
THE GENERAL ASSEMBLY OF PENNSYLVANIA

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INTRODUCED BY RICHARDSON, R. C. WRIGHT, KOSINSKI AND LINTON,
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REFERRED TO COMMITTEE ON JUDICIARY, JUNE 10, 1987

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 71
2 (State Government) of the Pennsylvania Consolidated Statutes,
3 establishing the Court of Criminal Appeals.

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

6 Section 1. The definitions of "administrative staff,"
7 "appellate court" and "Commonwealth Court" in section 102 of
8 Title 42 of the Pennsylvania Consolidated Statutes are amended
9 and the section is amended by adding a definition to read:

10 § 102. Definitions.

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

16 * * *

17 "Administrative staff." All individuals employed in the
18 business of a court, including the personnel of the office of

1 the clerk of the court of common pleas, but the term does not
2 include judicial officers or their personal staff. The term
3 includes the clerks or prothonotaries of the Supreme Court, the
4 Superior Court, the Court of Criminal Appeals and the
5 Commonwealth Court and their staffs.

6 * * *

7 "Appellate court." Includes the Supreme Court, the Superior
8 Court, the Court of Criminal Appeals and the Commonwealth Court.

9 * * *

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

13 * * *

14 "Court of Criminal Appeals." The court existing under
15 Subchapter C of Chapter 5 (relating to Court of Criminal Appeals
16 of Pennsylvania).

17 * * *

18 Section 2. Section 301 of Title 42 is amended to read:

19 § 301. Unified judicial system.

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

22 (1) Supreme Court.

23 (2) Superior Court.

24 (3) Court of Criminal Appeals.

25 [(3)] (4) Commonwealth Court.

26 [(4)] (5) Courts of common pleas.

27 [(5)] (6) Community courts.

28 [(6)] (7) Philadelphia Municipal Court.

29 [(7)] (8) Pittsburgh Magistrates Court.

30 [(8)] (9) Traffic Court of Philadelphia.

1 [(9)] (10) District justices.

2 All courts and district justices and their jurisdiction shall be
3 in this unified judicial system.

4 Section 3. Chapter 5 of Title 42 is amended by adding a
5 subchapter and the heading of Subchapter C is amended to read:

6 CHAPTER 5

7 ORGANIZATION OF APPELLATE COURTS

8 * * *

9 SUBCHAPTER C

10 COURT OF CRIMINAL APPEALS OF PENNSYLVANIA

11 Sec.

12 551. Court of Criminal Appeals.

13 552. Powers of Court of Criminal Appeals.

14 553. Seat of court.

15 § 551. Court of Criminal Appeals.

16 The Court of Criminal Appeals of Pennsylvania shall consist
17 of five judges.

18 § 552. Powers of Court of Criminal Appeals.

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

22 § 553. Seat of court.

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

26 SUBCHAPTER [C] D

27 COMMONWEALTH COURT OF PENNSYLVANIA

28 * * *

29 Section 4. Sections 701, 705, 707, 724 and 742 of Title 42
30 are amended to read:

1 § 701. Scope of subchapter.

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

5 (b) Reassignment of matters.--Any of the provisions of
6 Subchapter B (relating to jurisdiction of Supreme Court),
7 Subchapter C (relating to jurisdiction of Superior Court),
8 Subchapter D (relating to jurisdiction of Court of Criminal
9 Appeals) and Subchapter [D] E (relating to jurisdiction of
10 Commonwealth Court) shall be subject to and superseded by any
11 inconsistent provisions of any general rule adopted pursuant to
12 section 503 (relating to reassignment of matters).

13 § 705. Transfers between intermediate appellate courts.

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

20 § 707. Lien of judgments for money.

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

30 § 724. Allowance of appeals from Superior and Commonwealth

Courts and the Court of Criminal Appeals.

(a) General rule.--Except as provided by section 9781(f) (relating to limitation on additional appellate review), final orders of the Superior Court and the Court of Criminal Appeals, 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.

§ 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, the Court of Criminal Appeals or the Commonwealth Court.

Section 5. Chapter 7 of Title 42 is amended by adding a subchapter and the heading of Subchapter D is amended to read:

CHAPTER 7

JURISDICTION OF APPELLATE COURTS

1 * * *

2 SUBCHAPTER D

3 JURISDICTION OF THE COURT OF CRIMINAL APPEALS

4 Sec.

5 751. Original jurisdiction.

6 752. Appeals from courts of common pleas.

7 § 751. Original jurisdiction.

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

16 § 752. Appeals from courts of common pleas.

17 The Court of Criminal Appeals shall have exclusive appellate
18 jurisdiction of all appeals from final orders of the courts of
19 common pleas in criminal actions and proceedings except such
20 classes of appeals as are by any provision of this chapter
21 within the exclusive jurisdiction of the Supreme Court or the
22 Commonwealth Court.

23 SUBCHAPTER [D] E

24 JURISDICTION OF COMMONWEALTH COURT

25 * * *

26 Section 6. Sections 3101, 3131(b), 3529(d) and 5571(a) of
27 Title 42 are amended to read:

28 § 3101. Qualifications of judicial officers generally.

29 (a) General rule.--Judges and district justices shall be
30 citizens of this Commonwealth. Judges, except judges of the

1 Pittsburgh Magistrates Court and the Traffic Court of
2 Philadelphia, shall be members of the bar of this Commonwealth.
3 Judges of the Supreme, Superior and Commonwealth Courts, and the
4 Court of Criminal Appeals, for a period of one year preceding
5 their election or appointment and during their continuance in
6 office, shall reside within this Commonwealth. Other judges and
7 district justices, for a period of one year preceding their
8 election or appointment and during their continuance in office,
9 shall reside within their respective districts, except when
10 temporarily assigned to another district pursuant to law.

11 (b) Mental health review officers.--Mental health review
12 officers shall be members of the bar of this Commonwealth
13 without restriction as to county of residence and where possible
14 should be familiar with the field of mental health. Judges of
15 the Philadelphia Municipal Court may be appointed mental health
16 review officers.

17 § 3131. Selection of judicial officers for regular terms.

18 * * *

19 (b) Retention election after transfer or appointment.--Any
20 of the following may file a declaration for candidacy for
21 retention election with the Secretary of the Commonwealth on or
22 before the first Monday of January of the year preceding the
23 year in which his term of office expires:

24 (1) a person elected to the Philadelphia Municipal Court
25 pursuant to this section, or corresponding provisions of
26 prior law, who becomes a judge of the Community Court of
27 Philadelphia County pursuant to section 3321(b)(1) (relating
28 to establishment of community courts);

29 (2) a person elected to the Community Court of
30 Philadelphia County pursuant to this section who becomes a

1 judge of the Philadelphia Municipal Court pursuant to section
2 3322(b) (relating to discontinuance of community courts);
3 [or]

4 (3) a person appointed to the Commonwealth Court who:

5 (i) shall have held office as an elected judge of a
6 court of common pleas and shall not have been defeated
7 for reelection or retention election;

8 (ii) shall hold an appointive term on the
9 Commonwealth Court which when added to his other service
10 as a judge of a court of common pleas and/or the
11 Philadelphia Municipal Court (whether or not continuously
12 or on the same court and whether by election or
13 appointment) shall aggregate at least ten years as of the
14 date of expiration of such appointive term on the
15 Commonwealth Court; and

16 (iii) shall have been appointed to the Commonwealth
17 Court pursuant to any executive order then in effect
18 relating to the selection and screening of qualified
19 nominees for appointment to the court[.]; or

20 (4) a person appointed to the Court of Criminal Appeals
21 when it was initially established.

22 If no declaration is filed, a vacancy shall exist upon the
23 expiration of the term of office of such judge, to be filled by
24 election under subsection (c). If a judge files a declaration,
25 his name shall be submitted to the electors without party
26 designation, as a separate judicial question or in a separate
27 column or line on voting machines, at the municipal election
28 immediately preceding the expiration of the term of office of
29 the judge, to determine only the question whether he shall be
30 retained in office. If a majority is against retention, a

1 vacancy shall exist upon the expiration of his term of office,
2 to be filled by appointment under section 3132(a) (relating to
3 vacancies in office). If a majority favors retention, the judge
4 shall serve for a regular term of office provided for in section
5 3152 (relating to tenure of judicial officers), unless sooner
6 removed or retired. At the expiration of such regular term such
7 judge shall be eligible for retention as provided in section
8 3153 (relating to retention elections after regular term),
9 subject only to the retirement provisions of this part. Section
10 3133 (relating to Commonwealth Court judges) shall not be
11 applicable to an election conducted pursuant to this subsection.

12 * * *

13 § 3529. Audits of affairs of unified judicial system.

14 * * *

15 (d) Definition.--As used in this section the term "judicial
16 auditing agency" means a body established or designated by the
17 governing authority as the judicial auditing agency for the
18 purposes of this section. The judicial auditing agency shall
19 include:

20 (1) A judge of the Superior Court selected by the
21 Superior Court.

22 (2) A judge of the Court of Criminal Appeals selected by
23 the Court of Criminal Appeals.

24 [(2)] (3) A judge of the Commonwealth Court selected by
25 the Commonwealth Court.

26 [(3)] (4) The President Judge of the Court of Common
27 Pleas of Philadelphia County.

28 [(4)] (5) The President Judge of the Court of Common
29 Pleas of Allegheny County.

30 § 5571. Appeals generally.

1 (a) General rule.--The time for filing an appeal, a petition
2 for allowance of appeal, a petition for permission to appeal or
3 a petition for review of a quasi-judicial order, in the Supreme
4 Court, the Superior Court, the Court of Criminal Appeals or the
5 Commonwealth Court shall be governed by general rules. No other
6 provision of this subchapter shall be applicable to matters
7 subject to this subsection.

8 * * *

9 Section 7. The definition of "member of the judiciary" in
10 section 5102 of Title 71 is amended to read:

11 § 5102. Definitions.

12 The following words and phrases as used in this part, unless
13 a different meaning is plainly required by the context, shall
14 have the following meanings:

15 * * *

16 "Member of the judiciary." Any justice of the Supreme Court,
17 any judge of the Superior Court, the Court of Criminal Appeals,
18 the Commonwealth Court, any court of common pleas, the Municipal
19 Court and the Traffic Court of Philadelphia, or any community
20 court.

21 * * *

22 Section 8. Appointment of initial judges.

23 (a) General rule.--The Governor, in the manner provided in
24 this section, shall appoint the first judges of the Court of
25 Criminal Appeals with the advice and consent of two-thirds of
26 the members elected to the Senate. Not more than three of the
27 appointees shall be members of the same political party.

28 (b) Term of office and priority of commission.--The Governor
29 shall appoint judges who shall be commissioned and hold offices
30 as follows:

1 (1) He shall appoint one judge for a term ending the
2 first Monday of January 1991. This appointee when confirmed
3 by the Senate shall receive first priority of commission,
4 shall be the President Judge and shall assume the duties of
5 his office prior to that of any of the other judges.

6 (2) He shall thereafter appoint one judge for a term
7 ending the first Monday of January 1991. This appointee shall
8 be of a different political party than the judge appointed
9 under paragraph (1) and shall receive the second priority of
10 commission.

11 (3) He shall thereafter appoint two judges for a term
12 ending the first Monday of January 1990. These appointees
13 shall be of different political parties and shall receive the
14 third and fourth priority of commission.

15 (4) He shall thereafter appoint one judge for a term
16 ending the first Monday of January 1989. This appointee shall
17 receive fifth priority of commission.

18 Section 9. Compensation of judges.

19 Until otherwise provided by law, the President Judge and
20 other judges of the Court of Criminal Appeals shall receive the
21 same compensation as the President Judge and other judges of the
22 Superior Court, respectively.

23 Section 10. Initial organization of court.

24 The Court of Criminal Appeals shall meet and organize at the
25 seat of government. The court shall procure the necessary
26 supplies, equipment and personnel to commence operation and
27 promulgate the necessary rules of court. When the court is
28 organized and ready for the transaction of business, the Chief
29 Justice of the Supreme Court shall so certify to the Governor,
30 who shall issue a proclamation stating that the court is

1 organized and ready for the transaction of its judicial
2 functions. The Secretary of the Commonwealth shall certify a
3 copy of the proclamation to the Legislative Reference Bureau for
4 publication in the next available volume of the Laws of
5 Pennsylvania.

6 Section 11. Pending actions and proceedings.

7 (a) Jurisdiction of Superior Court continued.--Except as
8 otherwise provided in this section, no appeal or other matter
9 pending in the Superior Court on the effective date of this act
10 shall be affected by the provisions of this act changing the
11 jurisdiction of the Superior Court, and all such matters shall
12 proceed to a final determination in the Superior Court, which
13 court shall have continuing jurisdiction over such matter,
14 including jurisdiction on remand following any appellate review
15 of any order entered in such matter, whether such appellate
16 review was had before or after the effective date of this act.

17 (b) Transfer of jurisdiction by consent.--The Superior Court
18 may at any time, with the consent of the Court of Criminal
19 Appeals, transfer jurisdiction of such matter to the Court of
20 Criminal Appeals which would have been vested with jurisdiction
21 of such matter if the action or proceeding had been commenced in
22 or the appeal had been taken to the Court of Criminal Appeals
23 after the effective date of this act. Such transfers shall be
24 effected with due regard for the interests of justice and the
25 convenience of the parties. In every such case the Prothonotary
26 of the Superior Court shall transfer to the custody of the
27 Prothonotary of the Court of Criminal Appeals all dockets,
28 records, pleadings and other papers, or certified copies
29 thereof, relating to the matter so transferred.

30 Section 12. General repeal.

1 All acts and parts of acts are repealed insofar as they are
2 inconsistent with this act.

3 Section 13. Effective date.

4 This act shall take effect as follows:

5 (1) Except as provided in subsection (b), this act shall
6 take effect immediately.

7 (2) Subchapter D of Chapter 7 of Title 42 of the
8 Pennsylvania Consolidated Statutes (relating to jurisdiction
9 of the Court of Criminal Appeals) shall take effect 30 days
10 from the date the Governor issues his proclamation under
11 section 10 of this act.