
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 983 Session of
1989

INTRODUCED BY JUBELIRER, MADIGAN, ROCKS, AFFLERBACH, BELL,
REIBMAN, LEWIS, BRIGHTBILL, SHAFFER, PUNT, STOUT, O'PAKE AND
SHUMAKER, MAY 31, 1989

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 2, 1990

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, FURTHER PROVIDING FOR THE <—
3 JURISDICTION OF THE PHILADELPHIA MUNICIPAL COURT; AND adding
4 provisions relating to constables.

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

7 Section 1. The definition of "officer enforcing orders" in
8 section 102 of Title 42 of the Pennsylvania Consolidated
9 Statutes is amended 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 "Officer enforcing orders." Includes:

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

(2) A register of wills.

(3) A sheriff.

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

SECTION 2. SECTION 1123(A)(8) AND (A.1) OF TITLE 42, AMENDED <— JULY 11, 1990 (P.L.454, NO.111), ARE AMENDED TO READ:

§ 1123. JURISDICTION AND VENUE.

(A) GENERAL RULE.--EXCEPT AS OTHERWISE PRESCRIBED BY ANY GENERAL RULE ADOPTED PURSUANT TO SECTION 503 (RELATING TO REASSIGNMENT OF MATTERS), THE PHILADELPHIA MUNICIPAL COURT SHALL HAVE JURISDICTION OF THE FOLLOWING MATTERS:

* * *

(8) ANY ACTION TO ENJOIN A [COMMON LAW] PUBLIC NUISANCE [OR A NUISANCE WHICH INVOLVES A VIOLATION OF ANY CITY ORDINANCE OR CODE, OR ANY PENAL STATUTE]. THE ACTION TO ENJOIN MAY BE BROUGHT BY ANY PERSON WHO RESIDES OR HAS A PLACE OF BUSINESS WITHIN 500 FEET OF THE LOCATION OF THE ALLEGED NUISANCE.

(A.1) APPEAL FROM CONTEMPT CITATION OR NUISANCE ORDER.-- THERE SHALL BE A RIGHT TO APPEAL TO THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY OF A CONTEMPT CITATION ISSUED BY A MUNICIPAL COURT JUDGE OR OF AN ORDER ISSUED BY A MUNICIPAL COURT JUDGE IN ANY ACTION UNDER SUBSECTION (A)(7) OR (8), BUT THE APPEAL SHALL BE LIMITED TO A REVIEW OF THE RECORD.

1 * * *

2 Section ~~2~~ 3. Sections 2131 and 2132 of Title 42 are amended <—
3 to read:

4 § 2131. Minor Judiciary Education Board.

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

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

12 § 2132. Composition of board.

13 (a) General rule.--The Minor Judiciary Education Board shall
14 consist of the following appointed by the Governor [with]_.
15 Appointments made after the effective date of this amendatory
16 act shall require the consent of a majority of the members
17 elected to the Senate:

18 (1) Three persons who shall be judges of the Pittsburgh
19 Magistrates Court or the Traffic Court of Philadelphia or
20 district justices.

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

22 (3) One lay elector.

23 (4) Two constables who are certified pursuant to section
24 2943 (relating to certification) and who shall be residents
25 of different counties.

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

30 (c) Compensation.--Members of the board shall receive such

1 fees or salary as shall be fixed by the governing authority in
2 the manner provided by section 503(b) (relating to procedures).

3 Section ~~3~~ 4. Subchapter C of Chapter 29 of Title 42 is <—
4 amended to read:

5 CHAPTER 29
6 OFFICERS SERVING PROCESS AND
7 ENFORCING ORDERS

8 * * *

9 SUBCHAPTER C
10 CONSTABLES
11 [(Reserved)]

12 Sec.

13 2941. Definitions.

14 2942. Powers and duties.

15 2943. Certification.

16 2944. Basic education.

17 2945. Continuing education.

18 2946. Firearms.

19 2947. Fees.

20 2948. Discipline.

21 § 2941. Definitions.

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

25 "Board." The Minor Judiciary Education Board established
26 pursuant to Subchapter D of Chapter 21 (relating to Minor
27 Judiciary Education Board).

28 "Clerk." The clerk of the courts, or other person holding a
29 similar office in counties that do not have a clerk of courts,
30 of common pleas of the judicial district in which the constable

1 or deputy constable was elected or appointed.

2 "Constable." Any person holding the elective office of
3 constable, whether by election or by appointment to fill a
4 vacancy in such elective office.

5 "Deputy constable." Any person holding the office of deputy
6 constable as a result of appointment by a constable as provided
7 by law.

8 "Judicial duties." Service, execution and return of court-
9 authorized process; levy of attachment, levy or execution;
10 presale and postsale control of property; sales and conveyances;
11 collection, custody and disposition of money; custody and
12 control of respondents, defendants and convicts; court-ordered
13 security; and preservation of official exhibits and papers FOR <—
14 ~~THE DISTRICT JUSTICE COURTS, THE PITTSBURGH MAGISTRATES COURT~~
15 ~~AND THE TRAFFIC COURT OF PHILADELPHIA.~~ Nothing in this
16 definition shall be construed as expanding, modifying or
17 diminishing the powers and duties of constables or deputy
18 constables as conferred or imposed by law or rule of court.

19 "Program." The Constables' Education and Training Program
20 established pursuant to section 2943 (relating to
21 certification).

22 § 2942. Powers and duties.

23 (a) Certification required.--No constable or deputy
24 constable shall perform any judicial duties, nor receive any
25 compensation therefor, unless he is certified pursuant to
26 section 2943 (relating to certification).

27 (b) Performance of duties.--THE SUPREME COURT SHALL HAVE THE <—
28 POWER TO PRESCRIBE GENERAL RULES GOVERNING PRACTICE, PROCEDURE
29 AND CONDUCT OF ALL OFFICERS SERVING PROCESS, OR ENFORCING
30 ORDERS, JUDGMENTS OR DECREES OF ANY COURT OR DISTRICT JUSTICE.

1 Constables and deputy constables may perform judicial duties if
2 they are certified pursuant to section 2943 and, while doing so,
3 shall be subject to the supervision of the president judge of
4 the judicial district in which they were elected or appointed.
5 The president judge may appoint a deputy court administrator for
6 the purpose of assisting him in administering the constable
7 system in the judicial district.

8 (c) Arrest powers.--A constable or deputy constable who is
9 certified pursuant to section 2943 to perform judicial duties
10 shall have the power of arrest without a warrant with respect to
11 any person he observes committing any crime under 18 Pa.C.S. §
12 3503 (relating to criminal trespass) or 18 Pa.C.S. Ch. 25
13 (relating to criminal homicide), 27 (relating to assault) or 51
14 (relating to obstructing governmental operations) which directly
15 interferes with or obstructs him in the performance of his
16 judicial duties.

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

28 (e) Judicial duties.--Constables and deputy constables shall
29 continue to have all powers and to exercise all duties provided
30 by law, whether or not they become certified, except as provided

1 in subsection (a), and as follows:

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

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

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

19 (f) Limitations on liability.--The provisions of this
20 subchapter shall not be deemed to impose respondeat superior
21 liability on any county.

22 § 2943. Certification.

23 (a) Requirements.--Any constable or deputy constable shall
24 become certified to perform judicial duties upon successfully
25 completing the program established pursuant to section 2944
26 (relating to basic education) OR, AT THE DISCRETION OF THE
27 BOARD, UPON SUBMITTING PROOF OF COMPLETION OF A PRIOR PROGRAM
28 CONSISTING OF AT LEAST 80 HOURS COMPLETED PRIOR TO THE EFFECTIVE
29 DATE OF THIS ACT, WHICH IS COMPARABLE TO THE PROGRAM ESTABLISHED
30 UNDER SECTION 2944; filing a certificate attesting thereto with

<—

1 the clerk; and filing with the clerk proof that he has, <—
2 currently in force, a policy of professional liability insurance
3 covering him in the performance of his judicial duties with a
4 minimum coverage of \$250,000 per incident and a minimum
5 aggregate of \$500,000 per year.

6 (b) Completion of program.--Any person shall be deemed to
7 have completed the program, WITH OR WITHOUT ATTENDANCE AT THE <—
8 COURSE OF STUDY, if he successfully completes the examination
9 administered at the end of any such course. No one who fails to
10 achieve a passing score on the examination may thereafter repeat
11 the examination without attending the course of study.

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

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

30 (e) Insurance required.--Any constable or deputy constable

1 who fails, neglects or refuses to maintain a current insurance
2 policy as required by subsection (a), or to file proof thereof
3 with the clerk, shall cease automatically to be certified to
4 perform judicial duties upon the expiration of the policy of
5 which proof has been filed with the clerk, and the clerk shall
6 so notify the Administrative Office.

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

16 § 2944. Basic education.

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

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

4 (c) Admission priority.--In the event that there are more
5 applications for admission to the program than can be
6 accommodated at a particular time and place, priority in
7 admission shall be granted as follows:

8 (1) First preference shall be given to constables.
9 Within this category, preference shall be given to those
10 whose terms of office will expire sooner rather than later.

11 (2) Second preference shall be given to deputy
12 constables. Within this category, preference shall be given
13 to those whose appointing constables are serving terms which
14 will expire sooner rather than later.

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

22 (4) Fourth preference shall be given to other interested
23 persons who are eligible to become constables or deputy
24 constables.

25 (d) Completion.--Every person who successfully completes the
26 program shall receive from the board a certificate so stating.
27 § 2945. Continuing education.

28 (a) General rule.--The board shall prescribe and approve a
29 course of continuing education and training for constables and
30 deputy constables and shall administer the course and shall

1 conduct it at such times, at such places and in such manner as
2 the regulations of the board may prescribe. The course shall be
3 offered as frequently, and in as many locations throughout this
4 Commonwealth, as available funds permit. If available funds
5 permit, the course shall be offered on a regional basis, taking
6 into account the density of population of constables and the
7 accessibility of locations to such population. The course may be
8 offered at one location on a full-time basis for a period not
9 exceeding one week in duration. In all other locations, the
10 course shall be offered on an evening and/or weekend basis and
11 shall not exceed 40 hours in duration.

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

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

21 (d) Notice.--The board shall immediately notify the
22 Administrative Office and the clerk, of any constable or deputy
23 constable who fails, neglects or refuses to successfully
24 complete any course of continuing education and training within
25 the time period required.

26 § 2946. Firearms.

27 (a) General rule.--No constable or deputy constable may
28 carry or use a firearm in the performance of judicial duties
29 unless he has successfully completed a program of education and
30 training, which has been approved by the board, in the proper

1 use of firearms. For the purpose of this subsection, the
2 firearms portion of the education and training program
3 established pursuant to the act of June 18, 1974 (P.L.359,
4 No.120), referred to as the Municipal Police Education and
5 Training Law, shall be deemed to be a program approved by the
6 board. Any person who has successfully completed the firearms
7 portion of the program established pursuant to the act of
8 February 9, 1984 (P.L.3, No.2), known as the Deputy Sheriffs'
9 Education and Training Act, may satisfy the requirements of this
10 subsection by successfully completing a written firearms
11 examination approved by the board.

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

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

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

26 (1) Any program approved pursuant to the Municipal
27 Police Education and Training Law.

28 (2) Any program approved pursuant to the act of October
29 10, 1974 (P.L.705, No.235), known as the Lethal Weapons
30 Training Act.

1 (3) The program established pursuant to the Deputy
2 Sheriffs' Education and Training Act.

3 (4) Any program approved by the board pursuant to
4 subsection (a).

5 (E) TEMPORARY WAIVER.--THE REQUIREMENTS OF THIS SECTION <—
6 SHALL BE TEMPORARILY WAIVED FOR EVERY CONSTABLE AND DEPUTY
7 CONSTABLE WHO IS IN OFFICE ON THE EFFECTIVE DATE OF THIS
8 SUBCHAPTER FOR THE BALANCE OF HIS CURRENT TERM OF OFFICE, OR
9 UNTIL DECEMBER 31, 1994, WHICHEVER IS SOONER. AS USED IN THIS
10 SUBSECTION, THE "CURRENT TERM OF OFFICE" OF A DEPUTY CONSTABLE
11 SHALL BE COTERMINOUS WITH THAT OF THE CONSTABLE WHO APPOINTED
12 HIM, UNLESS SOONER REVOKED OR TERMINATED. UPON THE EXPIRATION OF
13 SUCH TEMPORARY WAIVER, EVERY CONSTABLE AND DEPUTY CONSTABLE MUST
14 COMPLY WITH THE APPLICABLE PROVISIONS OF THIS SECTION.

15 § 2947. Fees.

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

20 (b) Travel or mileage.--Actual mileage for travel by motor
21 vehicle shall be reimbursed at a rate equal to the highest rate
22 allowed by the Internal Revenue Service. If travel is by other
23 than motor vehicle, reimbursement shall be for actual, vouchered
24 travel expenses.

25 (c) Apportionment.--If more than one defendant is
26 transported simultaneously, reimbursements shall be for actual
27 miles traveled, and the cost shall be divided between or among
28 the defendants.

29 (d) Additional persons.--A constable or deputy constable,
30 when he is transporting a prisoner, serving a warrant in a court

1 case or serving a warrant on a defendant of the opposite sex,
2 may be accompanied by a second constable or deputy constable who
3 is certified pursuant to section 2943 (relating to
4 certification) to perform judicial duties. In such cases, each
5 officer shall receive the fee set out in this section. In all
6 other civil and criminal cases, the issuing authority may
7 authorize such payment to a second such officer.

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

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

17 (1) the service is performed; and

18 (2) the request for payment is submitted.

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

20 (1) For serving complaint, summons or notice on suitor
21 or tenant, either personally or by leaving a copy, \$10 plus
22 \$5 for each additional defendant at the same address.

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

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

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

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

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

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

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

4 (9) For nonforcible ejectment on order of possession,
5 \$35.

6 (10) For forcible ejectment, \$70.

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

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

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

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

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

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

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

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

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

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

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

23 (9) Pursuant to a policy established by the president
24 judge, \$10 per defendant per hour beyond the first half hour,
25 assessed to the court.

26 (10) For conveying defendants for fingerprinting, \$5 per
27 defendant.

28 (11) For overseeing the fingerprinting of defendants at
29 the direction of the district justice, \$5 per defendant plus
30 \$10 per defendant per hour beyond the first half hour.

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

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

6 (j) Assessment by court.--In all criminal cases wherein the
7 defendant is discharged or indigent, or the case is otherwise
8 dismissed, the court shall assess to the county the fee and the
9 surcharge provided in subsection (1), except that, in cases of
10 private criminal complaints wherein the defendant is discharged
11 prior to the indictment or the filing of any information or the
12 case is otherwise dismissed at the summary offense hearing, the
13 court shall assess the fee and surcharge to the affiant.

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

18 (1) Surcharge.--There is hereby assessed a surcharge of \$2
19 on each fee payable for the performance of judicial duties to
20 every constable or deputy constable who is certified pursuant to
21 section 2943 to perform judicial duties. This surcharge is
22 imposed on each individual service for which a fee is provided,
23 including each hour for which an hourly rate is to be paid.
24 Moneys collected pursuant to this subsection shall be turned
25 over monthly by the issuing authority to the county treasurer of
26 the county in which the issuing authority serves.

27 (m) Special account.--There is hereby established a special
28 restricted receipts account within the General Fund of the State
29 Treasury, which shall be known as the Constables' Education and
30 Training Account, for the purpose of financing expenses and

1 costs of administration by the board and other direct costs
2 associated with the program and continuing education courses
3 established pursuant to this subchapter. No funds from this
4 special account shall be used except for costs associated with
5 the program and continuing education courses established
6 pursuant to this subchapter and in no event shall be used by the
7 court administrator or the Administrative Office of the
8 Pennsylvania Courts for any purpose whatsoever.

9 (n) Disposition of funds.--The moneys collected by county
10 treasurers under subsection (l) shall be forwarded monthly by
11 each county treasurer to the Department of Revenue for deposit
12 into the special account. None of these moneys shall be
13 transferred by the State Treasurer to another account or fund.

14 (o) Appropriations.--

15 (1) For the ~~1989-1990~~ 1990-1991 fiscal year, all moneys <—
16 deposited in the special account established under subsection
17 (m) are hereby appropriated to the Court Administrator of
18 Pennsylvania to be used for the constable education and
19 training program as set forth in subsection (m).

20 (2) For the fiscal year beginning ~~July 1, 1990~~ JULY 1, <—
21 1991, and each year thereafter, the General Assembly shall
22 appropriate to the Court Administrator of Pennsylvania from
23 the special account established under subsection (m) such
24 funds as may be necessary to carry out the provisions of this
25 act.

26 (p) Disbursements.--Disbursements from the account shall be
27 made only by the Administrative Office.

28 (q) Audit.--The Auditor General shall conduct an audit of
29 the account as he may deem necessary or advisable from time to
30 time.

1 § 2948. Discipline.

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

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

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

26 (2) Another election for the office of constable has
27 taken place in the jurisdiction of the constable who had
28 appointed him.

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

30 (c) Administration.--The Administrative Office shall

1 administer the constables and deputy constables who are
2 certified under section 2943 pursuant to the Pennsylvania Rules
3 of Judicial Administration as the governing authority may
4 direct.

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

18 (e) Suspension or restrictions.--Pending a final ruling
19 pursuant to subsection (d), the president judge may suspend or
20 place restrictions upon the certification to perform judicial
21 duties of any constable or deputy constable on an interim basis
22 if facts alleged under oath demonstrate that continued and/or
23 unrestricted performance of judicial duties by the officer would
24 pose a clear and present danger to the person or property of
25 others.

26 (f) Duration of order.--

27 (1) The interim order provided for in subsection (e)
28 shall dissolve on the tenth day after it is signed unless one
29 or more of the following events take place within that ten-
30 day period:

1 (i) A hearing is held on the continuation of the
2 interim order and the court determines that the order
3 shall remain in effect.

4 (ii) The constable or deputy constable requests and
5 receives a continuance of such hearing.

6 (iii) The constable or deputy constable fails to
7 appear for such hearing.

8 (2) The interim order provided for in subsection (e)
9 shall in all cases dissolve on the 30th day after it is
10 signed unless one or more of the following events takes place
11 within that 30-day period:

12 (i) The constable or deputy constable requests and
13 receives a continuance of the hearing provided for in
14 subsection (d).

15 (ii) The constable or deputy constable fails to
16 appear for such hearing.

17 (3) The interim order is sooner dissolved by the court.
18 No more than one interim suspension or restriction proceeding
19 may be initiated pursuant this subsection on the basis of the
20 same alleged facts.

21 (g) Other duties.--A constable or deputy constable whose
22 certification to perform judicial duties is suspended or revoked
23 may continue to serve as a constable or deputy constable
24 performing other duties unless removed from office as provided
25 by law.

26 Section 4 5. This act shall take effect in 60 days.

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