

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2601 Session of
2012

INTRODUCED BY JAMES, DALEY, GIBBONS, HORNAMAN, MAHONEY AND
MARSHALL, SEPTEMBER 5, 2012

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 5, 2012

AN ACT

1 Amending Titles 18 (Crimes and Offenses), 42 (Judiciary and
2 Judicial Procedure) and 53 (Municipalities Generally) of the
3 Pennsylvania Consolidated Statutes, in general provisions,
4 further defining "police officer"; in municipal police
5 jurisdiction, further defining "chief law enforcement
6 officer" and "municipal police officer"; further providing
7 for noncompliance with mandatory certification requirements;
8 in employees, making an editorial change; providing for
9 county sheriffs and deputy sheriffs; in municipal police
10 education and training, further defining "police officer";
11 further providing for members of the Municipal Police
12 Officers' Education and Training Commission; and repealing
13 related provisions of the Second Class County Code.

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

16 Section 1. The definition of "police officer" in section 103
17 of Title 18 of the Pennsylvania Consolidated Statutes is amended
18 to read:

19 § 103. Definitions.

20 Subject to additional definitions contained in subsequent
21 provisions of this title which are applicable to specific
22 provisions of this part, the following words and phrases when
23 used in this title shall have, unless the context clearly

1 indicates otherwise, the meanings given to them in this section:

2 * * *

3 "Police officer." The term shall include the sheriff of a
4 county of the first class, second class, second class A, third
5 class, fourth class, fifth class, sixth class, seventh class or
6 eighth class and a deputy [sheriffs] sheriff of a county of the
7 first class, second class, second class A, third class, fourth
8 class, fifth class, sixth class, seventh class or eighth class
9 who have successfully completed the requirements under [the act
10 of June 18, 1974 (P.L.359, No.120), referred to as the Municipal
11 Police Education and Training Law] 53 Pa.C.S. Ch. 21 Subch. D
12 (relating to municipal police education and training) or the act
13 of February 9, 1984 (P.L.3, No.2), known as the Deputy Sheriffs'
14 Education and Training Act.

15 * * *

16 Section 2. The definitions of "chief law enforcement
17 officer" and "municipal police officer" in section 8951 of Title
18 42 are amended to read:

19 § 8951. Definitions.

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

23 "Chief law enforcement officer." The head of a duly
24 constituted municipal law enforcement agency which regularly
25 provides primary police services to a political subdivision or,
26 in the absence of any such municipal law enforcement agency, the
27 commanding officer of the Pennsylvania State Police installation
28 which regularly provides primary police services to the
29 political subdivision or, in the case of any occurrence or event
30 that takes place on real property owned or leased by a county

1 government, including, but not limited to, a county correctional
2 facility, courthouse or park, the sheriff of the county.

3 "Municipal police officer." Any natural person who is
4 properly employed by a municipality, including a home rule
5 municipality, as a regular full-time or part-time police officer
6 or a certified sheriff or deputy sheriff.

7 * * *

8 Section 3. Section 8954 of Title 42 is amended to read:

9 § 8954. Noncompliance with mandatory certification
10 requirements.

11 Any person employed as a municipal police officer who is
12 subject to the mandatory certification requirements of the
13 training law and fails to obtain the required certification from
14 the Commissioner of the Pennsylvania State Police or the
15 executive director of the Pennsylvania Commission on Crime and
16 Delinquency within the time limits provided by law shall cease
17 to be empowered or authorized to function as a municipal police
18 officer for any purpose whatsoever.

19 Section 4. Subchapter A heading of Chapter 21 of Title 53 is
20 amended to read:

21 Subchapter A

22 [(Reserved)]

23 COUNTY OFFICERS AND EMPLOYEES

24 Section 5. Title 53 is amended by adding sections to read:
25 § 2111. Office of Sheriff.

26 (a) Qualifications.--On or after January 1, 2012, a person
27 shall not be eligible to be a candidate for the Office of
28 Sheriff and a person shall not be elected or appointed to the
29 Office of Sheriff unless that person meets the following
30 qualifications:

1 (1) Is a citizen of the United States.

2 (2) Has been a resident of the county for at least one
3 year.

4 (3) Has not been convicted of an offense graded higher
5 than a misdemeanor of the third degree.

6 (4) Is at least 18 years of age.

7 (b) Educational requirements.--

8 (1) Except as otherwise provided in this subchapter, any
9 person first elected to the Office of Sheriff on or after
10 January 1, 2012, shall have completed a recognized law
11 enforcement management/administration program including, but
12 not limited to, the National Sheriffs' Institute training
13 course. In the event the individual elected as sheriff has
14 not completed the National Sheriffs' Institute's or a similar
15 course, the individual shall within the first term of office
16 successfully complete the National Sheriffs' Institute
17 training course administered by the National Sheriffs'
18 Association.

19 (2) (i) A sheriff who has successfully completed
20 training under Subchapter D (relating to municipal police
21 education and training) or the act of February 9, 1984
22 (P.L.3, No.2), known as the Deputy Sheriffs' Education
23 and Training Act, or Pennsylvania State Police training
24 shall be eligible to perform all duties authorized by
25 law.

26 (ii) A sheriff who has not completed training in
27 accordance with this section shall serve in an
28 administrative capacity and be eligible only to complete
29 administrative functions unless or until such training is
30 completed. A sheriff who completes administrative

functions and serves in an administrative capacity shall only provide administrative functions including, but not limited to, planning, organizing, staffing and directing of the office of sheriff, and may not perform law enforcement functions as authorized by law.

§ 2112. Deputies and clerks.

(a) General rule.--The sheriff of each county may appoint such deputies and clerks as may be necessary to properly transact business of the office. The sheriff may hire, discharge and supervise the deputies and clerks in accordance with law. The number of deputies and clerks shall be determined by the county salary board.

(b) Educational requirements.--A deputy appointed on or after January 1, 2012, shall have successfully completed the standards and training in accordance with Subchapter D (relating to municipal police education and training) or the act of February 9, 1984 (P.L.3, No.2), known as the Deputy Sheriffs' Education and Training Act, if they are substantially equal to the standards and training under Subchapter D.

(c) Hiring procedure.--A deputy shall be hired by the sheriff utilizing the same process as the county district attorney for the employment of county detectives.

(d) Rights.--Except where prohibited by law, deputy sheriffs shall be subject to the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act, in the same manner and receive the same rights as units of guards at prisons or mental hospitals or units of employees directly involved with and necessary to the function of the courts in this Commonwealth. The rights shall include, but not be limited to, the right to a separate homogeneous bargaining unit.

1 § 2113. Powers and duties of sheriff and deputy sheriff.

2 (a) General rule.--A sheriff and deputy sheriff shall
3 perform and possess all authority and powers to perform all
4 duties required of a police officer, sheriff or deputy sheriff
5 or law enforcement official in accordance with the following
6 laws:

7 (1) Title 18 (relating to crimes and offenses) of the
8 Pennsylvania Consolidated Statutes.

9 (2) Title 75 (relating to vehicles) of the Pennsylvania
10 Consolidated Statutes.

11 (3) Dealer licensing under the act of February 24, 1984
12 (P.L.92, No.17), referred to as the Precious Metal Sale
13 Regulation Law.

14 (4) Issuing firearms licenses and investigating and
15 enforcing the laws relating to violations and performing all
16 duties required by 18 Pa.C.S. Ch. 61 (relating to firearms
17 and other dangerous articles).

18 (5) Conduct investigations under 3 Pa.C.S. Ch. 23
19 (relating to domestic animals).

20 (6) Remove at the expense of the owner all stocks of
21 consumer fireworks or display fireworks or combustibles sold
22 or stored in violation of the act of May 15, 1939 (P.L.134,
23 No.65), referred to as the Fireworks Law.

24 (7) Make arrests and perform all duties required of the
25 sheriff by 23 Pa.C.S. Ch. 61 (relating to protection from
26 abuse).

27 (8) Seize all guns used or possessed in violation of the
28 laws of this Commonwealth.

29 (9) Enforce the act of July 10, 1981 (P.L.214, No.67),
30 known as the Bingo Law.

1 (b) Execution of process, writs and orders.--The sheriff
2 shall either personally or by deputy, execute all process, writs
3 and orders issued or made by lawful authority and delivered to
4 the sheriff.

5 (c) Jurisdiction.--

6 (1) The sheriff shall have primary jurisdiction within
7 all courthouses of the county and other county-owned or
8 leased buildings, properties and facilities including
9 properties owned or leased by county agencies and, as such,
10 shall enforce good order in county courthouses, or other
11 grounds and buildings owned or leased by the county or within
12 500 feet of county-owned or leased property and upon the
13 sidewalks, roads, streets and parking areas within such area.

14 (2) The sheriff shall safeguard and have law
15 enforcement, investigation and arrest authority in county
16 courthouses, in county-owned or leased buildings and with
17 respect to all other county or county agency property.

18 (d) School resource officers.--A sheriff may serve as a
19 school resource officer.

20 (e) Assistance to other law enforcement officials.--A
21 sheriff may assist the Attorney General of the Commonwealth, the
22 county district attorney and other law enforcement officials in
23 the enforcement of the laws of this Commonwealth, including, but
24 not limited to, participation in the following:

25 (1) Terrorism task forces.

26 (2) Attorney General or District Attorney drug task
27 forces.

28 (3) Joint task forces in association with other Federal,
29 State and local law enforcement agencies.

30 (f) Search and rescue operations.--A sheriff may search and

rescue persons who are lost or are in danger of their lives
within or in the immediate vicinity of the county.

(g) Municipal police powers.--A sheriff may exercise the
authority and power provided to municipal police officers by 42
Pa.C.S. Ch. 89, Subch. D (relating to municipal police
jurisdiction).

(h) Cooperative agreements.--A sheriff may enter into
cooperative law enforcement police service agreements under 42
Pa.C.S. § 8953(e) (relating to Statewide municipal police
jurisdiction) with other municipalities for purposes of,
including, but not limited to, describing conditions of mutual
aid, assigning liability and determining appropriate costs of
these cooperative efforts with the approval of the board of
county commissioners or the county council in home rule
counties.

(i) Other duties.--A sheriff shall perform all other duties
required of the sheriff by law or lawfully by a court of this
Commonwealth.

§ 2114. Construction.

Nothing in this subchapter shall be construed to abolish or
supplant an existing police department or law enforcement agency
or eliminate, supplant, reduce or displace the employment of any
municipal police chief or officer.

Section 6. The definition of "police officer" in section
2162 of Title 53 is amended to read:

§ 2162. 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:

* * *

1 "Police officer." Any of the following:

2 (1) A full-time or part-time employee assigned to
3 criminal or traffic law enforcement duties of any of the
4 following:

5 (i) A police department of a county, city, borough,
6 town or township.

7 (ii) Any railroad or street railway police.

8 (iii) Any campus or university police department.

9 (iv) The Capitol Police.

10 (v) The Harrisburg International Airport Police.

11 (vi) An airport authority police department.

12 (2) A sheriff or deputy sheriff of a county [of the
13 second class].

14 (3) A security officer of a first class city housing
15 authority or a police officer of a second class city housing
16 authority.

17 The term excludes persons employed to check parking meters or to
18 perform only administrative duties and auxiliary and fire
19 police.

20 * * *

21 Section 7. Section 2163(a)(3) of Title 53 is amended to
22 read:

23 § 2163. Commission members.

24 (a) Selection.--The commission shall be composed of [20
25 members as follows] the following members:

26 * * *

27 (3) The following members shall be appointed by the
28 Governor.

29 (i) A borough official, a first class township
30 official, a second class township official and a city

1 official.

2 (ii) Four incumbent chiefs of police from the
3 various municipalities of this Commonwealth, at least one
4 to be a chief of a borough police department, at least
5 one to be a chief of a township police department and at
6 least one to be a chief of a city police department.

7 (iii) One Federal Bureau of Investigation special
8 agent-in-charge.

9 (iv) One educator qualified in the field of law
10 enforcement.

11 (v) One member representing the public at large.

12 (vi) Two noncommissioned police officers.

13 (vii) A director of one of the certified training
14 schools.

15 (viii) Two sheriffs.

16 (ix) Two deputy sheriffs.

17 * * *

18 Section 8. Repeals are as follows:

19 (1) The General Assembly finds that the repeals in
20 paragraphs (2) and (3) are necessary to effectuate this act.

21 (2) Article XII of the act of July 28, 1953 (P.L.723,
22 No.230), known as the Second Class County Code, to the extent
23 of any inconsistency with this act.

24 (3) Any act or part of an act is repealed to the extent
25 of any inconsistency with this act.

26 Section 9. This act shall take effect in 60 days.