

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 776

Session of
1979

INTRODUCED BY FUMO, SMITH, LYNCH AND HANKINS, MAY 22, 1979

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 1, 1980

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, ~~authorizing the striking~~ <—
3 ~~of a judgment based on false testimony.~~ FURTHER PROVIDING FOR <—
4 JURISDICTION OF COURTS, THE ~~APPLICATION OF THE~~ STATUTE OF <—
5 LIMITATIONS, ~~TO~~ FOR THE COMPENSATION OF DISTRICT JUSTICES FOR <—
6 ACTIONS ON CERTAIN INSTRUMENTS, AND FOR STATE REIMBURSEMENT
7 OF CERTAIN JUROR COMPENSATION.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. SECTIONS 761(A)(1) AND 762(A)(1) OF Title 42, act <—
11 of November 25, 1970 (P.L.707, No.230), known as the
12 Pennsylvania Consolidated Statutes, ~~is~~ AS AMENDED _____, <—
13 NO. _____ (HOUSE BILL 1873), ARE amended ~~by adding a section to~~ <—
14 read:

15 ~~§ 8105. Striking judgment against State or local~~ <—
16 ~~government based on false testimony.~~

17 ~~(a) General rule. A judgment entered against any State or~~
18 ~~local governmental entity, which is based on false testimony~~
19 ~~shall not be enforced and shall be stricken from the record AND~~ <—

~~A NEW TRIAL GRANTED if:~~

~~(1) the testimony was material to the issue or point of inquiry;~~

~~(2) the witness who gave the testimony has been convicted of the crime of perjury or false swearing on account of having given said testimony;~~

~~(3) the fact of the falsity of the testimony could not have been discovered by reasonable diligence at or before the trial; and~~

~~(4) the remedy of this section was sought within a reasonable time after said conviction.~~

~~(b) Stay of enforcement in certain cases. If, prior to the enforcement or execution of any judgment AGAINST ANY STATE OR LOCAL GOVERNMENTAL ENTITY, it is established:~~

~~(1) that a witness, who gave testimony material to the determination of that judgment, is the subject of a criminal prosecution for perjury or false swearing; and~~

~~(2) that said prosecution is premised wholly or in part upon said testimony;~~

~~then the enforcement, execution or satisfaction of said judgment shall be stayed pending a final determination of said criminal prosecution.~~

~~Section 2. This act shall apply to all judgments not satisfied at the time of the effective date of this act.~~

~~Section 3. This act shall take effect immediately.~~

~~§ 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; [AND]

(III) ACTIONS ON CLAIMS IN WHICH IMMUNITY HAS BEEN
WAIVED PURSUANT TO CHAPTER 85 (RELATING TO MATTERS
AFFECTING GOVERNMENT UNITS) OR THE ACT OF MAY 20, 1937
(P.L.728, NO.193), REFERRED TO AS THE BOARD OF CLAIMS
ACT[.]; AND

(IV) ACTIONS OR PROCEEDINGS IN TRESPASS AS TO WHICH
THE COMMONWEALTH GOVERNMENT FORMERLY ENJOYED SOVEREIGN OR
OTHER IMMUNITY.

* * *

§ 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 [TO WHICH THE COMMONWEALTH GOVERNMENT, INCLUDING
ANY OFFICER OR EMPLOYEE THEREOF, ACTING IN HIS OFFICIAL
CAPACITY OR WITHIN THE SCOPE OF HIS DUTIES, IS A PARTY,
INCLUDING ACTIONS OR CLAIMS IN WHICH IMMUNITY HAS BEEN WAIVED
PURSUANT TO SUBCHAPTER B OF CHAPTER 85 (RELATING TO ACTIONS
AGAINST COMMONWEALTH PARTIES)] 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.

* * *

SECTION 2. ~~SECTIONS~~ SECTION 933(A)(1)(V) ~~AND 5527(2)~~ OF
TITLE 42 ~~ARE~~ IS AMENDED TO READ:

§ 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:

* * *

(V) DETERMINATIONS OF THE PENNSYLVANIA LIQUOR
CONTROL BOARD APPEALABLE UNDER [SECTION 515 OF] THE ACT
OF APRIL 12, 1951 (P.L.90, NO.21), KNOWN AS THE "LIQUOR
CODE," EXCEPT MATTERS APPEALABLE UNDER SECTIONS 433, 444
OR 710 OF THE ACT. EXCEPT AS OTHERWISE PRESCRIBED BY
GENERAL RULES, THE VENUE OF SUCH MATTERS SHALL BE AS
PROVIDED IN [SECTION 515 OF] THE ACT.

* * *

SECTION 3. SECTIONS 1503 AND 3154 OF TITLE 42 ARE AMENDED BY
ADDING SUBSECTIONS TO READ:

§ 1503. REESTABLISHMENT OF DISTRICTS.

* * *

(D) COMPENSATION OF DISTRICT JUSTICE.--WHEN A MAGISTERIAL
DISTRICT IS REESTABLISHED THE COMPENSATION OF A DISTRICT JUSTICE
SERVING THEREIN SHALL NOT BE DIMINISHED FOR ANY REASON DURING
HIS TERM OR DURING ANY TERM TO WHICH HE IS REELECTED WHILE

1 SERVING IN SUCH REESTABLISHED DISTRICT.

2 § 3154. COMPENSATION OF JUDICIAL OFFICERS.

3 * * *

4 (D) COMPENSATION OF DISTRICT JUSTICE.--THE COMPENSATION OF A
5 DISTRICT JUSTICE SHALL NOT BE DIMINISHED FOR ANY REASON DURING
6 HIS TERM OR DURING ANY TERM TO WHICH HE IS REELECTED IN THE SAME
7 MAGISTERIAL DISTRICT IN WHICH HE WAS SERVING AT THE TIME OF
8 REELECTION.

9 SECTION 4. SECTION 4561(B) OF TITLE 42, ADDED JUNE 26, 1980
10 (NO.78), IS AMENDED TO READ:

11 § 4561. COMPENSATION OF JURORS.

12 * * *

13 (B) STATE REIMBURSEMENT.--THE COMMONWEALTH SHALL REIMBURSE
14 EACH COUNTY 80% OF THE AMOUNT EXPENDED BY THE COUNTY FOR SUCH
15 COMPENSATION AND MILEAGE BEYOND THE FIRST THREE DAYS OF SERVICE
16 IF THE JUROR IS PARTICIPATING IN A TRIAL OR IN GRAND JURY
17 PROCEEDINGS. APPLICATION FOR REIMBURSEMENT SHALL BE MADE BY THE
18 COUNTY TO THE STATE TREASURER THROUGH THE ADMINISTRATIVE OFFICE
19 ON FORMS AND PURSUANT TO UNIFORM PROCEDURES PRESCRIBED BY SAID
20 OFFICE. AS USED IN THIS SECTION, TRIAL PARTICIPATION SHALL
21 INCLUDE VOIR DIRE EXAMINATION ONLY IF SUCH EXAMINATION SHALL
22 HAVE COMMENCED PRIOR TO THE JUROR'S FOURTH DAY OF SERVICE.

23 SECTION 5. SECTIONS 5527(2) AND 5529 OF TITLE 42 ARE AMENDED
24 TO READ:

25 § 5527. SIX YEAR LIMITATION.

26 THE FOLLOWING ACTIONS AND PROCEEDINGS MUST BE COMMENCED
27 WITHIN SIX YEARS:

28 * * *

29 (2) AN ACTION UPON A CONTRACT, OBLIGATION OR LIABILITY
30 FOUNDED UPON A BOND, NOTE OR OTHER INSTRUMENT IN WRITING,

1 EXCEPT AN ACTION SUBJECT TO ANOTHER LIMITATION SPECIFIED IN
2 THIS SUBCHAPTER. WHERE AN INSTRUMENT IS PAYABLE UPON DEMAND,
3 THE TIME WITHIN WHICH AN ACTION OR PROCEEDING ON IT MUST BE
4 COMMENCED SHALL BE COMPUTED FROM THE LATER OF EITHER DEMAND
5 OR ANY PAYMENT OF PRINCIPAL OF OR INTEREST ON THE INSTRUMENT.

6 * * *

7 § 5529. TWENTY YEAR LIMITATION.

8 (A) EXECUTION AGAINST PERSONAL PROPERTY.--AN EXECUTION
9 AGAINST PERSONAL PROPERTY MUST BE ISSUED WITHIN 20 YEARS AFTER
10 THE ENTRY OF THE JUDGMENT UPON WHICH THE EXECUTION IS TO BE
11 ISSUED.

12 (B) INSTRUMENTS UNDER SEAL.--

13 (1) NOTWITHSTANDING SECTION 5527 (RELATING TO SIX YEAR
14 LIMITATION), AN ACTION OR PROCEEDING UPON AN INSTRUMENT IN
15 WRITING UNDER SEAL MUST BE COMMENCED WITHIN 20 YEARS.

16 (2) THIS SUBSECTION SHALL EXPIRE JUNE 27, 1998.

17 SECTION ~~3-~~ 6. THE PROTHONOTARY OF THE COMMONWEALTH COURT <—
18 SHALL, EXCEPT AS OTHERWISE ORDERED BY THE COURT IN THE INTEREST
19 OF JUSTICE, TRANSFER TO THE APPROPRIATE OFFICE OF THE CLERK OF
20 THE COURT OF COMMON PLEAS ALL DOCKETS, RECORDS, PLEADINGS AND
21 OTHER PAPERS, OR CERTIFIED COPIES THEREOF, RELATING TO ALL
22 PENDING MATTERS JURISDICTION OF WHICH IS VESTED IN ANOTHER
23 TRIBUNAL BY REASON OF 42 PA.C.S § 761(A)(1)(IV) OR 933(A)(1)(V),
24 AS ADDED OR AMENDED BY THIS ACT.

25 SECTION ~~4-~~ 7. THIS ACT SHALL TAKE EFFECT IMMEDIATELY AND THE <—
26 AMENDMENTS TO 42 PA.C.S. §§ 761(A)(1)(IV), 933(A)(1)(V), ~~AND~~ <—
27 5527(2) (AS TO INSTRUMENTS UNDER SEAL) AND 5529 EFFECTED BY THIS
28 ACT SHALL BE RETROACTIVE TO JUNE 27, 1978.