 3532, 3571, 3733 and 4101, the heading of Subchapter B of Chapter 41, sections 4121, 4122, 4123, 4135, 4137, 5102, 5103, 5105, 5572, 5749, 5761, 6102, 6103, 6303, 8127, 8151, 9702, 9730 and 9802 of Title 42.

§ 29. Construction of law.

Nothing in this act shall be construed or deemed to provide magisterial district judges with retirement benefits or rights that are different from those available to district justices

or justices of the peace immediately prior to the effective date of this act. Nothing in this act shall be construed or deemed to provide senior magisterial district judges with retirement benefits or rights that are different from those available to senior district justices immediately prior to the effective date of this act.

2004, NOVEMBER 30, P.L.1703, NO.217

§ 5. Election of additional judges.

(a) Applicability.--The provisions of 42 Pa.C.S. § 3135 shall not be applicable to the selection of judges for the judgeships created in the amendment of 42 Pa.C.S. § 911(a).

(b) Creation and filling of new judgeships.--Except as set forth in subsections (b.1), (c), (d) and (e), the new judgeships added by the amendment of 42 Pa.C.S. § 911(a) shall be established on January 2, 2006, and shall be initially filled by election at the 2005 municipal election.

(b.1) Judgeships in second district.--The new judgeships for the second judicial district added by the amendment of 42 Pa.C.S. § 911(a) shall be established on January 7, 2008, and shall be initially filled by election at the 2007 municipal election.

(c) Judgeship in eleventh district.--The new judgeship for the eleventh judicial district added by the amendment of 42 Pa.C.S. § 911(a) shall be established on January 7, 2008, and shall be initially filled by election at the 2007 municipal election.

(d) Judgeship in fifteenth district.--The new judgeship for the fifteenth district added by the amendment of 42 Pa.C.S. § 911(a) shall be established on January 7, 2008, and shall be initially filled by election at the 2007 municipal election.

(e) Judgeship in sixtieth district.--The new judgeship for the sixtieth judicial district added by the amendment of 42 Pa.C.S. § 911(a) shall be established on January 7, 2008, and shall be initially filled by election at the 2007 municipal election.

Explanatory Note. Act 217 amended or added sections 911, 6304.1, 6323, 6340, 6352, 7361 and 9718 of Title 42.

2004, DECEMBER 1, P.L.1747, NO.225

§ 2. Public information campaign.

The Pennsylvania Commission on Crime and Delinquency is directed to establish a public information campaign aimed at high drug trafficking areas informing the public of the five-year mandatory sentence established by 42 Pa.C.S. § 9712.1. The commission shall seek all available funding, including Federal funding or funding available from nonprofit corporations, and shall seek to engage pro bono services from public relations and advertising firms and other entities.

Explanatory Note. Act 225 added sections 8338.1 and 9712.1 of Title 42.

2006, NOVEMBER 29, P.L.1567, NO.178

Preamble

The General Assembly hereby declares its intention to enact versions of Jessica's Law and Megan's Law in this Commonwealth.

Explanatory Note. Act 178 amended or added section 3130, Subchapter C of Chapter 31 and sections 4915 and 6138 of Title 18 and sections 9718, 9718.2, 9718.3, 9795.1, 9795.2, 9798.3 and 9799.2 of Title 42.

2007, DECEMBER 4, P.L.427, NO.64

§ 3. Continuation of prior law.

This act shall be a continuation of the act of December 21, 1959 (P.L.1962, No.717), entitled "An act providing for the creation and operation of the Juvenile Court Judges' Commission in the Department of Justice; prescribing its powers and duties; and making an appropriation." The following apply:

(1) Except as otherwise provided in 42 Pa.C.S. Ch. 63 Subch. F, all activities initiated under the act of December 21, 1959 (P.L.1962, No.717), entitled "An act providing for the creation and operation of the Juvenile Court Judges' Commission in the Department of Justice; prescribing its powers and duties; and making an appropriation," shall continue and remain in full force and effect and may be completed under 42 Pa.C.S. Ch. 63 Subch. F. Orders, regulations, rules and decisions, which were made under the act of December 21, 1959 (P.L.1962, No.717), and which are in effect on the effective date of section 2 shall remain in full force and effect until revoked, vacated or modified under 42 Pa.C.S. Ch. 63 Subch. F. Contracts and obligations entered into under the act of December 21, 1959 (P.L.1962, No.717), are not affected nor impaired by the repeal of the act of December 21, 1959 (P.L.1962, No.717).

(2) Any difference in language between 42 Pa.C.S. Ch. 63 Subch. F and the act of December 21, 1959 (P.L.1962, No.717), is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the act of December 21, 1959 (P.L.1962, No.717).

Explanatory Note. Act 64 added Subchapter F of Chapter 63 of Title 42.

§ 4. Continuation of Administrative Code sections.

This act shall be a continuation of sections 905.1 and 905.2 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929. The following apply:

(1) Except as otherwise provided in 42 Pa.C.S. Ch. 63 Subch. F, all activities initiated under sections 905.1 and 905.2 of The Administrative Code of 1929 shall continue and remain in full force and effect and may be completed under 42 Pa.C.S. Ch. 63 Subch F. Orders, regulations, rules and decisions, which were made under sections 905.1 and 905.2 of The Administrative Code of 1929 and which are in effect on the effective date of section 2 of this act shall remain in full force and effect until revoked, vacated or modified under 42 Pa.C.S. Ch. 63 Subch. F. Contracts and obligations entered into under sections 905.1 and 905.2 of The Administrative Code of 1929 are not affected nor impaired

by the repeal of sections 905.1 and 905.2 of The Administrative Code of 1929.

(2) Any difference in language between 42 Pa.C.S. Ch. 63 Subch. F and sections 905.1 and 905.2 of The Administrative Code of 1929 is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of sections 905.1 and 905.2 of The Administrative Code of 1929.

2008, OCTOBER 9, P.L.1352, NO.98

§ 8. Selection of additional judges.

(a) Applicability of section 3135.--The provisions of 42 Pa.C.S. § 3135 shall not be applicable to the selection of judges for the judgeships created in the amendment of 42 Pa.C.S. § 911(a).

(b) Judgeships created January 4, 2010, and January 2, 2012.--

(1) Except as otherwise provided under paragraph (2), the new judgeships added by the amendment of 42 Pa.C.S. § 911(a) shall be established on January 4, 2010, and shall be initially filled by election at the 2009 municipal election.

(2) The new judgeship for the ninth judicial district of this Commonwealth added by the amendment of 42 Pa.C.S. § 911(a) shall be established on January 2, 2012, and shall be initially filled by election at the 2011 municipal election.

Explanatory Note. Act 98 amended section 6102 of Title 23 and sections 911, 1123, 1125, 2131, 2132, 2133, 2134, 3111, 3113, 3114, 3315, 3316, 3118, 3119, 6333 and 9795.1 of Title 42.

2009, AUGUST 11, P.L.147, NO.33

§ 12. References in text.

A reference in any act or part of an act to:

(1) A parole agent of a county shall be deemed a reference to a probation officer.

(2) A parole officer of the State shall be deemed a reference to a parole agent.

(3) The County Probation and Parole Officers' Firearm Education and Training Program shall be deemed a reference to the County Probation Officers' Firearm Education and Training Program.

(4) The County Probation and Parole Officers' Firearm Education and Training Fund shall be deemed a reference to the County Probation Officers' Firearm Education and Training Fund.

Explanatory Note. Act 33 amended or added sections 102, 301, 1501, 1511, 1515, 1516, 1520, 2154.4, 2154.5, 2154.6, 9755.1, 9756, 9775, 9776 and 9777 and repealed and added Chapter 99 of Title 42 and added Parts I, II, III, IV and V of Title 61.

2011, JUNE 28, P.L.48, NO.10

Preamble

The General Assembly finds that:

(1) It is proper for law-abiding people to protect themselves, their families and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves and others.

(2) The Castle Doctrine is a common law doctrine of ancient origins which declares that a home is a person's castle.

(3) Section 21 of Article I of the Constitution of Pennsylvania guarantees that the "right of the citizens to bear arms in defense of themselves and the State shall not be questioned."

(4) Persons residing in or visiting this Commonwealth have a right to expect to remain unmolested within their homes or vehicles.

(5) No person should be required to surrender his or her personal safety to a criminal, nor should a person be required to needlessly retreat in the face of intrusion or attack outside the person's home or vehicle.

Explanatory Note. Act 10 amended or added sections 501, 505, 506, 3903, 6102 and 6109 of Title 18 and section 8340.2 of Title 42.

2011, JUNE 28, P.L.78, NO.17

§ 2. Construction of law.

Nothing in the amendment of 42 Pa.C.S § 7102 or in the act of June 19, 2002 (P.L.394, No.57), entitled "An act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for DNA testing of certain offenders; reestablishing the State DNA Data Base and the State DNA Data Bank; further providing for duties of the Pennsylvania State Police; imposing costs on certain offenders; reestablishing the DNA Detection Fund; further providing for the apportionment of liability and damages; imposing penalties; and making a repeal," shall be construed to diminish the immunity of an employer to the extent that the employer is granted immunity from liability or suit pursuant to the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act.

Explanatory Note. Act 17 amended section 7102 of Title 42.

§ 3. Applicability.

The amendment of 42 Pa.C.S. § 7102 shall apply to causes of action which accrue on or after the effective date of this section.

2011, DECEMBER 20, P.L.446, NO.111

§ 17. Applicability.

This act shall apply as follows:

(1) The addition of 42 Pa.C.S. § 9799.28(b)(11) shall apply to:

(i) Persons convicted after November 30, 2006, of an offense which required registration under former 42

Pa.C.S. § 9795.1 and to persons required to register under 42 Pa.C.S. Ch. 97 Subch. H on or after the effective date of this section.

(ii) All individuals required to register under 42 Pa.C.S. Ch. 97 Subch. H on or after the effective date of this paragraph.

(iii) All individuals required to register under 42 Pa.C.S. Ch. 97 Subch. H or former 42 Pa.C.S. § 9793 prior to the effective date of this paragraph and whose registration has not expired prior to the effective date of this paragraph.

(2) The addition of 42 Pa.C.S. §§ 9795.1(d) and 9799.25(f) shall apply to all group-based homes and their residents, regardless of when the group-based homes began to provide housing or the residents began their residency.

Explanatory Note. Act 111 amended or added sections 6358, 6403, 6404, 6404.1, 6404.2, 6406, 6409, 9718.1, 9718.2, 9718.3, 9718.4, 9791, 9792, 9795.1, 9795.2, 9795.3, 9795.5, 9796, 9797, 9798, 9798.1, 9799.1, 9799.10, 9799.11, 9799.12, 9799.13, 9799.14, 9799.15, 9799.16, 9799.17, 9799.18, 9799.19, 9799.20, 9799.21, 9799.22, 9799.23, 9799.24, 9799.25, 9799.26, 9799.27, 9799.28, 9799.29, 9799.30, 9799.31, 9799.32, 9799.33, 9799.34, 9799.35, 9799.36, 9799.37, 9799.38, 9799.39, 9799.40 and 9799.41 of Title 42, sections 2901, 2902, 2903, 3122.1, 3124.2, 3130, 3141, 4302, 4915, 4915.1, 5902 and 5903 of Title 18, section 6707 of Title 23, section 2303 of Title 44 and sections 4503 and 6137 of Title 61.

2013, DECEMBER 18, P.L.1167, NO.107

§ 6. Applicability.

The amendment or addition of 23 Pa.C.S. §§ 5328(a)(2.1), 5329.1, 6340(a)(5.1) and 6375(o) and 42 Pa.C.S. §§ 6307(a)(4.1) and (6.5) and 6308(a)(6) shall apply to:

(1) Any action regarding custody of a child under 23 Pa.C.S. Ch. 53 that is filed on or after the effective date of this section.

(2) Any petition to modify a custody order under 23 Pa.C.S. Ch. 53 that is filed on or after the effective date of this section.

Explanatory Note. Act 107 amended or added sections 5328, 5329.1, 6340 and 6375 of Title 23 and sections 6307 and 6308 of Title 42.

2014, MARCH 14, P.L.38, NO.18

§ 1. Legislative findings and declarations.

The General Assembly finds and declares as follows:

(1) The county park police force established by a county of the third class under section 2511 of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, has been granted the power to enforce the laws of this Commonwealth and otherwise perform the functions of that office anywhere within the primary jurisdiction of that force.

(2) By participating in the program under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training), the officers of the county park police force will

receive certification and training to enhance the performance of the powers of the office.

Explanatory Note. Act 18 amended or reenacted section 8951 of Title 42 and sections 2162, 2170 and 2171 of Title 53.

2015, JULY 2, P.L.110, NO.16

§ 12. Licensure as insurance producer.

A person licensed as a professional bondsman prior to the effective date of this act shall be licensed as an insurance producer in accordance with Article VI-A of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921.

Explanatory Note. Act 16 amended, added or repealed the heading of Subchapter B of Chapter 57 and sections 5741, 5742, 5743, 5743.1, 5744, 5745, 5746, 5747, 5747.1, 5748, 5748.1, 5749 and 5950 of Title 42.

2015, DECEMBER 28, P.L.559, NO.94

§ 30. Duties of Department of Human Services.

The Department of Human Services of the Commonwealth shall conduct a study to analyze and make recommendations on the permanency goal of another planned permanent living arrangement for children 16 years of age or older. The following apply:

(1) The study shall include recommendations on all of the following:

(i) Strategies to reduce the use of or eliminate the use of the permanency goal of another planned permanent living arrangement.

(ii) Other permanency goal options for children.

(iii) Expected outcomes for children by the reduction of or the elimination of another planned permanent living arrangement as a permanency goal.

(iv) A timeline to achieve the strategies set forth under subparagraph (i).

(2) In conducting the study, the Department of Human Services shall convene a work group to receive feedback on the potential reduction or elimination of the permanency goal of another planned permanent living arrangement. The work group shall include representatives from the juvenile court, guardians ad litem, parent attorneys, county agencies, private children and youth social service agencies, children's advocacy organizations, the Pennsylvania Youth Advisory Board and other appropriate stakeholders as determined by the Secretary of Human Services.

(3) The Department of Human Services shall, within four months of enactment of this section, report the study's findings and make its recommendations to:

(i) The chairperson and minority chairperson of the Judiciary Committee of the Senate.

(ii) The chairperson and minority chairperson of the Aging and Youth Committee of the Senate.

(iii) The chairperson and minority chairperson of the Judiciary Committee of the House of Representatives.

(iv) The chairperson and minority chairperson of the Children and Youth Committee of the House of Representatives.

Explanatory Note. Act 94 amended, added or repealed Chapter 57, sections 7101, 7101.1, 7102, 7103, 7104, 7105, 7201, 7202, 7202.1, the heading of Subchapter B of Chapter 72, sections 7203, 7204, 7205, 7206, 7207, 7208, 7209, 7210, 7211, 7301, 7304, 7305, 7307, 7308, 7310, 7311, 7312, 7313, 7316, 7317, 7318, 7319, the heading of Chapter 74, sections 7401, 7402, the heading of Chapter 75, sections 7501, 7501.4, 7501.5, 7502, the heading of Chapter 76 and the heading of Subchapter A of Chapter 76, sections 7601, 7602, 7603, 7604, 7605, 7606, 7607, 7608, the heading of Subchapter C of Chapter 76, sections 7609, 7610, 7611, 7612, 7613, Subchapter D of Chapter 76, sections 7615, 7616, Chapter 77, Chapter 77A, sections 7801, 7802, 7901, 7902 and 7903 of Title 23 and sections 6302 and 6351 of Title 42.

2017, JUNE 12, P.L.11, NO.5

§ 408. Restoration of service credit or retirement benefits.

Nothing in this act shall be deemed to permit the restoration of service credit or retirement benefits that:

(1) were or are subject to section 16 of Article V of the Constitution of Pennsylvania or 42 Pa.C.S. § 3352; or

(2) were or are the subject of an order of forfeiture under the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act.

Explanatory Note. Act 5 amended or added sections 8102, 8103, 8103.2, 8301, 8302, 8303, 8304, 8305, 8305.3, 8305.4, 8305.5, 8306, 8307, 8308, 8310, 8321, 8322.1, 8323, 8324, 8325.1, 8326, 8327, 8328, 8330, 8341, 8342, 8344, 8345, 8346, 8347 and 8349, Chapter 84, and sections 8501, 8502, 8502.2, 8503, 8505, 8506, 8507, 8521, 8522, 8524, 8525, 8531, 8533, 8533.1, 8533.2, 8533.3, 8533.4, 8533.5, 8534, 8535, 8535.1, 8537, 8538 and 8702 of Title 24, section 7306 of Title 51 and sections 5102, 5103, 5104, 5301, 5302, 5303, 5303.2, 5304, 5305, 5305.1, 5306, 5306.1, 5306.2, 5306.3, 5306.4, 5306.5, 5307, 5308, 5308.1, 5309, 5310, 5311, 5501.1, 5502, 5503.1, 5504, 5505, 5506.1, 5507, 5508, 5509, 5701, 5701.1, 5702, 5704, 5705, 5705.1, 5706, 5707 and 5709, Chapter 58 and sections 5901, 5902, 5903, 5904, 5905, 5905.1, 5906, 5907, 5931, 5932, 5933, 5934, 5935, 5936, 5937, 5938, 5939, 5951, 5953, 5953.1, 5953.2, 5953.3, 5953.4, 5953.6, 5954, 5955, 5955.2, 5957 and 5958 of Title 71.

2017, JUNE 29, P.L.247, NO.13

§ 12. Forfeitures.

Notwithstanding any other provision of law to the contrary, the following forfeitures shall be conducted in accordance with 42 Pa.C.S. §§ 5803, 5805, 5806, 5807, 5807.1 and 5808:

(1) The forfeiture of property specified in section 1 of the act of July 3, 1941 (P.L.263, No.121), entitled "An act providing for the forfeiture and condemnation of vehicles used to store, possess or transport narcotics or drugs, the possession or transportation of which is in violation of law."

(2) The forfeiture of property specified in section 601 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

(3) The forfeiture of property specified in section 614 of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

(4) The forfeiture of property specified in section 1715 of the act of July 28, 1988 (P.L.556, No.101), known as the Municipal Waste Planning, Recycling and Waste Reduction Act.

Explanatory Note. Act 13 amended, added, repealed or deleted by amendment section 1518 of Title 4, sections 910, 2717, 3141, 3142, 3143, 3144, 4116, 4119, 5513, 5707, 6314, 6501, 7508, 7707 and 7708 of Title 18, section 927 of Title 30, Chapter 58 and sections 6801, 6801.1 and 6802 of Title 42 and sections 4909, 9405 and 9406 of Title 75.

2017, OCTOBER 30, P.L.802, NO.49

§ 3. Applicability.

The following shall apply:

(1) The new judgeship for the Ninth Judicial District added by the amendment of 42 Pa.C.S. § 911(a) shall be established on January 6, 2020, and shall be initially filled by election at the 2019 municipal election.

(2) The new judgeship for the Twenty-second Judicial District added by the amendment of 42 Pa.C.S. § 911(a) shall be established on January 3, 2022, and shall be initially filled by election at the 2021 municipal election.

(3) The addition of 42 Pa.C.S. § 1906.1 shall apply retroactively to July 1, 2017.

Explanatory Note. Act 49 amended or added sections 911 and 1906.1 of Title 42.

2018, FEBRUARY 21, P.L.27, NO.10

§ 20. Applicability.

This act applies as follows:

* * *

(2) The addition of 18 Pa.C.S. § 4915.2 and 42 Pa.C.S. Ch. 97 Subch. I shall apply to:

(i) An individual who committed an offense set forth in 42 Pa.C.S. § 9799.55 on or after April 22, 1996, but before December 20, 2012, and whose period of registration as set forth in 42 Pa.C.S. § 9799.55 has not expired.

(ii) An individual required to register with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth as set forth in 42 Pa.C.S. § 9799.55(a)(1)(i), (b)(2) and (4).

(iii) An individual who, before or after the effective date of this paragraph:

(A) commits an offense subject to 42 Pa.C.S. Subch. H; but

(B) because of a judicial determination on or after the effective date of this section of the invalidity of 42 Pa.C.S. Subch. H, is not subject to registration as a sexual offender.

Explanatory Note. Act 10 amended or added sections 3130, 3141, 4915.1 and 4915.2 of Title 18, sections 2511, 6303, 6338.1

and 6707 of Title 23, and sections 9718.1, 9718.5, 9799.10, 9799.11, 9799.12, 9799.13, 9799.14, 9799.15, 9799.16, 9799.19, 9799.23, 9799.25, 9799.26, 9799.31, 9799.32, 9799.34, 9799.36, 9799.38, 9799.39, 9799.42 and Subchapter I of Chapter 97 of Title 42.

2018, JUNE 12, P.L.140, NO.29

§ 21. Applicability.

This act shall apply as follows:

(1) The reenactment or amendment of 18 Pa.C.S. § 4915.1 and 42 Pa.C.S. Ch. 97 Subch. H shall apply to an individual who commits an offense on or after December 20, 2012.

(2) The reenactment or amendment of 18 Pa.C.S. § 4915.2 and 42 Pa.C.S. Ch. 97 Subch. I shall apply to:

(i) An individual who committed an offense set forth in 42 Pa.C.S. § 9799.55 on or after April 22, 1996, but before December 20, 2012, and whose period of registration as set forth in 42 Pa.C.S. § 9799.55 has not expired.

(ii) An individual required to register with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth as set forth in 42 Pa.C.S. § 9799.55(a)(1)(i), (b)(2) and (4).

(iii) Before or after February 21, 2018, an individual who:

(A) commits an offense subject to 42 Pa.C.S. Ch. 97 Subch. H; but

(B) because of a judicial determination on or after February 21, 2018 of the invalidity of 42 Pa.C.S. Ch. 97 Subch. H, is not subject to registration as a sexual offender.

Explanatory Note. Act 29 reenacted or amended sections 3130, 3141, 4915.1 and 4915.2 of Title 18, reenacted sections 2511, 6303, 6338.1 and 6707 of Title 23, and reenacted or amended sections 9718.1, 9799.10, 9799.11, 9799.12, 9799.13, 9799.14, 9799.15, 9799.16, 9799.19, 9799.23, 9799.25, 9799.26, 9799.31, 9799.32, 9799.34, 9799.36, 9799.38, 9799.39, 9799.42 and Subchapter I of Chapter 97 of Title 42.

2018, JUNE 28, P.L.381, NO.55

§ 1. Preamble.

The General Assembly finds and declares that the Unified Judicial System will benefit from:

(1) extensive revision of statutory arbitration; and

(2) establishment of a collaborative law process.

Explanatory Note. Act 55 amended or added Subchapter A.1 of Chapter 73, sections 7341 and 7342 and Chapter 74 of Title 42.

2018, JUNE 28, P.L.402, NO.56

Preamble

The General Assembly finds and declares as follows:

(1) Individuals with charges not leading to convictions may be inherently harmed by the maintenance of that record and have a constitutional presumption of innocence.

(2) Individuals convicted of crimes in this Commonwealth should serve their sentences as ordered by the courts of this Commonwealth.

(3) After less violent individuals convicted of crimes have served their sentences and remained crime free long enough to demonstrate rehabilitation, the individuals' access to employment, housing, education and other necessities of life should be fully restored.

(4) Criminal justice agencies need access to all criminal history record information in order to effectively carry out the agencies' duties to protect the public.

(5) The Commonwealth shall provide a clean slate remedy, as set forth under this act, to:

(i) Create a strong incentive for avoidance of recidivism by offenders.

(ii) Provide hope for the alleviation of the hardships of having a criminal record by offenders who are trying to rehabilitate themselves.

(iii) Save the Commonwealth money that must be spent in the administration of criminal justice when offenders recidivate.

(iv) Ensure appropriate access to criminal history information by criminal justice agencies.

(6) The clean slate remedy should be implemented without cost to the former offender of filing a petition with a court.

Explanatory Note. Act 56 amended or added sections 9121, 9122.1, 9122.2, 9122.3, 9122.4, 9122.5, 9122.6 of Title 18 and sections 6307, 6308 of Title 42.

2018, OCTOBER 24, P.L.896, NO.147

Preamble

The General Assembly finds and declares as follows:

(1) Postconviction DNA testing has exonerated wrongfully convicted individuals and identified real perpetrators of crimes.

(2) To the extent possible, DNA testing of evidence before trial is encouraged to help prevent wrongful convictions and to lead to earlier detection and conviction of actual perpetrators.

Explanatory Note. Act 147 amended section 9543.1 of Title 42 and amended or added sections 2302, 2303, 2311, 2312, 2313, 2314, 2315, 2316, 2316.1, 2317, 2318, 2319 and 2321 of Title 44.

2019, JULY 2, P.L.375, NO.58

§ 4. Applicability.

The addition or amendment of the following shall apply retroactively to law enforcement conduct on or after June 15, 1982:

(1) The amendment of 42 Pa.C.S. §§ 8953(a)(3), 8953.1(a)(2) and 8953.2(a)(1).

(2) The addition of 42 Pa.C.S. § 8955.

Explanatory Note. Act 58 amended or added sections 6105 and 6111 of Title 18 and sections 8953, 8953.1, 8953.2 and 8955 of Title 42.

§ 5. General Assembly.

The General Assembly declares that the addition or amendment of the following are intended to reverse the Pennsylvania Supreme Court's interpretation of 42 Pa.C.S. Ch. 89 Subch. D, as set forth in Commonwealth v. Hlubin 2019 WL 2324272 (Pa. 2019):

(1) The amendment of 42 Pa.C.S. §§ 8953(a)(3), 8953.1(a)(2) and 8953.2(a)(1).

(2) The addition of 42 Pa.C.S. § 8955.

2019, NOVEMBER 26, P.L.641, NO.87

§ 8.2. Transfer of funds.

The sum of $5,000,000 is transferred from the General Fund to the Crime Victim's Compensation Fund to be used until June 30, 2021, to implement the addition of 42 Pa.C.S. § 9730.3(a)(1) for counseling services provided after the effective date of this section. In fiscal years beginning after June 30, 2021, the General Assembly shall appropriate money to implement the addition of 42 Pa.C.S. § 9730.3(a)(1).

§ 9. Severability.

The provisions of this act are severable. If any provision of this act is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

§ 10. Applicability.

This act shall apply as follows:

(1) The amendment or addition of 42 Pa.C.S. §§ 5533(b)(2), 5551(7) and 5552(b.1) and (c)(3) and (3.1) shall not be applied to revive an action which has been barred by an existing statute of limitations on the effective date of this section.

(2) The amendment of 42 Pa.C.S. § 5533(b)(2) shall apply retroactively to civil actions where the limitations period has not expired prior to the effective date of this section.

(3) The addition of 42 Pa.C.S. §§ 5522(c)(3.1), 8522(b)(10), 8528(d), 8542(b)(9) and 8553(e) shall apply as follows:

(i) Prospectively, to a cause of action which arises on or after the effective date of this section.

(ii) Retroactively, to a cause of action if the cause of action arose before the effective date of this section. Nothing in this subparagraph shall do any of the following:

(A) Revive a cause of action as to which the limitation period has expired prior to the effective date of this section.

(B) Permit the application of the addition of 42 Pa.C.S. §§ 5522(c)(3.1), 8522(b)(10), 8528(d), 8542(b)(9) and 8553(e) to a claim:

(I) that is subject to a final judgment which, on the effective date of this section, is not subject to appeal; or

(II) that, on the effective date of this section, has been nonjudicially resolved in its entirety by the parties, in a form which is enforceable.

Explanatory Note. Act 87 amended or added sections 5522, 5533, 5551, 5552, 8522, 8528, 8542, 8553 and 9730.3 of Title 42.

2021, JUNE 30, P.L.260, NO.59

§ 28. Reference in law.

Any reference in law to a parole agent or supervision staff shall be deemed a reference to an agent as defined in 61 Pa.C.S. § 6101. This act does not change the status of State parole agents for the purposes of the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act, or cause State parole agents to be considered policemen for the purposes of the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act.

Explanatory Note. Act 59 amended sections 2151.1, 2155, 5950, 5952, 6307, 8332.7, 8340, 9543.1, 9718.5, 9727, 9764, 9776, 9777, 9799.13, 9799.16, 9799.19, 9799.20, 9799.22, 9799.24, 9799.25, 9799.29, 9799.30, 9799.31, 9799.32, 9799.33, 9799.35, 9799.38, 9799.54, 9799.55, 9799.56, 9799.58, 9799.64, 9799.65, 9799.66, 9799.67, 9799.68, 9799.69, 9799.72 and 9912 of Title 42, amended, added or repealed sections 102, 1106, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008 and Pt. IV heading and sections 6101, 6102, 6111, 6112, 6113, 6116, 6118, 6119, 6120, 6121, 6124, 6131, 6132, 6133, 6134, 6134.1, 6136, 6137, 6138, 6139, 6140, 6141, 6143 and Subchapters D, F and G and sections 6302, 7115, 7121, 7122 and Chapter 73 of Title 61 and section 5102 of Title 71.

2022, NOVEMBER 3, P.L.1788, NO.121

§ 4. Law enforcement certification.

Campus police, as defined in section 2001-A(20) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, who have successfully completed the basic training course from the commission and obtained a psychological evaluation for employment as a law enforcement officer before the effective date of this section shall be automatically certified by the Municipal Police Officers' Education and Training Commission.

Explanatory Note. Act 121 amended section 67A01 of Title 42 and sections 2162 and 2168 of Title 53.

2023, DECEMBER 14, P.L.381, NO.44

§ 5. Applicability.

This act shall apply as follows:

(1) This act shall apply to individuals sentenced or resentenced on or after the effective date of this section.

(2) Except for the addition of 42 Pa.C.S. § 9774.1, this act shall apply to individuals sentenced or resentenced prior to the effective date of this section.

Explanatory Note. Act 44 amended or added sections 9754, 9763, 9771 and 9774.1 of Title 42.

§ 7. Applicability continued.

The following apply:

(1) The following apply to postsentencing reviews:

(i) Subject to paragraph (2), the courts shall ensure that the probation of all individuals sentenced or resentenced prior to the effective date of this section are reviewed to determine whether the individuals should be considered for early termination of probation or modification of the terms and conditions of probation. The review shall occur at the later of one year after the effective date of this section or:

(A) For a probation sentence on a misdemeanor conviction, the date the defendant has completed two years of probation.

(B) For a felony conviction, the date the defendant has completed four years of probation.

(C) For a probation sentence based on a conviction involving multiple offenses arising out of the same criminal episode:

(I) the date the defendant has completed two years of probation if all the offenses resulting in the sentence were misdemeanors; or

(II) the date the defendant has completed four years of probation if one of the offenses resulting in the sentence included a felony.

(ii) For each case under review, the defendant and the Commonwealth shall have the opportunity, in advance of a decision, to provide written comments to the court. Courts may by local rule adopt such procedures as they deem appropriate to accomplish the reviews.

(2) (i) This section shall not apply if:

(A) The defendant committed one of the following technical violations within the six months immediately preceding the defendant's probation review conference:

(I) A technical violation that was sexual in nature.

(II) A technical violation that involved assaultive behavior or included a credible threat to cause bodily injury to another, including incidents involving domestic violence.

(III) A technical violation that involved possession or control of a firearm or dangerous weapon.

(IV) The technical violation involved the manufacture, sale, delivery or possession with the intent to manufacture, sell or deliver, a controlled substance or other drug regulated under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(V) The defendant absconded.

(VI) A technical violation which involved an intentional and unexcused failure to adhere to recommended programming or conditions on three or more separate occasions. For the purposes of this clause, multiple technical violations stemming from the same episode of events shall not constitute separate technical violations.

(VII) A technical violation that involved an identifiable threat to public safety.

(ii) The defendant was convicted of a misdemeanor of the first degree, misdemeanor of the second degree or felony offense committed while either incarcerated or serving probation.

(iii) The defendant was convicted of an offense listed under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders).

(iv) The defendant was convicted of a crime of violence.

(v) The defendant was convicted of an offense under 18 Pa.C.S. § 2701 (relating to simple assault) or 2709.1 (relating to stalking) against any of the defendant's family or household members.

§ 8. Sentencing.

When a court, either as a result of a petition or as a result of its review under section 7 of this act, seeks to determine whether an individual sentenced or resentenced prior to the effective date of this section should be considered for early termination of probation or modification of the terms and conditions of probation, the court shall ensure that due consideration is given to whether the individual has successfully satisfied the conditions contained in 42 Pa.C.S. § 9774.1(c)(1) or (2).

2023, DECEMBER 14, P.L.435, NO.58

§ 2. Applicability.

The following apply:

(1) Except as provided in paragraphs (2) and (3), the provisions of 42 Pa.C.S. §§ 3132 and 3135 shall apply to the judgeships added by the amendment of 42 Pa.C.S. § 911(a).

(2) The new judgeships for the Eighth Judicial District, Eleventh Judicial District, Twelfth Judicial District, Thirty-first Judicial District, Forty-fourth Judicial District and Fiftieth Judicial District added by the amendment of 42 Pa.C.S. § 911(a) shall be established on January 5, 2026, and shall be initially filled by election at the 2025 municipal election.

(3) The new judgeships for the Thirty-eighth Judicial District added by the amendment of 42 Pa.C.S. § 911(a) shall be established on January 3, 2028, and shall be initially filled by election at the 2027 municipal election.

Explanatory Note. Act 58 amended section 911 of Title 42.