

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2355 Session of
1990

INTRODUCED BY FLICK, HERSHEY, MORRIS, PITTS, E. Z. TAYLOR,
VROON, GEIST, COHEN, DeLUCA, THOMAS, SERAFINI AND MELIO,
MARCH 19, 1990

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 19, 1990

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for the
3 establishment of night courts and the powers and jurisdiction
4 thereof; and providing for the temporary assignment of
5 district justices.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Article D of Subpart A of Part II of Title 42 of
9 the Pennsylvania Consolidated Statutes is amended by adding a
10 chapter to read:

11 CHAPTER 14

12 NIGHT COURTS

13 Sec.

14 1401. Declaration of policy and authority.

15 1402. Night courts.

16 1403. Establishment or discontinuance of night courts.

17 1404. Magistrates of night courts.

18 1405. Powers of night courts.

19 1406. Seats of courts.

1 1407. Jurisdiction and venue.

2 § 1401. Declaration of policy and authority.

3 (a) Findings.--The General Assembly hereby determines,
4 declares and finds that, since the unavailability of district
5 justices at night and on weekends results in loss of evidence
6 and delays in preliminary arraignments and bail proceedings, it
7 is the purpose of this chapter to permit the creation of night
8 courts in judicial districts to ensure the availability of a
9 judicial officer to rule on preliminary criminal matters.

10 (b) Authority.--Pursuant to the authority granted by section
11 8 of Article V of the Constitution of Pennsylvania, the General
12 Assembly hereby provides for the establishment of night courts
13 within judicial districts of this Commonwealth.

14 § 1402. Night courts.

15 (a) General rule.--Except as provided in subsection (d),
16 there shall be one night court for each judicial district of
17 this Commonwealth which has elected to establish and which has
18 not elected to discontinue such a court in the manner provided
19 in this chapter. The night court shall be a court not of record.
20 The night court shall consist of such magistrates as provided by
21 law, but in no case less than one magistrate. Night courts shall
22 conduct business, pursuant to rules promulgated by the president
23 judge, after the normal working hours of the courts of common
24 pleas and the district justices. Nothing in this chapter shall
25 be construed as modifying the jurisdiction or authority of
26 judges of the courts of common pleas or district justices.

27 (b) Single-county districts.--In single-county judicial
28 districts, the night court of the district shall be known as the
29 "Night Court of (the respective) County."

30 (c) Multicounty districts.--In multicounty judicial

districts, the night court of the district shall be known as the "Night Court of the (respective) Judicial District."

(d) Exception.--This chapter does not apply to any judicial district which includes a city of the first or second class.

§ 1403. Establishment or discontinuance of night courts.

(a) General rule.--The question whether a night court shall be established or discontinued in any judicial district shall be placed upon the ballot in a primary election by petition which shall be in the form prescribed by the officer of the

Commonwealth who under law shall have supervision over elections. The petition shall be filed with that officer and shall be signed by either the president judge of the judicial district or by a number of electors equal to 5% of the total votes cast for all candidates for the office occupied by a single official for which the highest number of votes was cast in that judicial district at the last preceding general or municipal election. The manner of signing such petitions, the time of circulating them, the affidavits of the persons circulating them and all other details not contained in this subsection shall be governed by the act of June 3, 1937

(P.L.1333, No.320), known as the Pennsylvania Election Code. The question shall not be placed upon the ballot in a judicial district more than once in any five-year period. The affirmative vote of a majority of the electors of the judicial district voting thereon shall be sufficient to establish or discontinue a night court for the judicial district.

(b) Establishment.--The night court of a judicial district shall be established on the first Monday of January following the municipal election at which the first magistrate of the court shall be elected.

1 (c) Discontinuance.--Where the electors of a judicial
2 district have, at a primary election, approved the
3 discontinuance of an existing night court within their judicial
4 district, such night court and the office of the magistrate
5 serving thereon shall then be abolished. A person serving as a
6 magistrate at such time may complete his term exercising the
7 jurisdiction provided or prescribed by law and with the
8 compensation provided by or pursuant to statute and, upon
9 completion of that term, the office is abolished. No judicial
10 function of the kind theretofore exercised by the night court
11 shall thereafter be exercised other than by the court of common
12 pleas and the district justices of the judicial district.

13 § 1404. Magistrates of night courts.

14 (a) Qualifications.--Magistrates of night courts shall be at
15 least 21 years of age and shall be citizens of this
16 Commonwealth.

17 (b) Minor judiciary education requirement.--Magistrates of
18 night courts who are not members of the bar of this Commonwealth
19 shall complete a course of training and instruction in the
20 duties of their office and shall pass an examination prior to
21 assuming office in accordance with Subchapter B of Chapter 31
22 (relating to qualifications of certain minor judiciary).

23 (c) Tenure.--The regular term of office of magistrates of
24 night courts shall be six years.

25 (d) Selection.--

26 (1) Magistrates of night courts shall be elected for a
27 regular term of office at the municipal election next
28 preceding the commencement of their respective regular terms
29 of office by the electors of the respective districts in
30 which they are to serve.

1 (2) If the electors approve the establishment of a night
2 court at the primary election in a municipal election year,
3 the first magistrate of the night court shall be elected at
4 that municipal election. The nominees for election shall be
5 determined in the same manner as is then provided for by law
6 in the case of substitution of nominees where a nominee has
7 died subsequent to a primary election. If the electors
8 approve the establishment of a night court at the primary
9 election in a general election year, the first magistrate of
10 the night court shall be nominated at the primary election
11 preceding the next following municipal election and shall be
12 elected at such municipal election.

13 (e) Vacancy in office.--A vacancy in the office of
14 magistrate shall be filled by appointment of the Governor. The
15 appointment shall be with the advice and consent of a majority
16 of the members elected to the Senate. The person so appointed
17 shall serve for a term ending on the first Monday of January
18 following the next municipal election more than ten months after
19 the vacancy occurs or for the remainder of the unexpired term,
20 whichever is less. A vacancy occurring at the expiration of an
21 appointive term shall be filled by election as provided in
22 subsection (d)(1).

23 (f) Compensation.--Magistrates of night courts shall be
24 compensated in the amount fixed pursuant to statute out of funds
25 appropriated to the unified judicial system. Magistrates shall
26 receive an annual salary equal to the average annual salary
27 received by the district justices of the judicial district,
28 calculated as of the day the magistrate commences his term of
29 office. Their compensation shall not be diminished during their
30 terms of office.

1 § 1405. Powers of night courts.

2 Every magistrate of a night court shall have all the powers
3 of a district justice in exercising the jurisdiction granted by
4 section 1407 (relating to jurisdiction and venue).

5 § 1406. Seats of courts.

6 The regular sessions of each night court shall be held at
7 such location within the judicial district and at such hours as
8 may be approved by the president judge of the court of common
9 pleas of the judicial district in compliance with general rules.

10 § 1407. Jurisdiction and venue.

11 (a) General rule.--Except as otherwise prescribed by any
12 general rule adopted pursuant to section 503 (relating to
13 reassignment of matters), magistrates of night courts shall,
14 under procedures prescribed by general rule, have jurisdiction
15 to preside at arraignments, fix and accept bail, issue warrants
16 and perform duties of a similar nature, including the
17 jurisdiction of a committing magistrate in all criminal
18 proceedings.

19 (b) Venue and process.--The venue of a night court
20 concerning matters over which jurisdiction is conferred by
21 subsection (a) shall be as prescribed by general rule. The
22 process of the court shall extend beyond the territorial limits
23 of the judicial district to the extent prescribed by general
24 rule.

25 Section 2. Section 4122(a) of Title 42 is amended to read:

26 § 4122. Assignment of district justices.

27 (a) General rule.--Subject to general rules any district
28 justice may be temporarily assigned to any other magisterial
29 district or a night court established under Chapter 14 (relating
30 to night courts) or the Pittsburgh Magistrates Court or the

1 Traffic Court of Philadelphia, and may there hear and determine
2 any matter with like effect as if duly commissioned to sit in
3 such other district or in such court.

4 * * *

5 Section 3. This act shall take effect July 1, 1990.