
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 628

Session of
1987

INTRODUCED BY SWEET, LASHINGER, DeLUCA, PRESSMANN, FOX, FEE,
BORTNER, PETRARCA, LaGROTTA, HALUSKA, MELIO, STABACK,
COLAFELLA, KUKOVICH, LAUGHLIN, KASUNIC, WOGAN, VEON, STUBAN,
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COHEN, BALDWIN, PRESTON, ROBBINS, SCHULER, COY, RYBAK,
MICOZZIE, HAGARTY, ANGSTADT, GODSHALL, CLYMER, ARTY, HONAMAN,
McCALL, MERRY, DORR, BOYES, TRELLO, SAURMAN, LEVDANSKY,
CALTAGIRONE AND BROUJOS, MARCH 3, 1987

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED,
JUNE 7, 1988

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, adding provisions
3 relating to constables; FURTHER PROVIDING FOR A NEGLIGENCE <—
4 STANDARD FOR OFFICERS, DIRECTORS, AGENTS AND TRUSTEES OF
5 NONPROFIT ORGANIZATIONS; PROVIDING A LIABILITY STANDARD FOR
6 OFFICERS, DIRECTORS AND TRUSTEES OF CERTAIN CLUBS; AND MAKING
7 AN APPROPRIATION.

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

10 Section 1. The definition of "officer enforcing orders" in
11 section 102 of Title 42 of the Pennsylvania Consolidated
12 Statutes is amended to read:

13 § 102. Definitions.

14 Subject to additional definitions contained in subsequent
15 provisions of this title which are applicable to specific
16 provisions of this title, the following words and phrases when

1 used in this title shall have, unless the context clearly
2 indicates otherwise, the meanings given to them in this section:

3 * * *

4 "Officer enforcing orders." Includes:

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

10 (2) A register of wills.

11 (3) A sheriff.

12 (4) A constable or deputy constable while actually
13 engaged in the performance of judicial duties as defined in
14 section 2941 (relating to definitions).

15 Section 2. Sections 2131 and 2132 of Title 42 are amended to
16 read:

17 § 2131. Minor Judiciary Education Board.

18 (a) General rule.--The Minor Judiciary Education Board shall
19 consist of [seven] nine members selected as provided in this
20 subchapter.

21 (b) Seal.--The Minor Judiciary Education Board shall have a
22 seal engraved with its name and such other inscription as may be
23 specified by general rule. A facsimile or preprinted seal may be
24 used for all purposes in lieu of the original seal.

25 § 2132. Composition of board.

26 (a) General rule.--The Minor Judiciary Education Board shall
27 consist of the following appointed by the Governor [with the
28 consent of a majority of the members elected to the Senate]:

29 (1) Three persons who shall be judges of the Pittsburgh
30 Magistrates Court or the Traffic Court of Philadelphia or

district justices.

(2) Three members of the bar of this Commonwealth.

(3) One lay elector.

(4) Two constables who are certified pursuant to section 2943 (relating to certification) and who shall be residents of different counties.

(b) Terms of office.--The members of the board shall serve for terms of five years and until a successor has been appointed and qualified. A vacancy on the board shall be filled for the balance of the term.

(c) Compensation.--Members of the board shall receive such fees or salary as shall be fixed by the governing authority in the manner provided by section 503(b) (relating to procedures).

Section 3. Subchapter C of Chapter 29 of Title 42 is amended to read:

CHAPTER 29

OFFICERS SERVING PROCESS AND

ENFORCING ORDERS

* * *

SUBCHAPTER C

CONSTABLES

[(Reserved)]

Sec.

2941. Definitions.

2942. Powers and duties.

2943. Certification.

2944. Basic education.

2945. Continuing education.

2946. Firearms.

2947. Fees.

1 2948. Discipline.

2 § 2941. Definitions.

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

6 "Board." The Minor Judiciary Education Board established
7 pursuant to Subchapter D of Chapter 21 (relating to Minor
8 Judiciary Education Board).

9 "Clerk." The clerk of the courts, or other person holding a
10 similar office in counties that do not have a clerk of courts,
11 of common pleas of the judicial district in which the constable
12 or deputy constable was elected or appointed.

13 "Constable." Any person holding the elective office of
14 constable, whether by election or by appointment to fill a
15 vacancy in such elective office.

16 "Deputy constable." Any person holding the office of deputy
17 constable as a result of appointment by a constable as provided
18 by law.

19 "Judicial duties." Service, execution and return of court-
20 authorized process; levy of attachment, levy or execution;
21 presale and postsale control of property; sales and conveyances;
22 collection, custody and disposition of money; custody and
23 control of respondents, defendants and convicts; court-ordered
24 security; and preservation of official exhibits and papers.

25 "Program." The Constables' Education and Training Program
26 established pursuant to section 2943 (relating to
27 certification).

28 § 2942. Powers and duties.

29 (a) Certification required.--No constable or deputy
30 constable shall perform any judicial duties, nor receive any

1 compensation therefor, unless he is certified pursuant to
2 section 2943 (relating to certification).

3 (b) Supervision.--Constables and deputy constables may
4 perform judicial duties if they are certified pursuant to
5 section 2943 and, while doing so, shall be subject to the
6 supervision of the president judge of the judicial district in
7 which they were elected or appointed, OR OF A DEPUTY COURT
8 ADMINISTRATOR WHO SHALL BE AN ATTORNEY APPOINTED BY THE
9 PRESIDENT JUDGE FOR THE PURPOSE OF SUPERVISING CONSTABLES. <—

10 (c) Arrest powers.--A constable or deputy constable who is
11 certified pursuant to section 2943 to perform judicial duties
12 shall have the power of arrest without a warrant with respect to
13 any person he observes committing any crime under 18 Pa.C.S. Ch.
14 25 (relating to criminal homicide), 27 (relating to assault) or
15 51 (relating to obstructing governmental operations) which
16 interferes with or obstructs him in the performance of his
17 judicial duties.

18 (d) Nonseverable provisions.--Notwithstanding the provisions
19 of this or any other law to the contrary, all constables and
20 deputy constables shall enjoy all of the rights and privileges
21 accorded to constables by section 10 of the act of October 4,
22 1978 (P.L.883, No.170), referred to as the Public Official and
23 Employee Ethics Law. This subsection is nonseverable from the
24 remainder of this subchapter. In the event that section 10 of
25 the Public Official and Employee Ethics Law or this subsection
26 is invalidated or suspended as to constables or deputy
27 constables, then this entire subchapter shall be deemed to be
28 likewise invalidated or suspended.

29 (e) Judicial duties.--Constables and deputy constables shall
30 continue to have all powers and to exercise all duties provided

1 by law, whether or not they become certified, except as provided
2 in subsection (a), and as follows:

3 (1) Constables and deputy constables who are certified
4 pursuant to section 2943 to perform judicial duties shall
5 give priority to their judicial duties over their other
6 constable functions.

7 (2) While a constable or deputy constable is performing
8 his judicial duties, he shall not simultaneously exercise any
9 of the other powers or perform any of the other duties of a
10 constable or deputy constable.

11 (3) While a constable or deputy constable is performing
12 duties other than judicial duties, regardless of whether or
13 not he is certified pursuant to section 2943, he shall not be
14 subject to the supervision of the president judge, nor shall
15 he in any manner hold himself out to be active as an agent,
16 employee or representative of any court, district justice or
17 judge, either by word, by the display of any badge, card,
18 decal, emblem, insignia, identification, marking, patch or
19 sign approved by the Administrative Office, or otherwise.

20 § 2943. Certification.

21 (a) Requirements.--Any constable or deputy constable shall
22 become certified to perform judicial duties upon successfully
23 completing the program established pursuant to this section,
24 filing a certificate attesting thereto with the clerk and filing
25 with the clerk proof that he has, currently in force, a policy
26 of professional liability insurance covering him in the
27 performance of his judicial duties with a minimum coverage of
28 \$250,000 per incident and a minimum aggregate of \$500,000 per
29 year.

30 (b) Completion of program.--Any person shall be deemed to

1 have completed the program if he successfully completes the
2 examination administered at the end of any such course. No one
3 who elects to exercise the benefit of this subsection and who
4 fails to achieve a passing score on the examination may
5 thereafter repeat the examination without attending the course
6 of study.

7 (c) Temporary certification.--Every constable or deputy
8 constable who is in office on the effective date of this
9 subchapter shall be deemed to be temporarily certified to
10 perform judicial duties for the balance of his current term of
11 office. As used in this subsection, the "current term of office"
12 of a deputy constable shall be coterminous with that of the
13 constable who appointed him, unless sooner revoked or
14 terminated. At the conclusion of the current term of office, no
15 such constables or deputy constables shall continue to be deemed
16 certified unless they have complied with the provisions of
17 subsection (a) or (b).

18 (d) Loss of certification.--Any constable or deputy
19 constable who fails, neglects or refuses to comply with any
20 continuing education and training regulations adopted by the
21 board shall cease automatically to be certified to perform
22 judicial duties as of the end of the period of time established
23 by the board, which shall not be less than one year, during
24 which such regulations were not complied with.

25 (e) Insurance required.--Any constable or deputy constable
26 who fails, neglects or refuses to maintain a current insurance
27 policy as required by subsection (a), or to file proof thereof
28 with the clerk, shall cease automatically to be certified to
29 perform judicial duties upon the expiration of the policy of
30 which proof has been filed with the clerk, and the clerk shall

1 so notify the Administrative Office.

2 (f) Recertification.--Any constable or deputy constable who
3 ceases to be certified to perform judicial duties as a result of
4 the operation of subsection (d) or (e) may later be recertified
5 immediately by filing with the clerk proof that such insurance
6 has been in force continuously since the officer was last
7 certified to perform judicial duties, and the clerk shall so
8 notify the Administrative Office or, in the case of a violation
9 of subsection (e), the individual may be recertified by
10 complying with subsections (a) and (b).

11 § 2944. Basic education.

12 (a) Program--The board shall prescribe and approve the
13 subject matter and the examination for the program. The board
14 shall administer the program and conduct the examination at such
15 times, at such places and in such manner as the regulations of
16 the board may prescribe. The course shall be offered as
17 frequently, and in as many locations throughout this
18 Commonwealth, as available funds permit. If funds permit, the
19 course shall be offered on a regional basis, taking into account
20 the density of population of constables and the accessibility of
21 locations to such population. The course may be offered at one
22 location on a full-time basis for a period not exceeding two
23 weeks in duration. In all other locations, the course shall be
24 offered on an evening and/or weekend basis and shall not exceed
25 80 hours in duration.

26 (b) Eligibility.--Any person who is eligible to become a
27 constable or deputy constable may attend the course and/or take
28 the examination.

29 (c) Admission priority.--In the event that there are more
30 applications for admission to the program than can be

1 accommodated at a particular time and place, priority in
2 admission shall be granted as follows:

3 (1) First preference shall be given to constables.

4 Within this category, preference shall be given to those
5 whose terms of office will expire sooner rather than later.

6 (2) Second preference shall be given to deputy
7 constables. Within this category, preference shall be given
8 to those whose appointing constables are serving terms which
9 will expire sooner rather than later.

10 (3) Third preference shall be given to candidates for
11 the office of constable who have filed nomination papers or
12 petitions with their respective county boards of election or
13 who have received the nomination of a political body, party
14 or minor political party as such terms are defined in act of
15 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania
16 Election Code.

17 (4) Fourth preference shall be given to other interested
18 persons who are eligible to become constables or deputy
19 constables.

20 (d) Completion.--Every person who successfully completes the
21 program shall receive from the board a certificate so stating.
22 § 2945. Continuing education.

23 (a) General rule.--The board shall prescribe and approve a
24 course of continuing education and training for constables and
25 deputy constables and shall administer the course and shall
26 conduct it at such times, at such places and in such manner as
27 the regulations of the board may prescribe. The course shall be
28 offered as frequently, and in as many locations throughout this
29 Commonwealth, as available funds permit. If funds permit, the
30 course shall be offered on a regional basis, taking into account

1 the density of population of constables and the accessibility of
2 locations to such population. The course may be offered at one
3 location on a full-time basis for a period not exceeding one
4 week in duration. In all other locations, the course shall be
5 offered on an evening and/or weekend basis and shall not exceed
6 40 hours in duration.

7 (b) Admission open.--No constable or deputy constable who is
8 certified pursuant to section 2943 (relating to certification)
9 shall be denied admission to any such course.

10 (c) Requirement.--The board may require constables and
11 deputy constables, as a condition to their remaining certified
12 to perform judicial duties, to successfully complete such a
13 course no more than once in every year, or longer period of
14 time, subsequent to the year in which they were initially so
15 certified.

16 (d) Notice.--The board shall immediately notify the
17 Administrative Office and the clerk of any constable or deputy
18 constable who fails, neglects or refuses to successfully
19 complete any course of continuing education and training within
20 the time period required.

21 § 2946. Firearms.

22 (a) General rule.--No constable or deputy constable may
23 carry or use a firearm in the performance of judicial duties
24 unless he has successfully completed a program of education and
25 training, which has been approved by the board, in the proper
26 use of firearms. For the purpose of this subsection, the
27 firearms portion of the education and training program
28 established pursuant to the act of June 18, 1974 (P.L.359,
29 No.120), referred to as the Municipal Police Education and
30 Training Law, shall be deemed to be a program approved by the

1 board. Any person who has successfully completed the firearms
2 portion of the program established pursuant to the act of
3 February 9, 1984 (P.L.3, No.2), known as the Deputy Sheriffs'
4 Education and Training Act, may satisfy the requirements of this
5 subsection by successfully completing a written firearms
6 examination approved by the board.

7 (b) Requalification.--No constable or deputy constable may
8 carry or use a firearm in the performance of judicial duties
9 unless he has requalified with his firearm as the board may
10 require, which requalification shall not be required more than
11 once a year after his initial qualification.

12 (c) Permitted use.--Any constable or deputy constable may
13 carry and use a firearm in the performance of judicial duties
14 provided that he has met the requirements of this section.

15 (d) Carrying firearms in performance of any official
16 duties.--A constable or deputy constable who is not certified
17 pursuant to section 2943 (relating to certification) may not
18 carry or use a firearm in the performance of any of his official
19 duties unless he has successfully completed the firearms portion
20 of one or more of the following:

21 (1) Any program approved pursuant to the act of June 18,
22 1974 (P.L.359, No.120), referred to as the Municipal Police
23 Education and Training Law.

24 (2) Any program approved pursuant to the act of October
25 10, 1974 (P.L.705, No.235), known as the Lethal Weapons
26 Training Act.

27 (3) The program established pursuant to the act of
28 February 9, 1984 (P.L.3, No.2), known as the Deputy Sheriffs'
29 Education and Training Act.

30 (4) Any program approved by the board pursuant to

1 subsection (a).

2 § 2947. Fees.

3 (a) General rule.--Constables and deputy constables shall be
4 compensated for performing judicial duties by the payment of
5 fees as set forth in this section and shall be paid according to
6 law for performing other duties.

7 (b) Travel or mileage.--Actual mileage for travel by motor
8 vehicle shall be reimbursed at a rate equal to the highest rate
9 allowed by the Internal Revenue Service. If travel is by other
10 than motor vehicle, reimbursement shall be for actual, vouchered
11 travel expenses.

12 (c) Apportionment.--If more than one defendant is
13 transported simultaneously, reimbursements shall be for actual
14 miles traveled, and the cost shall be divided between or among
15 the defendants.

16 (d) Additional persons.--A constable or deputy constable,
17 when he is transporting a prisoner, serving a warrant in a court
18 case or serving a warrant on a defendant of the opposite sex,
19 may be accompanied by a second constable or deputy constable who
20 is certified pursuant to section 2943 (relating to
21 certification) to perform judicial duties. In such cases, each
22 officer shall receive the fee set out in this section. In all
23 other civil and criminal cases, the issuing authority may
24 authorize such payment to a second such officer.

25 (e) Civil cases.--In civil cases, constable fees must be
26 paid in advance for services desired to be performed. Such fees
27 shall not be refundable to the plaintiff if a case is settled or
28 a debt is satisfied less than 48 hours prior to a scheduled sale
29 or ejectment, in which latter case the constable or deputy
30 constable shall be paid for a nonforcible ejectment.

(f) Payment.--Fees shall be paid as soon as possible and in every case not more than 30 days after the latter of the following occurs:

(1) the service is performed; and

(2) the request for payment is submitted.

(g) Specific fees.--Fees in civil cases shall be as follows:

(1) For serving complaint, summons or notice on suitor or tenant, either personally or by leaving a copy, \$10 plus \$5 for each additional defendant at the same address.

(2) For serving subpoenas, \$10 for the first witness plus \$2.50 for each additional witness at the same address.

(3) For levying goods, including schedule of property levied upon and set aside, \$35.

(4) For advertising personal property to public sale, \$5 per posting (maximum of \$15) plus actual cost of advertising.

(5) For selling goods levied, \$35.

(6) For clerk hired at sales, \$20.

(7) For making return of not found or nulla bona (no goods), \$10.

(8) For executing order of possession, \$10.

(9) For nonforcible ejectment on order of possession, \$35.

(10) For forcible ejectment, \$70.

(11) For making return of service, other than not found or nulla bona (no goods), \$2.50.

(12) For providing court-ordered security, \$10 per hour.

(h) Criminal cases.--Fees in criminal cases shall be as follows:

(1) For executing a warrant, \$15 per warrant.

(2) For taking custody of a defendant, \$5 per defendant.

1 (3) For conveyance of defendant to or from court, \$5 per
2 defendant.

3 (4) For attendance at arraignment or hearing, \$5 per
4 defendant.

5 (5) For executing discharge, \$5 per defendant.

6 (6) For executing commitment, \$5 per defendant

7 (7) For executing release, \$5 per defendant.

8 (8) For making returns to the court of process served or
9 non est inventus (not found), \$2.50.

10 (9) With the approval of the president judge, \$10 per
11 defendant per hour beyond the first half hour, assessed to
12 the court.

13 (10) For conveying defendants for fingerprinting, \$5 per
14 defendant.

15 (11) For overseeing the fingerprinting of defendants at
16 the direction of the district justice, \$5 per defendant plus
17 \$10 per defendant per hour beyond the first half hour.

18 (12) For providing court-ordered security, \$10 per hour.

19 (i) Similar fees.--For civil and criminal services not
20 specifically provided for, the court shall pay the same fees as
21 it pays for services that it determines to be similar to those
22 performed.

23 (j) Assessment by court.--In all criminal cases wherein the
24 defendant is discharged or indigent, or the case is otherwise
25 dismissed, the court shall assess to the county the fee and the
26 surcharge provided in subsection (1), except that, in cases of
27 private criminal complaints wherein the defendant is discharged
28 prior to the indictment or the filing of any information or the
29 case is otherwise dismissed at the summary offense hearing, the
30 court shall assess the fee and surcharge to the affiant.

1 (k) Adjustment of fees.--The Administrative Office may raise
2 the above fees and add new categories and fees from time to time
3 as it deems fair and just for the performance of judicial duties
4 provided by law.

5 (l) Surcharge.--There is hereby assessed a surcharge of \$2
6 on each fee payable for the performance of judicial duties to
7 every constable or deputy constable who is certified pursuant to
8 section 2943 to perform judicial duties. This surcharge is
9 imposed on each individual service for which a fee is provided,
10 including each hour for which an hourly rate is to be paid.
11 Moneys collected pursuant to this subsection shall be turned
12 over monthly by the issuing authority to the county treasurer of
13 the county in which the issuing authority serves.

14 (m) Special account.--There is hereby established a special
15 restricted receipts account within the General Fund of the State
16 Treasury, which shall be known as the Constables' Education and
17 Training Account, for the purpose of financing program expenses,
18 the costs of administering the program and all other costs
19 associated with the implementation of the program and continuing
20 education course established pursuant to this subchapter.

21 (n) Disposition of funds.--The moneys collected by county
22 treasurers under subsection (l) shall be forwarded monthly by
23 each county treasurer to the ~~State Treasurer~~ DEPARTMENT OF <—
24 REVENUE for deposit into the account. None of these moneys shall
25 be transferred by the State Treasurer to another account or
26 fund.

27 (o) CONTINUING APPROPRIATION.--THE GENERAL ASSEMBLY HEREBY <—
28 APPROPRIATES TO THE COURT ADMINISTRATOR OF PENNSYLVANIA FUNDS
29 AUTHORIZED BY SUBSECTION (L) AND DEPOSITED INTO THE ACCOUNT TO
30 CARRY OUT THE PURPOSES OF THIS ACT.

1 ~~(P)~~ (P) Disbursements.--Disbursements from the account shall <—
2 be made only by the Administrative Office.

3 ~~(P)~~ (Q) Audit.--The Auditor General shall conduct an audit <—
4 of the account as he may deem necessary or advisable from time
5 to time.

6 § 2948. Discipline.

7 (a) Loss of certification.--A constable or deputy constable
8 who is convicted of or pleads guilty or nolo contendere to
9 murder or a felony or misdemeanor shall automatically cease to
10 be certified to perform judicial duties. A constable or deputy
11 constable who is convicted of murder or a felony or misdemeanor
12 shall be suspended from performing judicial duties by the
13 president judge of the judicial district in which the constable
14 or deputy constable was elected or appointed. After all appeals
15 are exhausted, if the conviction is affirmed, the president
16 judge shall revoke the certification of the person to perform
17 judicial duties. If the conviction is reversed, the president
18 judge shall immediately lift the suspension.

19 (b) Recertification.--A constable or deputy constable who
20 has been convicted of or pleads guilty or nolo contendere to
21 murder or a felony shall be forever barred from performing
22 judicial duties. A constable who has been convicted of or pleads
23 guilty or nolo contendere to a misdemeanor, and who has
24 subsequently been elected or reelected as constable, may then
25 seek recertification pursuant to section 2943(a) or (b)
26 (relating to certification). A deputy constable who has been
27 convicted of or pleads guilty or nolo contendere to a
28 misdemeanor may seek recertification to perform judicial duties
29 only after all of the following events have taken place in the
30 following order:

1 (1) He has resigned or been removed from the office of
2 deputy constable.

3 (2) Another election for the office of constable has
4 taken place in the jurisdiction of the constable who had
5 appointed him.

6 (3) He has been reappointed as a deputy constable.

7 (c) Administration.--The Administrative Office shall
8 administer the constables and deputy constables who are
9 certified under section 2943 pursuant to the Pennsylvania Rules
10 of Judicial Administration as the governing authority may
11 direct.

12 (d) Judicial duties.--Upon petition of any person, supported
13 by affidavit, any president judge may issue, on any constable or
14 deputy constable who is elected or appointed within the judicial
15 district and who is certified to perform judicial duties, a rule
16 to show cause why his certification should not be suspended or
17 revoked for incompetence, neglect or violation of any rule of
18 court relating to the conduct of constables or deputy constables
19 in the performance of their judicial duties. The rule to show
20 cause shall set forth the grounds for the proposed suspension or
21 removal and shall be returnable to a judge other than the
22 president judge. After a hearing, the judge may suspend or
23 revoke the certification of the constable or deputy constable
24 for such cause.

25 (e) Suspension or restrictions.--Pending the outcome of a
26 final ruling on a petition presented pursuant to subsection (d),
27 the president judge may suspend or place restrictions upon the
28 certification to perform judicial duties of any constable or
29 deputy constable on an interim basis if facts alleged under oath
30 demonstrate that continued and/or unrestricted performance of

1 judicial duties by the officer would pose a clear and present
2 danger to the person or property of others. Such interim order
3 shall dissolve on the tenth day after it is signed unless one or
4 more of the following events take place within that ten-day
5 period:

6 (1) a hearing is held on the continuation of the interim
7 order and the court determines that the order shall remain in
8 effect;

9 (2) the constable or deputy constable requests and
10 receives a continuance of such hearing; or

11 (3) the constable or deputy constable fails to appear
12 for such hearing.

13 (f) Duration of order.--The hearing may be held before the
14 president judge or any other judge. The interim order provided
15 for in subsection (e) shall in all cases dissolve on the 30th
16 day after it is signed unless one or more of the following
17 events takes place within that 30-day period:

18 (1) the constable or deputy constable requests and
19 receives a continuance of the hearing provided for in
20 subsection (d);

21 (2) the constable or deputy constable fails to appear
22 for such hearing; or

23 (3) the interim order is sooner dissolved by the court.
24 No more than one interim suspension or restriction proceeding
25 may be initiated pursuant this subsection on the basis of the
26 same alleged facts.

27 (g) Other duties.--A constable or deputy constable whose
28 certification to perform judicial duties is suspended or revoked
29 may continue to serve as a constable or deputy constable
30 performing other duties unless removed from office as provided

1 by law.

2 SECTION 4. SECTION 8332.2 OF TITLE 42 IS AMENDED TO READ: <—

3 § 8332.2. OFFICER, DIRECTOR, AGENT OR TRUSTEE OF NONPROFIT
4 ORGANIZATION NEGLIGENCE STANDARD.

5 (A) GENERAL RULE.--EXCEPT AS PROVIDED OTHERWISE IN THIS
6 SECTION, NO PERSON WHO SERVES WITHOUT COMPENSATION, OTHER THAN
7 REIMBURSEMENT FOR ACTUAL EXPENSES, AS AN OFFICER, DIRECTOR,
8 AGENT OR TRUSTEE OF ANY NONPROFIT ORGANIZATION UNDER SECTION
9 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1954 (68A STAT. 3, 26
10 U.S.C. § 501(C)(3)) SHALL BE LIABLE FOR ANY CIVIL DAMAGES AS A
11 RESULT OF ANY ACTS OR OMISSIONS RELATING SOLELY TO THE
12 PERFORMANCE OF HIS DUTIES AS AN OFFICER, DIRECTOR, AGENT OR
13 TRUSTEE, UNLESS THE CONDUCT OF THE PERSON [FALLS SUBSTANTIALLY
14 BELOW THE STANDARDS GENERALLY PRACTICED AND ACCEPTED IN LIKE
15 CIRCUMSTANCES BY SIMILAR PERSONS PERFORMING THE SAME OR SIMILAR
16 DUTIES, AND UNLESS IT IS SHOWN THAT THE PERSON DID AN ACT OR
17 OMITTED THE DOING OF AN ACT WHICH THE PERSON WAS UNDER A
18 RECOGNIZED DUTY TO ANOTHER TO DO, KNOWING OR HAVING REASON TO
19 KNOW THAT THE ACT OR OMISSION CREATED A SUBSTANTIAL RISK OF
20 ACTUAL HARM TO THE PERSON OR PROPERTY OF ANOTHER] FALLS BELOW
21 THE STANDARDS FOR DIRECTORS OF NONPROFIT CORPORATIONS AS SET
22 FORTH IN SUBCHAPTER F OF CHAPTER 83, KNOWN AS THE DIRECTORS'
23 LIABILITY ACT. IT SHALL BE INSUFFICIENT TO IMPOSE LIABILITY TO
24 ESTABLISH ONLY THAT THE CONDUCT OF THE PERSON FELL BELOW
25 ORDINARY STANDARDS OF CARE.

26 (B) EXCEPTION.--NOTHING IN THIS SECTION SHALL BE CONSTRUED
27 AS AFFECTING OR MODIFYING ANY EXISTING LEGAL BASIS FOR
28 DETERMINING THE LIABILITY, OR ANY DEFENSE THERETO, OF ANY
29 NONPROFIT ASSOCIATION.

30 SECTION 5. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:

1 § 8332.4 LIABILITY STANDARD FOR OFFICERS, DIRECTORS AND
2 TRUSTEES OF CERTAIN CLUBS.

3 (A) GENERAL RULE.--NO OFFICER, DIRECTOR OR TRUSTEE OF A CLUB
4 WHICH HAS BEEN ISSUED A LICENSE UNDER THE ACT OF APRIL 12, 1951
5 (P.L.90, NO.21), KNOWN AS THE LIQUOR CODE, SHALL BE LIABLE TO
6 THIRD PERSONS ON ACCOUNT OF DAMAGES INFLICTED UPON THEM BY
7 CUSTOMERS OF THE LICENSEE OR TO SUCH CUSTOMERS THEMSELVES UNLESS
8 THE CUSTOMER WHO INFLICTED OR SUSTAINED THE DAMAGES WAS SOLD,
9 FURNISHED OR GIVEN LIQUOR OR MALT OR BREWED BEVERAGES PERSONALLY
10 BY, OR AT THE PERSONAL DIRECTION OF, THE CLUB OFFICER, DIRECTOR
11 OR TRUSTEE WHEN THE CUSTOMER WAS VISIBLY INTOXICATED.

12 (B) EXCEPTION.--NOTHING IN THIS SECTION SHALL BE CONSTRUED
13 AS AFFECTING OR MODIFYING ANY EXISTING LEGAL BASIS FOR
14 DETERMINING THE LIABILITY, OR ANY DEFENSE THERETO, OF AN
15 OFFICER, DIRECTOR OR TRUSTEE OF A CLUB WHICH HAS BEEN ISSUED A
16 LICENSE UNDER THE LIQUOR CODE.

17 Section 4 6. This act shall take effect immediately.

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