

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 547

Session of
1979

INTRODUCED BY RICHARDSON, BARBER, DUMAS, WHITE, SHADDING,
HARPER, COHEN AND CIANCIULLI, MARCH 6, 1979

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 6, 1979

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 and
8 section 301 of Title 42, act of November 25, 1970 (P.L.707,
9 No.230), known as the Pennsylvania Consolidated Statutes, are
10 amended and the definition of "Court of Criminal Appeals" in
11 section 102 is added to read:

12 § 102. Definitions.

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

18 * * *

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

8 * * *

9 "Appellate court." Includes the Supreme Court, the Superior
10 Court, the Court of Criminal Appeals and the Commonwealth Court.

11 * * *

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

15 * * *

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

19 * * *

20 § 301. Unified judicial system.

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

23 (1) Supreme Court.

24 (2) Superior Court.

25 (3) Court of Criminal Appeals.

26 [(3)] (4) Commonwealth Court.

27 [(4)] (5) Courts of common pleas.

28 [(5)] (6) Community courts.

29 [(6)] (7) Philadelphia Municipal Court.

30 [(7)] (8) Pittsburgh Magistrates Court.

(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), Subchapter D (relating to jurisdiction of Court of Criminal Appeals) and Subchapter [D] E (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).

§ 705. Transfers between intermediate appellate courts.

The Superior Court, the Court of Criminal Appeals 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.

§ 707. Lien of judgments for money.

Any judgment or other order of the Supreme Court, the Superior Court, the Court of Criminal Appeals 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.

§ 724. Allowance of appeals from Superior and Commonwealth

Courts and the Court of Criminal Appeals.

1 (a) General rule.--Final orders of the Superior Court and
2 the Court of Criminal Appeals and final orders of the
3 Commonwealth Court not appealable under section 723 (relating to
4 appeals from Commonwealth Court) may be reviewed by the Supreme
5 Court upon allowance of appeal by any two justices of the
6 Supreme Court upon petition of any party to the matter. If the
7 petition shall be granted, the Supreme Court shall have
8 jurisdiction to review the order in the manner provided by
9 section 5105(d)(1) (relating to scope of appeal).

10 * * *

11 Section 4. Section 742 of Title 42 is amended and Chapter 7
12 is amended by adding a subchapter and amending the heading of
13 Subchapter D to read:

14 § 742. Appeals from courts of common pleas.

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

22 CHAPTER 7

23 JURISDICTION OF APPELLATE COURTS

24 SUBCHAPTER D

25 JURISDICTION OF THE COURT OF CRIMINAL APPEALS

26 Sec.

27 751. Original jurisdiction.

28 752. Appeals from courts of common pleas.

29 § 751. Original jurisdiction.

30 The Court of Criminal Appeals shall have no original

1 jurisdiction, except in cases of mandamus and prohibition of
2 courts of inferior jurisdiction where such relief is ancillary
3 to matters within its appellate jurisdiction, and except that
4 it, or any judge thereof, shall have full power and authority
5 when and as often as there may be occasion, to issue writs of
6 habeas corpus under like conditions returnable to the said
7 court.

8 § 752. Appeals from courts of common pleas.

9 The Court of Criminal Appeals shall have exclusive appellate
10 jurisdiction of all appeals from final orders of the courts of
11 common pleas in criminal actions and proceedings except such
12 classes of appeals as are by any provision of this chapter
13 within the exclusive jurisdiction of the Supreme Court or the
14 Commonwealth Court.

15 SUBCHAPTER [D] E

16 JURISDICTION OF COMMONWEALTH COURT

17 Section 5. Sections 3101, 3131(b), 3529(d) and 5571(a) of
18 Title 42, sections 3101 and 3131(b) amended April 28, 1978
19 (No.53) and section 3131(b) amended October 5, 1978 (No.257),
20 are amended to read:

21 § 3101. Qualifications of judicial officers generally.

22 Judges and district justices shall be citizens of this
23 Commonwealth. Judges, except judges of the Pittsburgh
24 Magistrates Court and the Traffic Court of Philadelphia, shall
25 be members of the bar of this Commonwealth. Judges of the
26 Supreme, Superior and Commonwealth Courts and the Court of
27 Criminal Appeals, for a period of one year preceding their
28 election or appointment and during their continuance in office,
29 shall reside within this Commonwealth. Other judges and district
30 justices, for a period of one year preceding their election or

1 appointment and during their continuance in office, shall reside
2 within their respective districts, except when temporarily
3 assigned to another district pursuant to law.

4 § 3131. Selection of judicial officers for regular terms.

5 * * *

6 (b) Retention election after initial term by transfer or
7 appointment.--Any of the following may file a declaration for
8 candidacy for retention election with the Secretary of the
9 Commonwealth on or before the first Monday of January of the
10 year preceding the year in which his term of office expires:

11 (1) a person elected to the Philadelphia Municipal Court
12 pursuant to this section, or corresponding provisions of
13 prior law, who becomes a judge of the Community Court of
14 Philadelphia County pursuant to section 3321(b)(1) (relating
15 to establishment of community courts);

16 (2) a person elected to the Community Court of
17 Philadelphia County pursuant to this section who becomes a
18 judge of the Philadelphia Municipal Court pursuant to section
19 3322(b) (relating to discontinuance of community courts);
20 [or]

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

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

25 (ii) shall hold an appointive term on the
26 Commonwealth Court which when added to his other service
27 as a judge of a court of common pleas and/or the
28 Philadelphia Municipal Court (whether or not continuously
29 or on the same court and whether by election or
30 appointment) shall aggregate at least ten years as of the

1 date of expiration of such appointive term on the
2 Commonwealth Court; and

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

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

9 If no declaration is filed, a vacancy shall exist upon the
10 expiration of the term of office of such judge, to be filled by
11 election under subsection (c). If a judge files a declaration,
12 his name shall be submitted to the electors without party
13 designation, as a separate judicial question or in a separate
14 column or line on voting machines, at the municipal election
15 immediately preceding the expiration of the term of office of
16 the judge, to determine only the question whether he shall be
17 retained in office. If a majority is against retention, a
18 vacancy shall exist upon the expiration of his term of office,
19 to be filled by appointment under section 3132(a) (relating to
20 vacancies in office). If a majority favors retention, the judge
21 shall serve for a regular term of office provided for in section
22 3152 (relating to tenure of judicial officers), unless sooner
23 removed or retired. At the expiration of such regular term such
24 judge shall be eligible for retention as provided in section
25 3153 (relating to retention elections after regular term),
26 subject only to the retirement provisions of this part. Section
27 3133 (relating to Commonwealth Court judges) shall not be
28 applicable to an election conducted pursuant to this subsection.

29 * * *

30 § 3529. Audits of affairs of unified judicial system.

1 * * *

2 (d) Definition.--As used in this section the term "judicial
3 auditing agency" means a body established or designated by the
4 governing authority as the judicial auditing agency for the
5 purposes of this section. The judicial auditing agency shall
6 include:

7 (1) A judge of the Superior Court selected by the
8 Superior Court.

9 (2) A judge of the Court of Criminal Appeals selected by
10 the Court of Criminal Appeals.

11 [(2)] (3) A judge of the Commonwealth Court selected by
12 the Commonwealth Court.

13 [(3)] (4) The President Judge of the Court of Common
14 Pleas of Philadelphia County.

15 [(4)] (5) The President Judge of the Court of Common
16 Pleas of Allegheny County.

17 § 5571. Appeals generally.

18 (a) General rule.--The time for filing an appeal, a petition
19 for allowance of appeal, a petition for permission to appeal or
20 a petition for review of a quasi-judicial order, in the Supreme
21 Court, the Superior Court, the Court of Criminal Appeals or the
22 Commonwealth Court shall be governed by general rules. No other
23 provision of this subchapter shall be applicable to matters
24 subject to this subsection.

25 * * *

26 Section 6. The definition of "member of the judiciary" in
27 section 5102 of Title 71 is amended to read:

28 § 5102. Definitions.

29 The following words and phrases as used in this part, unless
30 a different meaning is plainly required by the context, shall

1 have the following meanings:

2 * * *

3 "Member of the judiciary." Any justice of the Supreme Court,
4 any judge of the Superior Court, the Court of Criminal Appeals,
5 the Commonwealth Court, any court of common pleas, the Municipal
6 Court and the Traffic Court of Philadelphia, or any community
7 court.

8 * * *

9 Section 7. Appointment of initial judges.

10 (a) General rule.--The Governor in the manner provided in
11 this section shall appoint the first judges of the Court of
12 Criminal Appeals with the advice and consent of two-thirds of
13 the members elected to the Senate. Not more than three of the
14 appointees shall be members of the same political party.

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

18 (1) He shall appoint one judge for a term ending the
19 first Monday of January 1984. This appointee when confirmed
20 by the Senate shall receive first priority of commission,
21 shall be the President Judge and shall assume the duties of
22 his office prior to that of any of the other judges.

23 (2) He shall thereafter appoint one judge for a term
24 ending the first Monday of January 1984. This appointee shall
25 be of a different political party than the judge appointed
26 under paragraph (1) and shall receive the second priority of
27 commission.

28 (3) He shall thereafter appoint two judges for a term
29 ending the first Monday of January 1982. These appointees
30 shall be of different political parties and shall receive the

1 third and fourth priority of commission.

2 (4) He shall thereafter appoint one judge for a term
3 ending the first Monday of January 1980. This appointee shall
4 receive fifth priority of commission.

5 Section 8. Compensation of judges.

6 Until otherwise provided by law, the President Judge and
7 other judges of the Court of Criminal Appeals shall receive the
8 same compensation as the President Judge and other judges of the
9 Superior Court, respectively.

10 Section 9. Initial organization of court.

11 The Court of Criminal Appeals shall meet and organize at the
12 seat of government. The court shall procure the necessary
13 supplies, equipment and personnel to commence operation and
14 promulgate the necessary rules of court. When the court is
15 organized and ready for the transaction of business, the Chief
16 Justice of the Supreme Court shall so certify to the Governor,
17 who shall issue a proclamation stating that the court is
18 organized and ready for the transaction of its judicial
19 functions. The Secretary of the Commonwealth shall certify a
20 copy of the proclamation to the Legislative Reference Bureau for
21 publication in the next available volume of the Laws of
22 Pennsylvania.

23 Section 10. Pending actions and proceedings.

24 (a) Jurisdiction of Superior Court continued.--Except as
25 otherwise provided in this section, no appeal or other matter
26 pending in the Superior Court on the effective date of this act
27 shall be affected by the provisions of this act changing the
28 jurisdiction of the Superior Court, and all such matters shall
29 proceed to a final determination in the Superior Court, which
30 court shall have continuing jurisdiction over such matter,

1 including jurisdiction on remand following any appellate review
2 of any order entered in such matter, whether such appellate
3 review was had before or after the effective date of this act.

4 (b) Transfer of jurisdiction by consent.--The Superior Court
5 may at any time, with the consent of the Court of Criminal
6 Appeals, transfer jurisdiction of such matter to the Court of
7 Criminal Appeals which would have been vested with jurisdiction
8 of such matter if the action or proceeding had been commenced in
9 or the appeal had been taken to the Court of Criminal Appeals
10 after the effective date of this act. Such transfers shall be
11 effected with due regard for the interests of justice and the
12 convenience of the parties. In every such case the Prothonotary
13 of the Superior Court shall transfer to the custody of the
14 Prothonotary of the Court of Criminal Appeals all dockets,
15 records, pleadings and other papers, or certified copies
16 thereof, relating to the matter so transferred.

17 Section 11. General repeal.

18 All acts and parts of acts are repealed insofar as
19 inconsistent with this act.

20 Section 12. Effective date.

21 (a) General rule.--Except as provided in subsection (b),
22 this act shall take effect immediately or upon the effective
23 date of the repeal of paragraph (4) of section 29 of the act of
24 July 9, 1976 (P.L.586, No.142), known as the "Judiciary Act of
25 1976," whichever is later.

26 (b) Exception.--Subchapter D of Chapter 7 of Title 42 of the
27 Pennsylvania Consolidated Statutes (relating to jurisdiction of
28 the Court of Criminal Appeals) shall take effect 30 days from
29 the date the Governor issues his proclamation under section 9 of
30 this act.