

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1607 Session of
2009

INTRODUCED BY CALTAGIRONE, BRENNAN, DALLY, W. KELLER, BEYER,
BRADFORD, CASORIO, CLYMER, CREIGHTON, DALEY, DAY, EACHUS,
J. EVANS, GRELL, GROVE, KULA, MANN, MILNE, MOUL, MURT,
PASHINSKI, PICKETT, READSHAW, SANTONI, SIPTROTH, SOLOBAY,
STABACK, SWANGER, VULAKOVICH, WATSON, YOUNGBLOOD, WALKO,
GINGRICH, D. COSTA, DENLINGER AND KORTZ, JUNE 3, 2009

SENATOR CORMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, OCTOBER 5, 2009

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure), 44 (Law
2 and Justice) and 75 (Vehicles) of the Pennsylvania
3 Consolidated Statutes, consolidating the law relating to
4 constables; IN TITLE 42, FURTHER PROVIDING FOR DEPOSITS INTO
5 THE JUDICIAL SYSTEM AUGMENTATION ACCOUNT AND PROVIDING FOR
6 SURCHARGES; in Title 44, REPEALING OBSOLETE PROVISIONS ON
7 RECIDIVISM AND revising provisions on second and third class
8 cities, on boroughs, on townships, on the Constables'
9 Education and Training Board, on use of firearms, on the
10 Constables' Education and Training Account and on statutory
11 authority; making editorial changes; and making related
12 repeals.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Subchapter C of Chapter 29 of Title 42 of the
16 Pennsylvania Consolidated Statutes is repealed:

17 [SUBCHAPTER C
18 CONSTABLES

19 2941. Definitions.

20 2942. Conduct and insurance.

1 2943. Board established.
2 2944. Program established.
3 2945. Program contents.
4 2946. Continuing education.
5 2947. Automatic certification.
6 2948. Use of firearms.
7 2949. Restricted account.
8 2950. Fees.
9 § 2941. Definitions.

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

13 "Account." The Constables' Education and Training Account
14 established in section 2949 (relating to restricted account).

15 "Board." The Constables' Education and Training Board
16 established in section 2943 (relating to board established).

17 "Commission." The Pennsylvania Commission on Crime and
18 Delinquency of the Commonwealth.

19 "Court." The minor judiciary or any other court in this
20 Commonwealth.

21 "Judicial duties." Those services specified in section 2950
22 (relating to fees).

23 "Term of office of a deputy constable." The term of office
24 of the constable who appointed him.

25 § 2942. Conduct and insurance.

26 (a) Certification.--After the establishment, implementation
27 and administration of the Constables' Education and Training
28 Program created under sections 2944 (relating to program
29 established) and 2945 (relating to program contents), no
30 constable or deputy constable shall perform any judicial duties

1 nor demand or receive any fee, surcharge or mileage provided by
2 this subchapter unless he has been certified under this
3 subchapter.

4 (b) Liability insurance.--Every constable and deputy
5 constable must file with the clerk of courts proof that he has,
6 currently in force, a policy of professional liability insurance
7 covering each individual in the performance of his judicial
8 duties with a minimum coverage of \$250,000 per incident and a
9 minimum aggregate of \$500,000 per year. However, no constable or
10 deputy constable shall be required to file such proof until six
11 months after the effective date of this act. The Constables'
12 Education and Training Board shall immediately investigate and
13 implement the most cost-effective method of achieving liability
14 insurance for constables and deputy constables under this
15 subsection.

16 (c) Loss of certification.--Any constable or deputy
17 constable who fails, neglects or refuses to maintain a current
18 insurance policy as required by subsection (b) or to file proof
19 thereof with the clerk of courts shall cease automatically to be
20 certified to perform judicial duties upon the expiration of the
21 policy of which proof has been filed with the clerk of courts.

22 (d) Recertification.--Any constable or deputy constable who
23 ceases to be certified to perform judicial duties as a result of
24 the operation of subsection (c) may later be recertified
25 immediately by filing with the clerk of courts proof that such
26 insurance has been in force continuously since the officer was
27 last certified to perform judicial duties. In the case of a
28 violation of subsection (c), the individual may be recertified
29 by complying with subsection (b).

30 (e) Limitations on liability.--The provisions of this

1 subchapter shall not be deemed to impose respondeat superior
2 liability on any county.

3 (f) Conduct.--While a constable or deputy constable is
4 performing duties other than judicial duties, regardless of
5 whether or not he is certified under this subchapter, he shall
6 not in any manner hold himself out to be active as an agent,
7 employee or representative of any court, magisterial district
8 judge or judge.

9 § 2943. Board established.

10 (a) Board created.--There is hereby established within the
11 commission an advisory board to be known as the Constables'
12 Education and Training Board.

13 (b) Composition.--The board shall be composed of the
14 Pennsylvania State Police Commissioner or his designee and six
15 other members appointed by the Governor with the consent of a
16 majority of the members of the Senate:

17 (1) Three persons who shall be constables.

18 (2) One person who shall be a magisterial district
19 judge.

20 (3) One person who shall be a court administrator.

21 (4) One person who shall be a county commissioner.

22 (c) Appointments and terms.--Members shall serve for three-
23 year terms and may be appointed for more than one additional
24 consecutive term. If a member who serves by virtue of public
25 office ceases to represent the class to which he was appointed,
26 his membership in the commission shall terminate immediately,
27 and a new member shall be appointed in the same manner as his
28 predecessor to fill the unexpired portion of the term. No
29 constable may be appointed, be reappointed or serve as a board
30 member unless he is certified under this subchapter.

1 (d) Vacancy.--A member appointed to fill a vacancy created
2 by any reason other than expiration of a term shall be appointed
3 for the unexpired term of the member whom he is to succeed in
4 the same manner as the original appointment.

5 (e) Expenses.--The members of the board shall serve without
6 compensation but shall be reimbursed the necessary and actual
7 expenses incurred in attending meetings of the board and in the
8 performance of their duties under this subchapter.

9 (f) Removal.--Members of the board may be removed by the
10 appointing authority for good cause upon written notice from the
11 appointing authority specifically setting forth the cause for
12 removal.

13 (g) Chairman elected.--The members of the board shall elect
14 a chairman from among the members to serve for a period of one
15 year. A chairman may be elected to serve successive terms. The
16 Governor shall designate the first chairman for organizational
17 purposes only.

18 (h) Meetings.--The chairman shall summon the members of the
19 board to the first meeting within 30 days after his appointment
20 or within 30 days after the appointment of a sufficient number
21 of members to constitute a quorum, whichever is later. The board
22 shall meet as often as it deems necessary but at least four
23 times each year. Meetings may be called by the chairman of the
24 board or by any four members thereof, in either case upon at
25 least ten days' written notice to all members of the board. A
26 quorum shall consist of four members.

27 § 2944. Program established.

28 The board, with the review and approval of the commission,
29 shall:

30 (1) Establish, implement and administer the Constables'

1 Education and Training Program according to the minimum
2 requirements set forth in this subchapter.

3 (2) Establish, implement and administer requirements for
4 the minimum courses of study and training for constables and
5 deputy constables.

6 (3) Establish, implement and administer requirements for
7 courses of study and in-service training for constables and
8 deputy constables.

9 (4) Establish, implement and administer requirements for
10 a continuing education program for constables and deputy
11 constables concerning subjects the board may deem necessary
12 and appropriate for the continued education and training of
13 constables and deputy constables.

14 (5) Approve or revoke the approval of any school which
15 may be utilized for the educational and training requirements
16 of this subchapter.

17 (6) Establish the minimum qualifications for instructors
18 and certify instructors.

19 (7) Consult, cooperate and contract with universities,
20 colleges, law schools, community colleges and institutes for
21 the development of basic and continuing education courses for
22 constables and deputy constables.

23 (8) Promote the most efficient and economical program
24 for constable and deputy constable training by utilizing
25 existing facilities, programs and qualified State and local
26 personnel.

27 (9) Certify constables and deputy constables who have
28 satisfactorily completed the basic and continuing education
29 and training requirements of this subchapter and issue
30 appropriate certificates to them.

1 (10) Make rules and regulations and perform other duties
2 as may be reasonably necessary or appropriate to administer
3 the education and training program for constables and deputy
4 constables.

5 (11) In consultation with the Insurance Commissioner,
6 monitor the price and availability of the liability insurance
7 required by section 2942(b) (relating to conduct and
8 insurance) and, if deemed necessary by the board, provide
9 information and coordination to assure the availability and
10 competitive pricing of such insurance.

11 (12) Make an annual report to the Governor and to the
12 General Assembly concerning:

13 (i) The administration of the Constables' Education
14 and Training Program.

15 (ii) The activities of the board.

16 (iii) The costs of the program.

17 (iv) Proposed changes, if any, in this subchapter.

18 § 2945. Program contents.

19 The Constables' Education and Training Program shall include
20 training for a total of 80 hours, the content of which shall be
21 determined by regulation. The training shall include instruction
22 in the interpretation and application of the fees provided for
23 in section 2950 (relating to fees). Any constable or deputy
24 constable who is in office as of the effective date of this
25 subchapter shall be afforded one and only one opportunity prior
26 to the expiration of his current term to satisfactorily complete
27 this program by examination without the necessity of class
28 attendance.

29 § 2946. Continuing education.

30 The board, with the review and approval of the commission,

1 shall establish a mandatory continuing education program for
2 constables and deputy constables, which shall include no more
3 than 40 hours per year, concerning subjects the board may deem
4 necessary and appropriate for the continued education and
5 training of constables and deputy constables.

6 § 2947. Automatic certification.

7 All constables and deputy constables who are in office as of
8 the effective date of this subchapter shall be deemed to be
9 certified under and in compliance with sections 2945 (relating
10 to program contents) and 2946 (relating to continuing education)
11 for the balance of their current term of office or until the
12 constables and deputy constables have been provided an
13 opportunity to complete the education and training in accordance
14 with section 2945 or 2946, whichever is sooner.

15 § 2948. Use of firearms.

16 (a) Standards.--The Constables' Education and Training
17 Board, with the review and approval of the Pennsylvania
18 Commission on Crime and Delinquency, shall establish standards
19 for the certification or qualification of constables and deputy
20 constables to carry or use firearms in the performance of any
21 duties.

22 (b) Certification and qualification.--Until such time as the
23 board establishes the standards pursuant to subsection (a), no
24 constable or deputy constable shall carry or use a firearm in
25 the performance of any duties unless he is currently certified
26 or qualified in firearms under at least one of the following:

27 (1) The act of June 18, 1974 (P.L.359, No.120), referred
28 to as the Municipal Police Education and Training Law.

29 (2) The act of October 10, 1974 (P.L.705, No.235), known
30 as the Lethal Weapons Training Act.

(3) The act of February 9, 1984 (P.L.3, No.2), known as the Deputy Sheriffs' Education and Training Act.

(c) Availability.--In accordance with subsection (b), the firearms portion of the education and training under the listed laws shall be made available to constables and deputy constables.

§ 2949. Restricted account.

(a) Account established.--There is hereby established a special restricted account within the General Fund, which shall be known as the Constables' Education and Training Account, for the purposes of financing training program expenses, the costs of administering the program and all other costs associated with the activities of the board and the implementation of this subchapter and as provided under subsection (f).

(b) Surcharge.--There is hereby assessed as a cost in each case before a magisterial district judge a surcharge of \$5 per docket number in each criminal case and \$5 per named defendant in each civil case in which a constable or deputy constable performs a service provided in this subchapter, except that no county shall be required to pay this surcharge on behalf of any indigent or other defendant in a criminal case.

(c) Disposition of funds.--The surcharges collected under subsection (b), if collected by a constable or deputy constable shall be turned over within one week to the issuing authority. The issuing authority shall remit the same to the Department of Revenue for deposit into the account.

(d) Disbursements.--Disbursements from the account shall be made by the commission.

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

1 time, but not less than once every three years.

2 (f) Fund surplus.--If account moneys are sufficient to meet
3 the expenses and costs under subsection (a), the commission may
4 allocate any surplus funds in the account to assist constables
5 and deputy constables with costs associated with attendance at
6 continuing education programs under section 2946 (relating to
7 continuing education).

8 § 2950. Fees.

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

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

18 (c) Additional persons.--A constable or deputy constable
19 when he is transporting a prisoner, serving a felony or
20 misdemeanor warrant or serving a warrant on a juvenile or a
21 defendant of the opposite sex may, at his discretion, be
22 accompanied by a second constable or deputy constable who is
23 certified under section 2947 (relating to automatic
24 certification) to perform judicial duties. In such cases, each
25 officer shall receive the fee set out in this section. In all
26 other civil, landlord-tenant and summary criminal cases, the
27 issuing authority may authorize payment to a second officer.

28 (d) Civil and landlord-tenant cases.--In civil and landlord-
29 tenant cases, constable fees must be paid in advance to the
30 court for services desired to be performed. These fees shall not

1 be refundable to the plaintiff if a case is settled or a debt is
2 satisfied less than 48 hours prior to a scheduled sale or
3 ejectment, in which latter case the constable or deputy
4 constable shall be paid for holding the sale or carrying out an
5 ejectment, respectively.

6 (e) Payment.--All civil, landlord-tenant and criminal fees
7 shall be paid by the court to the constable as soon as possible
8 and in no case not more than 15 days in civil and landlord-
9 tenant cases and 30 days in criminal cases after the service is
10 performed and a proper request for payment is submitted,
11 provided that, in criminal cases where the books and accounts of
12 the relevant county offices are payable on a monthly basis,
13 payment shall be made not more than 15 days after the close of
14 the month.

15 (f) Civil and landlord-tenant cases.--Fees in civil and
16 landlord-tenant cases shall be as follows:

17 (1) For serving complaint, summons or notice on suitor
18 or tenant, either personally or by leaving a copy, \$13, plus
19 \$5 for each additional defendant at the same address, \$2.50
20 for each return of service, plus mileage.

21 (2) For levying goods, including schedule of property
22 levied upon and set aside, notice of levy and return of
23 service, \$75, plus mileage.

24 (3) For advertising personal property for public sale,
25 \$7 per posting (maximum of \$21), plus mileage, plus actual
26 cost of advertising.

27 (4) For selling goods levied, clerk, receipts and
28 returns to court, \$85, plus mileage.

29 (5) For making return of not found, \$13, plus mileage.
30 Payment shall be limited to three returns of not found.

1 (6) For executing order of possession, \$13, plus \$5 for
2 each additional defendant at the same address, \$2.50 for each
3 return of service, plus mileage.

4 (7) For ejectment, \$90, \$2.50 for each return of
5 service, plus mileage.

6 (8) For making any return of service other than not
7 found, \$2.50 each.

8 (9) For providing courtroom security as ordered, \$13 per
9 hour, assessed against one or more parties as determined by
10 the court.

11 (10) Actual mileage for travel by motor vehicle shall be
12 reimbursed at the rate equal to the highest rate allowed by
13 the Internal Revenue Service. If travel is by other than
14 motor vehicle, reimbursement shall be for actual vouchered
15 travel expenses.

16 (g) Criminal cases.--Fees in criminal cases shall be as
17 follows:

18 (1) For executing each warrant of arrest, or for
19 effectuating the payment of fines and costs by attempting to
20 execute each warrant of arrest, \$25 for each docket number
21 and \$2.50 for each return of service, plus mileage.

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

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

25 (4) For attendance at arraignment or hearing, \$13.

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

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

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

29 (8) For making returns to the court, \$2.50.

30 (9) Transporting each nonincarcerated defendant to jail,

1 \$17, plus mileage; transporting an incarcerated prisoner, \$38
2 per prisoner, plus an hourly rate of \$13 per hour, plus
3 mileage. Computation of hourly rate will apply after the
4 expiration of the first hour per prisoner per hour, not to
5 exceed \$26 per hour per constable.

6 (10) Receipt of the fees for transporting a
7 nonincarcerated defendant under paragraph (9) shall not
8 exclude receipt of the fees under paragraphs (6) and (8) for
9 that transport.

10 (11) Receipt of the fees for transporting an
11 incarcerated prisoner under paragraph (9) shall exclude
12 receipt of the fees under paragraphs (2), (3), (4) and (7)
13 for that transport.

14 (12) Actual mileage for travel by motor vehicle shall be
15 reimbursed at the rate equal to the highest rate allowed by
16 the Internal Revenue Service. If travel is by other than
17 motor vehicle, reimbursement shall be for actual vouchered
18 travel expenses.

19 (13) For conveying defendants for fingerprinting, \$17
20 per defendant, plus \$13 per hour beyond the first hour per
21 defendant per hour, not to exceed \$26 per hour per constable,
22 plus mileage.

23 (14) For holding one or more defendants at the office of
24 a magisterial district judge, \$13 per hour per defendant
25 beyond the first half hour.

26 (15) For courtroom security as ordered, \$13 per hour,
27 assessed against one or more parties as determined by the
28 court.

29 (16) In all criminal cases wherein the defendant is
30 discharged or indigent or the case is otherwise dismissed,

1 the court shall assess to the county the fee provided in this
2 section, except that in cases of private criminal complaints
3 wherein the defendant is discharged prior to the indictment
4 or the filing of any information or the case is otherwise
5 dismissed at the summary offense hearing, the court shall
6 assess the fee to the affiant.

7 (h) Subpoenas.--For serving district court-issued subpoenas
8 for civil, landlord-tenant or criminal matters, \$13 for first
9 witness, plus \$5 for each additional witness at the same
10 address, \$2.50 return of service for each subpoena, plus
11 mileage. The same fee shall be payable for attempting to serve a
12 subpoena at a wrong address supplied by the party requesting the
13 service.

14 (i) Similar fees.--For civil, landlord-tenant and criminal
15 services not specifically provided for, the court shall pay the
16 same fees as it pays for services that it determines to be
17 similar to those performed.]

18 SECTION 1.1. SECTION 3733(A.1)(1)(III), (IV) AND (V) OF
19 TITLE 42 ARE AMENDED TO READ:
20 § 3733. DEPOSITS INTO ACCOUNT.

21 * * *

22 (A.1) ADDITIONAL FEES.--

23 (1) IN ADDITION TO THE COURT COSTS AND FILING FEES
24 AUTHORIZED TO BE COLLECTED BY STATUTE:

25 * * *

26 (III) AN ADDITIONAL FEE OF \$10 SHALL BE CHARGED BY
27 THE CLERKS OF COURTS OF ALL COURTS OF COMMON PLEAS, OR BY
28 ANY OFFICIALS DESIGNATED TO PERFORM THE FUNCTIONS
29 THEREOF, FOR THE INITIATION OF ANY CRIMINAL PROCEEDING
30 FOR WHICH A FEE, CHARGE OR COST IS NOW AUTHORIZED AND A

1 CONVICTION IS OBTAINED OR GUILTY PLEA IS ENTERED. THE
2 ADDITIONAL FEE UNDER THIS SUBPARAGRAPH SHALL ALSO BE
3 CHARGED AND COLLECTED WHEN A DEFENDANT IS GRANTED ENTRY
4 INTO ACCELERATED REHABILITATIVE DISPOSITION OR ANY OTHER
5 PRETRIAL DIVERSIONARY PROGRAM.

6 (IV) AN ADDITIONAL FEE OF \$10 SHALL BE CHARGED AND
7 COLLECTED BY THE MINOR JUDICIARY, INCLUDING MAGISTERIAL
8 DISTRICT JUDGES, PHILADELPHIA MUNICIPAL COURT,
9 PHILADELPHIA TRAFFIC COURT AND PITTSBURGH [MAGISTRATES]
10 MUNICIPAL COURT, FOR THE INITIATION OF A LEGAL PROCEEDING
11 FOR WHICH A FEE OR COST IS NOW AUTHORIZED, EXCEPT THAT IN
12 CRIMINAL, SUMMARY AND TRAFFIC MATTERS THE FEE SHALL BE
13 CHARGED ONLY WHEN A CONVICTION IS OBTAINED OR GUILTY PLEA
14 IS ENTERED. THE ADDITIONAL FEE UNDER THIS SUBPARAGRAPH
15 SHALL ALSO BE CHARGED AND COLLECTED WHEN A DEFENDANT IS
16 GRANTED ENTRY INTO ACCELERATED REHABILITATIVE DISPOSITION
17 OR ANY OTHER PRETRIAL DIVERSIONARY PROGRAM.

18 (V) AN ADDITIONAL FEE OF \$10 SHALL BE CHARGED AND
19 COLLECTED BY THE RECORDERS OF DEEDS AND CLERKS OF COURT,
20 OR BY ANY OFFICIALS DESIGNATED TO PERFORM SIMILAR
21 FUNCTIONS, FOR EACH FILING OF A DEED, MORTGAGE OR
22 PROPERTY TRANSFER FOR WHICH A FEE, CHARGE OR COST IS NOW
23 AUTHORIZED. THE SUPREME COURT SHALL DESIGNATE BY
24 FINANCIAL REGULATIONS WHICH FILINGS MEET THE CRITERIA OF
25 THIS SUBPARAGRAPH.

26 * * *

27 SECTION 1.2. TITLE 42 IS AMENDED BY ADDING A SECTION TO
28 READ:

29 § 3733.1. SURCHARGE.

30 (A) IMPOSITION OF SURCHARGE.--IN ADDITION TO EACH FEE

1 IMPOSED UNDER SECTION 3733(A.1) (RELATING TO DEPOSITS INTO
2 ACCOUNT), EXCEPT AS SET FORTH IN SUBSECTION (B), THE FOLLOWING
3 APPLY:

4 (1) A SURCHARGE OF \$11.25 SHALL BE CHARGED AND COLLECTED
5 FOR A PERIOD OF 25 MONTHS BEGINNING ON THE EFFECTIVE DATE OF
6 THIS SECTION.

7 (2) A PERMANENT FEE OF \$2.25 SHALL BE CHARGED AND
8 COLLECTED.

9 (B) EXCEPTIONS.--SUBSECTION (A) DOES NOT APPLY TO A
10 CONVICTION OR GUILTY PLEA BASED ON THE FILING OF A TRAFFIC
11 CITATION CHARGING AN OFFENSE UNDER 75 PA.C.S. (RELATING TO
12 VEHICLES) WHICH IS CLASSIFIED AS SUMMARY UNDER A STATE STATUTE
13 OR LOCAL ORDINANCE AS PROVIDED IN THE PENNSYLVANIA RULES OF
14 CRIMINAL PROCEDURE.

15 (C) ALLOCATION AND APPROPRIATION.--

16 (1) THE SURCHARGE UNDER SUBSECTION (A) (1) SHALL BE
17 ALLOCATED AS FOLLOWS:

18 (I) ONE DOLLAR SHALL BE DEPOSITED INTO THE ACCESS TO
19 JUSTICE ACCOUNT.

20 (II) THE REMAINDER OF MONEY SHALL BE DEPOSITED INTO
21 A SEPARATE RESERVE ACCOUNT WITHIN THE JUDICIAL COMPUTER
22 SYSTEM AUGMENTATION ACCOUNT. NOTWITHSTANDING SECTION 3732
23 (RELATING TO UTILIZATION OF FUNDS IN ACCOUNT), MONEY
24 DEPOSITED UNDER THIS SUBPARAGRAPH IS HEREBY APPROPRIATED
25 TO THE SUPREME COURT, UPON COMPLIANCE WITH ARTICLE XV OF
26 THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE
27 FISCAL CODE, FOR THE OPERATION OF THE JUDICIAL
28 DEPARTMENT.

29 (2) THE FEE UNDER SUBSECTION (A) (2) SHALL BE DEPOSITED
30 INTO THE CRIMINAL JUSTICE ENHANCEMENT ACCOUNT.

SECTION 1.3. CHAPTER 53 OF TITLE 44 IS REPEALED:

[CHAPTER 53

RECIDIVISM RISK REDUCTION INCENTIVE

SEC.

5301. Scope of chapter.

5302. Purpose.

5303. Definitions.

5304. Recidivism risk reduction incentive programs.

5305. Sentencing.

5306. Recidivism risk reduction incentive minimum.

5307. Authority of board.

5308. Written guidelines and regulations.

5309. Evaluation.

5310. Reports.

5311. Construction.

5312. Applicability.

§ 5301. SCOPE OF CHAPTER.

THIS CHAPTER RELATES TO RECIDIVISM RISK REDUCTION INCENTIVE.

§ 5302. PURPOSE.

THIS CHAPTER SEEKS TO CREATE A PROGRAM THAT ENSURES APPROPRIATE PUNISHMENT FOR PERSONS WHO COMMIT CRIMES, ENCOURAGES PRISONER PARTICIPATION IN EVIDENCE-BASED PROGRAMS THAT REDUCE THE RISKS OF FUTURE CRIME AND ENSURES THE OPENNESS AND ACCOUNTABILITY OF THE CRIMINAL JUSTICE PROCESS WHILE ENSURING FAIRNESS TO CRIME VICTIMS.

§ 5303. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"BOARD." THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE.

1 "COMMISSION." THE PENNSYLVANIA COMMISSION ON SENTENCING.

2 "COURT." THE TRIAL JUDGE EXERCISING SENTENCING JURISDICTION
3 OVER AN ELIGIBLE OFFENDER UNDER THIS CHAPTER OR THE PRESIDENT
4 JUDGE OR THE PRESIDENT JUDGE'S DESIGNEE IF THE ORIGINAL TRIAL
5 JUDGE IS NO LONGER SERVING AS A JUDGE OF THE SENTENCING COURT.

6 "DEFENDANT." AN INDIVIDUAL CHARGED WITH A CRIMINAL OFFENSE.

7 "DEPARTMENT." THE DEPARTMENT OF CORRECTIONS OF THE
8 COMMONWEALTH.

9 "ELIGIBLE OFFENDER." A DEFENDANT OR PRISONER CONVICTED OF A
10 CRIMINAL OFFENSE WHO WILL BE COMMITTED TO THE CUSTODY OF THE
11 DEPARTMENT AND WHO MEETS ALL OF THE FOLLOWING ELIGIBILITY
12 REQUIREMENTS:

13 (1) DOES NOT DEMONSTRATE A HISTORY OF PRESENT OR PAST
14 VIOLENT BEHAVIOR.

15 (2) HAS NOT BEEN SUBJECT TO A SENTENCE THE CALCULATION
16 OF WHICH INCLUDES AN ENHANCEMENT FOR THE USE OF A DEADLY
17 WEAPON AS DEFINED UNDER LAW OR THE SENTENCING GUIDELINES
18 PROMULGATED BY THE PENNSYLVANIA COMMISSION ON SENTENCING OR
19 THE ATTORNEY FOR THE COMMONWEALTH HAS NOT DEMONSTRATED THAT
20 THE DEFENDANT HAS BEEN FOUND GUILTY OF OR WAS CONVICTED OF AN
21 OFFENSE INVOLVING A DEADLY WEAPON OR OFFENSE UNDER 18 PA.C.S.
22 CH. 61 (RELATING TO FIREARMS AND OTHER DANGEROUS ARTICLES) OR
23 THE EQUIVALENT OFFENSE UNDER THE LAWS OF THE UNITED STATES OR
24 ONE OF ITS TERRITORIES OR POSSESSIONS, ANOTHER STATE, THE
25 DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO OR A
26 FOREIGN NATION.

27 (3) HAS NOT BEEN FOUND GUILTY OR PREVIOUSLY CONVICTED OR
28 ADJUDICATED DELINQUENT FOR OR AN ATTEMPT OR CONSPIRACY TO
29 COMMIT A PERSONAL INJURY CRIME AS DEFINED UNDER SECTION 103
30 OF THE ACT OF NOVEMBER 24, 1998 (P.L.882, NO.111), KNOWN AS

1 THE CRIME VICTIMS ACT, OR AN EQUIVALENT OFFENSE UNDER THE
2 LAWS OF THE UNITED STATES OR ONE OF ITS TERRITORIES OR
3 POSSESSIONS, ANOTHER STATE, THE DISTRICT OF COLUMBIA, THE
4 COMMONWEALTH OF PUERTO RICO OR A FOREIGN NATION.

5 (4) HAS NOT BEEN FOUND GUILTY OR PREVIOUSLY CONVICTED OR
6 ADJUDICATED DELINQUENT FOR VIOLATING ANY OF THE FOLLOWING
7 PROVISIONS OR AN EQUIVALENT OFFENSE UNDER THE LAWS OF THE
8 UNITED STATES OR ONE OF ITS TERRITORIES OR POSSESSIONS,
9 ANOTHER STATE, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF
10 PUERTO RICO OR A FOREIGN NATION:

11 (I) 18 PA.C.S. § 4302 (RELATING TO INCEST).

12 (II) 18 PA.C.S. § 5901 (RELATING TO OPEN LEWDNESS).

13 (III) 18 PA.C.S. § 6312 (RELATING TO SEXUAL ABUSE OF
14 CHILDREN).

15 (IV) 18 PA.C.S. § 6318 (RELATING TO UNLAWFUL CONTACT
16 WITH MINOR).

17 (V) 18 PA.C.S. § 6320 (RELATING TO SEXUAL
18 EXPLOITATION OF CHILDREN).

19 (VI) 18 PA.C.S. CH. 76 SUBCH. C (RELATING TO
20 INTERNET CHILD PORNOGRAPHY).

21 (VII) RECEIVED A CRIMINAL SENTENCE PURSUANT TO 42
22 PA.C.S. § 9712.1 (RELATING TO SENTENCES FOR CERTAIN DRUG
23 OFFENSES COMMITTED WITH FIREARMS).

24 (VIII) ANY OFFENSE LISTED UNDER 42 PA.C.S. § 9795.1
25 (RELATING TO REGISTRATION).

26 (5) IS NOT AWAITING TRIAL OR SENTENCING FOR ADDITIONAL
27 CRIMINAL CHARGES, IF A CONVICTION OR SENTENCE ON THE
28 ADDITIONAL CHARGES WOULD CAUSE THE DEFENDANT TO BECOME
29 INELIGIBLE UNDER THIS DEFINITION.

30 (6) HAS NOT BEEN FOUND GUILTY OR PREVIOUSLY CONVICTED OF

1 VIOLATING SECTION 13(A)(14), (30) OR (37) OF THE ACT OF APRIL
2 14, 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE,
3 DRUG, DEVICE AND COSMETIC ACT, WHERE THE SENTENCE WAS IMPOSED
4 PURSUANT TO 18 PA.C.S. § 7508(A)(1)(III), (2)(III), (3)(III),
5 (4)(III), (7)(III) OR (8)(III) (RELATING TO DRUG TRAFFICKING
6 SENTENCING AND PENALTIES).

7 "PROGRAM PLAN." AN INDIVIDUALIZED PLAN RECOMMENDED BY THE
8 DEPARTMENT OF CORRECTIONS THAT CONTAINS APPROVED TREATMENT AND
9 OTHER APPROVED PROGRAMS DESIGNED TO REDUCE RECIDIVISM RISK OF A
10 SPECIFIC PRISONER.

11 § 5304. RECIDIVISM RISK REDUCTION INCENTIVE PROGRAMS.

12 (A) AUTHORIZATION.--SUBJECT TO THE PROVISIONS OF THIS
13 CHAPTER, THE DEPARTMENT IS AUTHORIZED TO CREATE OR OTHERWISE
14 DESIGNATE TREATMENT OR OTHER PROGRAMS AS RECIDIVISM RISK
15 REDUCTION INCENTIVE PROGRAMS.

16 (B) INTENT.--THIS CHAPTER IS INTENDED TO ENCOURAGE ELIGIBLE
17 OFFENDERS COMMITTED TO THE CUSTODY OF THE DEPARTMENT TO
18 PARTICIPATE IN AND SUCCESSFULLY COMPLETE EVIDENCE-BASED PROGRAMS
19 UNDER THIS CHAPTER THAT REDUCE THE LIKELIHOOD OF RECIDIVISM AND
20 IMPROVE PUBLIC SAFETY.

21 (C) PROGRAM REQUIREMENTS.--IN ACCORDANCE WITH THE PROVISIONS
22 OF THIS CHAPTER, THE DEPARTMENT MAY DESIGNATE A TREATMENT
23 PROGRAM OR OTHER PROGRAM AS A RECIDIVISM RISK REDUCTION
24 INCENTIVE PROGRAM IF THERE IS APPROPRIATE SCIENTIFIC RESEARCH
25 THAT DEMONSTRATES THAT THE PROPOSED PROGRAM WOULD LIKELY REDUCE
26 OVERALL RECIDIVISM RATES OR SERIOUS CRIME RATES OF PROGRAM
27 PARTICIPANTS. A RECIDIVISM RISK REDUCTION INCENTIVE PROGRAM
28 DESIGNED TO PROVIDE TREATMENT IN THE FORM OF A THERAPEUTIC
29 COMMUNITY FOR DRUG ABUSE OR ADDICTION SHALL MEET THE
30 REQUIREMENTS OF AN INSTITUTIONAL THERAPEUTIC COMMUNITY AS

1 DEFINED UNDER 42 PA.C.S. § 9903 (RELATING TO DEFINITIONS).

2 (D) CONSULTATION.--THE DEPARTMENT SHALL CONSULT WITH
3 APPROPRIATE RESEARCH AND TECHNICAL ASSISTANCE ORGANIZATIONS,
4 SUCH AS THE NATIONAL INSTITUTE OF JUSTICE, THE NATIONAL
5 INSTITUTE OF CORRECTIONS AND THE AMERICAN CORRECTIONAL
6 ASSOCIATION, CONCERNING EVIDENCE-BASED PROGRAMS THAT REDUCE
7 RECIDIVISM RISKS OF PRISONERS AND THE SCIENTIFIC RESEARCH
8 RELATING TO THOSE PROGRAMS.

9 (E) PROGRAM APPROVAL PROCESS.--

10 (1) THE DEPARTMENT SHALL PUBLISH, IN A MANNER REASONABLY
11 CALCULATED TO INFORM, A DETAILED DESCRIPTION OF THE PROGRAM,
12 THE TYPES OF OFFENDERS WHO WILL BE ELIGIBLE TO PARTICIPATE IN
13 THE PROGRAM, THE NAME AND CITATION OF RESEARCH REPORTS THAT
14 DEMONSTRATE THE EFFECTIVENESS OF THE PROPOSED PROGRAM AND THE
15 NAME AND ADDRESS OF A DEPARTMENT CONTACT PERSON RESPONSIBLE
16 FOR RECEIVING PUBLIC COMMENTS. ON THE SAME DATE AS
17 PUBLICATION, THE DEPARTMENT SHALL ALSO DELIVER A COPY OF THE
18 LIST TO THE JUDICIARY COMMITTEE OF THE SENATE, THE JUDICIARY
19 COMMITTEE OF THE HOUSE OF REPRESENTATIVES, THE BOARD, THE
20 COMMISSION AND THE VICTIM ADVOCATE.

21 (2) UPON CONSIDERATION OF THE PUBLIC COMMENTS AND THE
22 EXPIRATION OF AT LEAST 60 DAYS FROM THE DATE OF PUBLICATION
23 REQUIRED UNDER PARAGRAPH (1), THE DEPARTMENT MAY DESIGNATE
24 ANY PROGRAM PUBLISHED AS APPROVED FOR INCLUSION IN THE
25 RECIDIVISM RISK REDUCTION INCENTIVE PROGRAM.

26 § 5305. SENTENCING.

27 (A) GENERALLY.--AT THE TIME OF SENTENCING, THE COURT SHALL
28 MAKE A DETERMINATION WHETHER THE DEFENDANT IS AN ELIGIBLE
29 OFFENDER.

30 (B) WAIVER OF ELIGIBILITY REQUIREMENTS.--THE PROSECUTING

1 ATTORNEY, IN THE PROSECUTING ATTORNEY'S SOLE DISCRETION, MAY
2 ADVISE THE COURT THAT THE COMMONWEALTH HAS ELECTED TO WAIVE THE
3 ELIGIBILITY REQUIREMENTS OF THIS CHAPTER IF THE VICTIM HAS BEEN
4 GIVEN NOTICE OF THE PROSECUTING ATTORNEY'S INTENT TO WAIVE THE
5 ELIGIBILITY REQUIREMENTS AND AN OPPORTUNITY TO BE HEARD ON THE
6 ISSUE. THE COURT, AFTER CONSIDERING VICTIM INPUT, MAY REFUSE TO
7 ACCEPT THE PROSECUTING ATTORNEY'S WAIVER OF THE ELIGIBILITY
8 REQUIREMENTS.

9 (C) RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM SENTENCE.--
10 IF THE COURT DETERMINES THAT THE DEFENDANT IS AN ELIGIBLE
11 OFFENDER OR THE PROSECUTING ATTORNEY HAS WAIVED THE ELIGIBILITY
12 REQUIREMENTS UNDER SUBSECTION (B), THE COURT SHALL ENTER A
13 SENTENCING ORDER THAT DOES ALL OF THE FOLLOWING:

14 (1) IMPOSES THE MINIMUM AND MAXIMUM SENTENCES AS
15 REQUIRED UNDER 42 PA.C.S. § 9752 (RELATING TO SENTENCING
16 PROCEEDING GENERALLY).

17 (2) IMPOSES THE RECIDIVISM RISK REDUCTION INCENTIVE
18 MINIMUM SENTENCE. THE RECIDIVISM RISK REDUCTION INCENTIVE
19 MINIMUM SHALL BE EQUAL TO THREE-FOURTHS OF THE MINIMUM
20 SENTENCE IMPOSED WHEN THE MINIMUM SENTENCE IS THREE YEARS OR
21 LESS. THE RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM SHALL
22 BE EQUAL TO FIVE-SIXTHS OF THE MINIMUM SENTENCE IF THE
23 MINIMUM SENTENCE IS GREATER THAN THREE YEARS. FOR PURPOSES OF
24 THESE CALCULATIONS, PARTIAL DAYS SHALL BE ROUNDED TO THE
25 NEAREST WHOLE DAY. IN DETERMINING THE RECIDIVISM RISK
26 REDUCTION INCENTIVE MINIMUM SENTENCE, THE AGGREGATION
27 PROVISIONS OF 42 PA.C.S. §§ 9757 (RELATING TO CONSECUTIVE
28 SENTENCES OF TOTAL CONFINEMENT FOR MULTIPLE OFFENSES) AND
29 9762(D) (RELATING TO SENTENCING PROCEEDING; PLACE OF
30 CONFINEMENT) SHALL APPLY.

1 (3) NOTWITHSTANDING PARAGRAPH (2), IF THE DEFENDANT WAS
2 PREVIOUSLY SENTENCED TO TWO OR MORE RECIDIVISM RISK REDUCTION
3 INCENTIVE MINIMUM SENTENCES, THE COURT SHALL HAVE THE
4 DISCRETION, WITH THE APPROVAL OF THE PROSECUTING ATTORNEY, TO
5 IMPOSE THE RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM
6 SENTENCE AS PROVIDED FOR IN PARAGRAPH (2).

7 (4) COMPLIES WITH ALL OTHER APPLICABLE SENTENCING
8 PROVISIONS, INCLUDING PROVISIONS RELATING TO VICTIM
9 NOTIFICATION AND THE OPPORTUNITY TO BE HEARD.

10 § 5306. RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM.

11 (A) GENERALLY.--THE BOARD OR ITS DESIGNEE SHALL ISSUE A
12 DECISION TO PAROLE, WITHOUT FURTHER REVIEW BY THE BOARD, A
13 PRISONER WHO HAS BEEN SENTENCED TO A RECIDIVISM RISK REDUCTION
14 INCENTIVE MINIMUM SENTENCE AT THE EXPIRATION OF THAT RECIDIVISM
15 RISK REDUCTION INCENTIVE MINIMUM SENTENCE UPON A DETERMINATION
16 THAT ALL OF THE FOLLOWING APPLY:

17 (1) THE DEPARTMENT CERTIFIED THAT IT HAS CONDUCTED AN
18 APPROPRIATE ASSESSMENT OF THE TREATMENT NEEDS AND RISKS OF
19 THE PRISONER USING NATIONALLY RECOGNIZED ASSESSMENT TOOLS
20 THAT HAVE BEEN NORMED AND VALIDATED.

21 (2) THE DEPARTMENT HAS CERTIFIED THAT IT DEVELOPED A
22 PROGRAM PLAN BASED ON THE ASSESSMENT CONDUCTED UNDER
23 PARAGRAPH (1) THAT IS DESIGNED TO REDUCE THE RISK OF
24 RECIDIVISM THROUGH THE USE OF RECIDIVISM RISK REDUCTION
25 INCENTIVE PROGRAMS AUTHORIZED AND APPROVED UNDER THIS CHAPTER
26 THAT ARE APPROPRIATE FOR THAT PARTICULAR PRISONER.

27 (3) THE DEPARTMENT ADVISED THE PRISONER THAT THE
28 PRISONER IS REQUIRED TO SUCCESSFULLY COMPLETE THE PROGRAM
29 PLAN.

30 (4) THE PRISONER HAS SUCCESSFULLY COMPLETED ALL REQUIRED

1 RECIDIVISM RISK REDUCTION INCENTIVE PROGRAMS OR OTHER
2 PROGRAMS DESIGNATED IN THE PROGRAM PLAN.

3 (5) THE PRISONER HAS MAINTAINED A GOOD CONDUCT RECORD
4 FOLLOWING THE IMPOSITION OF THE RECIDIVISM RISK REDUCTION
5 INCENTIVE MINIMUM SENTENCE.

6 (6) THE REENTRY PLAN FOR THE PRISONER IS ADEQUATE.

7 (7) INDIVIDUAL CONDITIONS AND REQUIREMENTS FOR PAROLE
8 HAVE BEEN ESTABLISHED.

9 (8) NOTICE AND OPPORTUNITY TO BE HEARD WAS PROVIDED BY
10 THE BOARD TO THE SENTENCING COURT AND THE PROSECUTING
11 ATTORNEY IN A MANNER CONSISTENT WITH SECTION 21(B.2) OF THE
12 ACT OF AUGUST 6, 1941 (P.L.861, NO.323), REFERRED TO AS THE
13 PENNSYLVANIA BOARD OF PROBATION AND PAROLE LAW.

14 (9) THE DEPARTMENT HAS CERTIFIED THAT THE PRISONER
15 CONTINUES TO BE AN ELIGIBLE OFFENDER. IN THE EVENT THAT A
16 RECIDIVISM RISK REDUCTION MINIMUM SENTENCE WAS IMPOSED UNDER
17 SECTION 5305(B) (RELATING TO SENTENCING), THE DEPARTMENT
18 CERTIFIES THAT IT HAS NOT RECEIVED ADDITIONAL INFORMATION
19 DEMONSTRATING A HISTORY OF PAST OR PRESENT VIOLENT BEHAVIOR
20 WHICH WAS NOT AVAILABLE AT THE TIME OF SENTENCING AND THE
21 PROSECUTING ATTORNEY WAS UNAWARE OF THAT INFORMATION AT THE
22 TIME OF SENTENCING.

23 (10) THERE IS NO REASONABLE INDICATION THAT THE PRISONER
24 POSES A RISK TO PUBLIC SAFETY.

25 (B) FUNDING.--THE DEPARTMENT SHALL MAKE ALL REASONABLE
26 EFFORTS TO SEEK APPROPRIATE FUNDING AND RESOURCES IN ORDER TO
27 IMPLEMENT THE RECIDIVISM RISK REDUCTION PROGRAM.

28 (C) PROGRAM CONTENT.--NOTHING IN THIS SECTION SHALL DO ANY
29 OF THE FOLLOWING:

30 (1) REQUIRE THE DEPARTMENT TO INCLUDE RECIDIVISM RISK

1 REDUCTION PROGRAMS IN AN INDIVIDUAL PROGRAM PLAN WHERE THE
2 RISK ASSESSMENT INDICATES THAT SUCH A PROGRAM IS UNLIKELY TO
3 REDUCE RECIDIVISM FOR THAT PARTICULAR PRISONER.

4 (2) PROHIBIT THE DEPARTMENT FROM INCLUDING APPROPRIATE
5 COMMUNITY WORKS OR PUBLIC SERVICE PROJECTS AS PART OF THE
6 PROGRAM PLAN.

7 (3) PROHIBIT THE DEPARTMENT FROM MAKING MODIFICATIONS TO
8 THE PROGRAM PLAN AT ANY TIME IN ORDER TO ENSURE APPROPRIATE
9 TREATMENT AND RECIDIVISM RISK REDUCTION INCENTIVE PROGRAM
10 PLACEMENT.

11 (D) ADJUDICATION.--NOTHING IN THIS SECTION SHALL BE
12 INTERPRETED AS GRANTING A RIGHT TO BE PAROLED TO ANY PERSON, AND
13 ANY DECISION BY THE BOARD AND ITS DESIGNEES OR THE DEPARTMENT,
14 UNDER THIS SECTION, SHALL NOT BE CONSIDERED AN ADJUDICATION
15 UNDER 2 PA.C.S. CH. 5 SUBCH. A (RELATING TO PRACTICE AND
16 PROCEDURE OF COMMONWEALTH AGENCIES) AND CH. 7 SUBCH. A (RELATING
17 TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION).

18 § 5307. AUTHORITY OF BOARD.

19 IF A PRISONER HAS BEEN SENTENCED BY A COURT TO A RECIDIVISM
20 RISK REDUCTION INCENTIVE MINIMUM SENTENCE AND THE PRISONER IS
21 NOT PAROLED UNDER THIS CHAPTER, THE BOARD SHALL HAVE EXCLUSIVE
22 AUTHORITY TO GRANT PAROLE. EXCEPT AS OTHERWISE PROVIDED UNDER
23 THIS CHAPTER, THE BOARD SHALL RETAIN ITS POWER AND AUTHORITY TO
24 PAROLE, COMMIT AND REPAROLE PRISONERS COMMITTED TO THE
25 DEPARTMENT.

26 § 5308. WRITTEN GUIDELINES AND REGULATIONS.

27 THE DEPARTMENT, UPON CONSULTATION WITH THE BOARD, SHALL
28 DEVELOP WRITTEN INTERIM GUIDELINES TO ASSIST IN THE
29 IMPLEMENTATION OF THE PROVISIONS OF THIS CHAPTER. THE INTERIM
30 GUIDELINES SHALL NOT BE SUBJECT TO THE REQUIREMENTS OF THE ACT

1 OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS THE REGULATORY
2 REVIEW ACT, AND SHALL BE EFFECTIVE FOR A PERIOD OF TWO YEARS
3 AFTER PUBLICATION IN THE PENNSYLVANIA BULLETIN. THE INTERIM
4 GUIDELINES SHALL BE REPLACED BY REGULATIONS PROMULGATED BY THE
5 DEPARTMENT CONSISTENT WITH THE REGULATORY REVIEW ACT ON OR
6 BEFORE THE DATE OF EXPIRATION OF THE INTERIM GUIDELINES.

7 § 5309. EVALUATION.

8 THE DEPARTMENT, THE BOARD AND THE COMMISSION SHALL MONITOR
9 AND EVALUATE THE RECIDIVISM RISK REDUCTION INCENTIVE PROGRAMS.
10 EVALUATIONS UNDER THIS SECTION SHOULD BE SCIENTIFICALLY RIGOROUS
11 AND SEEK TO DETERMINE THE EFFECTIVENESS OF THE PROGRAMS,
12 INCLUDING WHETHER SPECIFIC RECIDIVISM RISK REDUCTION INCENTIVE
13 PROGRAMS HAVE REDUCED THE RECIDIVISM RATES OF THE PROGRAM
14 PARTICIPANTS AS COMPARED TO PREVIOUSLY INCARCERATED AND
15 SIMILARLY SITUATED PRISONERS. THE DEPARTMENT, THE BOARD AND THE
16 COMMISSION SHALL MAKE EVALUATIONS CONDUCTED UNDER THIS SECTION
17 AND UNDERLYING DATA AVAILABLE TO THE PUBLIC. THE PUBLICLY
18 AVAILABLE DATA AND EVALUATIONS SHALL COMPLY WITH GENERALLY
19 ACCEPTED PRACTICES OF THE RESEARCH COMMUNITY, INCLUDING
20 EXPECTATIONS RELATING TO SUBJECT PRIVACY AND IDENTIFYING
21 INFORMATION.

22 § 5310. REPORTS.

23 (A) RECIDIVISM RISK REDUCTION.--THE DEPARTMENT, THE BOARD
24 AND THE COMMISSION SHALL MONITOR AND EVALUATE THE RECIDIVISM
25 RISK REDUCTION INCENTIVE PROGRAMS TO ENSURE THAT THE GOALS AND
26 OBJECTIVES OF THIS CHAPTER ARE MET. REPORTS TO THE GENERAL
27 ASSEMBLY SHALL BE AS FOLLOWS:

28 (1) IN ODD-NUMBERED YEARS, THE DEPARTMENT SHALL PRESENT
29 A REPORT OF ITS EVALUATION TO THE JUDICIARY COMMITTEE OF THE
30 SENATE AND THE JUDICIARY COMMITTEE OF THE HOUSE OF

1 REPRESENTATIVES NO LATER THAN FEBRUARY 1. THE REPORT SHALL
2 INCLUDE ALL OF THE FOLLOWING:

3 (I) THE NUMBER OF OFFENDERS DETERMINED BY THE
4 DEPARTMENT TO BE ELIGIBLE OFFENDERS UNDER THIS CHAPTER
5 AND THE OFFENSES FOR WHICH THE OFFENDERS WERE COMMITTED
6 TO THE CUSTODY OF THE DEPARTMENT.

7 (II) THE NUMBER OF PRISONERS COMMITTED TO THE
8 CUSTODY OF THE DEPARTMENT WHO WERE SUBJECT TO A
9 RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM SENTENCE.

10 (III) THE NUMBER OF PRISONERS PAROLED AT THE
11 RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM DATE.

12 (IV) ANY POTENTIAL CHANGES THAT WOULD MAKE THE
13 PROGRAM MORE EFFECTIVE.

14 (V) THE SIX-MONTH, ONE-YEAR, THREE-YEAR AND FIVE-
15 YEAR RECIDIVISM RATES FOR PRISONERS RELEASED AT THE
16 RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM SENTENCE.

17 (VI) ANY OTHER INFORMATION THE DEPARTMENT DEEMS
18 RELEVANT.

19 (2) IN EVEN-NUMBERED YEARS, THE COMMISSION SHALL PRESENT
20 A REPORT OF ITS EVALUATION TO THE JUDICIARY COMMITTEE OF THE
21 SENATE AND THE JUDICIARY COMMITTEE OF THE HOUSE OF
22 REPRESENTATIVES NO LATER THAN FEBRUARY 1. THE REPORT SHALL
23 INCLUDE ALL OF THE FOLLOWING:

24 (I) WHETHER THE GOALS OF THIS CHAPTER COULD BE
25 ACHIEVED THROUGH AMENDMENTS TO PAROLE OR SENTENCING
26 GUIDELINES.

27 (II) THE VARIOUS OPTIONS FOR PAROLE OR SENTENCING
28 GUIDELINES UNDER SUBPARAGRAPH (I).

29 (III) THE STATUS OF ANY PROPOSED OR IMPLEMENTED
30 GUIDELINES DESIGNED TO IMPLEMENT THE PROVISIONS OF THIS

1 CHAPTER.

2 (IV) ANY POTENTIAL CHANGES TO THE PROGRAM THAT WOULD
3 BE LIKELY TO REDUCE THE RISK OF RECIDIVISM OF PRISONERS
4 AND IMPROVE PUBLIC SAFETY.

5 (V) ANY OTHER INFORMATION THE COMMISSION DEEMS
6 RELEVANT.

7 (B) EDUCATIONAL PLAN.--THE PENNSYLVANIA COMMISSION ON CRIME
8 AND DELINQUENCY SHALL PUBLISH A REPORT OF A PROPOSED EDUCATIONAL
9 PROGRAM PLAN WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS
10 SECTION. THE PROPOSED EDUCATIONAL PROGRAM PLAN SHALL BE
11 DEVELOPED IN CONSULTATION WITH THE DEPARTMENT, COMMISSION,
12 BOARD, THE PENNSYLVANIA DISTRICT ATTORNEYS ASSOCIATION, THE
13 VICTIM ADVOCATE AND REPRESENTATIVES OF THE JUDICIARY AND THE
14 CRIMINAL DEFENSE BAR AND OTHER CRIMINAL JUSTICE STAKEHOLDERS.
15 THE PLAN SHALL SEEK TO PROVIDE COST-EFFECTIVE TRAINING OR
16 INFORMATION THROUGH ELECTRONIC MEANS, PUBLICATIONS OR CONTINUING
17 EDUCATIONAL PROGRAMS THAT ADDRESS THE FOLLOWING TOPICS:

18 (1) THE TREATMENT PROGRAMS AVAILABLE THROUGH THE BOARD
19 AND THE DEPARTMENT.

20 (2) THE AVAILABILITY OF PROGRAMS AND ELIGIBILITY
21 REQUIREMENTS THAT CAN REDUCE RECIDIVISM RISK, INCLUDING STATE
22 INTERMEDIATE PUNISHMENT, THE MOTIVATIONAL BOOT CAMP AND
23 RECIDIVISM RISK REDUCTION INCENTIVES PROGRAMS.

24 (3) THE CALCULATION OF SENTENCING CREDIT AND PRACTICES
25 THAT COULD INADVERTENTLY PREVENT AN INMATE FROM RECEIVING
26 SENTENCE CREDIT.

27 (4) RECENT STATUTORY CHANGES RELATING TO SENTENCING,
28 PLACE OF CONFINEMENT, MEDICAL RELEASES, TRANSFER OF INMATES
29 AND PAROLE.

30 § 5311. CONSTRUCTION.

1 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THIS CHAPTER
2 SHALL NOT BE CONSTRUED TO DO ANY OF THE FOLLOWING:

3 (1) CONFER ANY LEGAL RIGHT UPON ANY INDIVIDUAL,
4 INCLUDING AN INDIVIDUAL PARTICIPATING IN OR SEEKING TO
5 PARTICIPATE IN A RECIDIVISM RISK REDUCTION INCENTIVE PROGRAM,
6 TO DO ANY OF THE FOLLOWING:

7 (I) PARTICIPATE IN A RECIDIVISM RISK REDUCTION
8 INCENTIVE PROGRAM.

9 (II) CONTINUE PARTICIPATION IN A RECIDIVISM RISK
10 REDUCTION INCENTIVE PROGRAM.

11 (III) MODIFY THE CONTENTS OF THE RECIDIVISM RISK
12 REDUCTION INCENTIVE PROGRAM.

13 (IV) FILE ANY CAUSE OF ACTION IN ANY FEDERAL OR
14 STATE COURT CHALLENGING THE DEPARTMENT'S DETERMINATION
15 THAT A PARTICIPANT BE SUSPENDED OR EXPELLED FROM OR THAT
16 A PARTICIPANT HAS SUCCESSFULLY COMPLETED OR FAILED TO
17 SUCCESSFULLY COMPLETE ANY RECIDIVISM RISK REDUCTION
18 INCENTIVE PROGRAM.

19 (2) CONFER ANY LEGAL RIGHT ON ANY INDIVIDUAL TO BE
20 RELEASED ON PAROLE UNDER THIS ACT.

21 (3) ENLARGE OR LIMIT THE RIGHT OF A PARTICIPANT TO
22 APPEAL THE PARTICIPANT'S SENTENCE.

23 § 5312. APPLICABILITY.

24 THIS CHAPTER SHALL APPLY TO PERSONS INCARCERATED UNDER THE
25 SUPERVISION OF THE DEPARTMENT.]

26 Section 2. Title 44 is amended by adding a part to read:

27 PART IV

28 OTHER OFFICERS

29 Chapter

30 71. Constables

1 CHAPTER 71

2 CONSTABLES

3 Subchapter

4 A. Preliminary Provisions

5 B. Election

6 C. Appointment

7 D. Conflicts

8 E. Training

9 F. Powers and Duties

10 G. Compensation

11 H. Penalties and Remedies

12 SUBCHAPTER A

13 PRELIMINARY PROVISIONS

14 Sec.

15 7101. Scope.

16 7102. Definitions.

17 7103. Cities of the first class.

18 § 7101. Scope.

19 This chapter relates to constables.

20 § 7102. Definitions.

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

24 "Livestock." Cattle, horses, sheep, goats and swine of every
25 age and sex.

26 § 7103. Cities of the first class.

27 As of February 10, 1970, the office of constable is abolished
28 in cities of the first class and the terms of office of
29 incumbents are terminated.

30 SUBCHAPTER B

ELECTION

Sec.

7111. Term of office.

7112. Cities of the second and third classes.

7113. Boroughs.

7114. Townships.

§ 7111. Term of office.

The term of a constable in a city of the second class, city of the second class A, city of the third class, borough, incorporated town or township is six years.

§ 7112. Cities of the second and third classes.

The qualified voters of each ward in a city of the second or third class shall elect a properly qualified person for constable in each ward.

§ 7113. Boroughs.

(a) General rule.--Except as provided in subsection (b), the qualified voters of every borough shall vote for and elect a properly qualified person for constable.

(b) Boroughs divided into wards.--The qualified voters of every borough divided into wards shall vote for and elect a properly qualified person for constable in each ward and a properly constable for high constable in the borough.

§ 7114. Townships.

(a) Election.--The following shall apply:

(1) The qualified voters of every township shall vote for and elect a properly qualified person for constable.

(2) The qualified electors of each township of the first class may vote for and elect a properly qualified person to serve as constable, in addition to the constable elected under paragraph (1).

1 (b) Procedure upon election; penalty.--Every person elected
2 to the office of constable in a township shall appear in court
3 on the first day of the next court of common pleas of the same
4 county to accept or decline the office. A person who neglects or
5 refuses to appear, after having been duly notified of the
6 election, shall forfeit to the township the sum of \$40 to be
7 levied by order of the court.

8 (c) Bond.--The bond given by a constable in a township shall
9 be in a sum not less than \$500 nor more than \$3,000, as the
10 court shall direct, and shall be taken by the clerk of the court
11 in the name of the Commonwealth, with conditions for just and
12 faithful discharge by the constable of the duties of office. The
13 bond shall be held in trust for the use and benefit of persons
14 who may sustain injury by reason of neglect of duty, and for the
15 same purposes and uses as a sheriff's bond.

16 SUBCHAPTER C

17 APPOINTMENT

18 § 7121. Constables.

19 When a vacancy occurs in the office of constable, regardless
20 of the reason for the vacancy, the court of common pleas of the
21 county of the vacancy, upon petition of not less than ten
22 qualified electors residing in the borough, city, ward or
23 township of the vacancy, shall appoint a suitable person, who,
24 upon being qualified as required by law, shall serve as the
25 constable for the unexpired term of the vacancy.

26 § 7122. Deputy constables.

27 (a) General rule.--Sole power to appoint deputy constables
28 in a ward, borough or township is vested in the constable of the
29 ward, borough or township, subject to approval of the court of
30 common pleas under subsection (b). No person shall be appointed

1 as a deputy constable unless, at the time of appointment, he is
2 a bona fide resident of the ward, borough or township for which
3 he is appointed and he continues to be a bona fide resident for
4 the duration of the appointment.

5 (b) Court approval and qualifications.--

6 (1) Except as set forth in paragraph (2), no deputy
7 shall be appointed, either by general or partial
8 deputization, without approbation of the court of common
9 pleas of the county, except for special appointments in a
10 civil suit or proceeding, at the request and risk of the
11 plaintiff or his agent. If a deputy no longer resides in, or
12 ceases to be a qualified elector of, the ward in which he was
13 appointed to serve, the court of common pleas may revoke the
14 appointment of the deputy upon petition of five duly
15 qualified electors of the ward and proof of facts requiring
16 revocation.

17 (2) In the event of a deputy's death or inability or
18 refusal to act, the constable of a township may, with
19 approbation of the court of common pleas of the county where
20 the deputy served, appoint another deputy who shall have full
21 authority to act until the next regular session of court. The
22 constable and his surety shall be liable for acts of the
23 deputy as in other cases. The constable shall file a written
24 copy of the deputization in the office of the clerk of courts
25 of the county where the constable serves.

26 (c) Certain provisions relating to boroughs unaffected.--

27 This section does not affect the provisions of section 14 of the
28 act of June 28, 1923 (P.L.903, No.348), entitled "A supplement
29 to an act, approved the fourteenth day of May, one thousand nine
30 hundred and fifteen (Pamphlet Laws, three hundred and twelve),

1 entitled 'An act providing a system for government of boroughs,
2 and revising, amending, and consolidating the law relating to
3 boroughs'; so as to provide a system of government where a
4 borough now has annexed or hereafter shall annex land in an
5 adjoining county, including assessment of property, levying and
6 collection of taxes, making municipal improvements, and filing
7 and collecting of liens for the same; the jurisdiction of courts
8 for the enforcement of borough ordinances and State laws, and
9 primary, general, municipal, and special elections; and
10 repealing inconsistent laws."

11 SUBCHAPTER D

12 CONFLICTS

13 § 7131. Public office.

14 (a) General rule.--Except as set forth in subsection (b), it
15 shall be unlawful for a constable to hold or exercise the office
16 of magisterial district judge or alderman.

17 (b) Exceptions.--Nothing in this section or in any other law
18 or court rule shall be construed to prohibit a constable from:

19 (1) being an officer of a political body or political
20 party as those terms are defined in the act of June 3, 1937
21 (P.L.1333, No.320), known as the Pennsylvania Election Code;

22 (2) holding the office of a national, State or county
23 committee of a political party;

24 (3) running for and holding an elective office; or

25 (4) participating in election day activities.

26 § 7132. Police officers.

27 (a) Constable employed as policeman not to accept other fees
28 in addition to salary.--Except for public rewards and legal
29 mileage allowed to a constable for traveling expenses, and
30 except as provided in subsection (b), it is unlawful for a

1 constable who is also employed as a policeman to charge or
2 accept a fee or other compensation, other than his salary as a
3 policeman, for services rendered or performed pertaining to his
4 office or duties as a policeman or constable.

5 (b) Exception.--Unless prevented from doing so by the
6 operation of the civil service provisions of the act of February
7 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code,
8 borough policemen who reside in the borough may hold and
9 exercise the office of constable in the borough, or in any ward
10 thereof, and receive all costs, fees and emoluments pertaining
11 to such office.

12 SUBCHAPTER E

13 TRAINING

14 Sec.

15 7141. Definitions.

16 7142. Conduct and insurance.

17 7143. Board established.

18 7144. Program established.

19 7145. Program contents.

20 7146. Continuing education.

21 7147. (Reserved).

22 7148. Use of firearms.

23 7149. restricted account.

24 § 7141. Definitions.

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

28 "Account." The Constables' Education and Training Account
29 established in section 7149 (relating to restricted account).

30 "Board." The Constables' Education and Training Board

1 established in section 7143 (relating to board established).

2 "Commission." The Pennsylvania Commission on Crime and
3 Delinquency of the Commonwealth.

4 "Court." The minor judiciary or any other court in this
5 Commonwealth.

6 "Judicial duties." Those services specified in section 7161
7 (relating to fees).

8 "Term of office of a deputy constable." The term of office
9 of the constable who appointed him.

10 § 7142. Conduct and insurance.

11 (a) Certification.--After the establishment, implementation
12 and administration of the Constables' Education and Training
13 Program created under sections 7144 (relating to program
14 established) and 7145 (relating to program contents), no
15 constable or deputy constable shall perform any judicial duties
16 nor demand or receive any fee, surcharge or mileage provided by
17 this subchapter unless he has been certified under this
18 subchapter.

19 (b) Liability insurance.--Every constable and deputy
20 constable must file with the clerk of courts proof that he has,
21 currently in force, a policy of professional liability insurance
22 covering each individual in the performance of his judicial
23 duties with a minimum coverage of \$250,000 per incident and a
24 minimum aggregate of \$500,000 per year. The Constables'
25 Education and Training Board shall immediately investigate and
26 implement the most cost-effective method of achieving liability
27 insurance for constables and deputy constables under this
28 subsection.

29 (c) Loss of certification.--Any constable or deputy
30 constable who fails, neglects or refuses to maintain a current

1 insurance policy as required by subsection (b) or to file proof
2 thereof with the clerk of courts shall cease automatically to be
3 certified to perform judicial duties upon the expiration of the
4 policy of which proof has been filed with the clerk of courts.

5 (d) Recertification.--Any constable or deputy constable who
6 ceases to be certified to perform judicial duties as a result of
7 the operation of subsection (c) may later be recertified
8 immediately by filing with the clerk of courts proof that such
9 insurance has been in force continuously since the officer was
10 last certified to perform judicial duties. In the case of a
11 violation of subsection (c), the individual may be recertified
12 by complying with subsection (b).

13 (e) Limitations on liability.--The provisions of this
14 subchapter shall not be deemed to impose respondeat superior
15 liability on any county.

16 (f) Conduct.--While a constable or deputy constable is
17 performing duties other than judicial duties, regardless of
18 whether or not he is certified under this subchapter, he shall
19 not in any manner hold himself out to be active as an agent,
20 employee or representative of any court, magisterial district
21 judge or judge.

22 § 7143. Board established.

23 (a) Board created.--There is established within the
24 commission an advisory board to be known as the Constables'
25 Education and Training Board.

26 (b) Composition.--The board shall be composed of the
27 Pennsylvania State Police Commissioner or his designee and six
28 other members appointed by the Governor with the consent of a
29 majority of the members of the Senate:

30 (1) Three persons who shall be constables.

1 (2) One person who shall be a magisterial district
2 judge.

3 (3) One person who shall be a court administrator.

4 (4) One person who shall be a county commissioner.

5 (c) Appointments and terms.--Members shall serve for three-
6 year terms and may be appointed for more than one additional
7 consecutive term. If a member who serves by virtue of public
8 office ceases to represent the class to which he was appointed,
9 his membership in the commission shall terminate immediately,
10 and a new member shall be appointed in the same manner as his
11 predecessor to fill the unexpired portion of the term. No
12 constable may be appointed, be reappointed or serve as a board
13 member unless he is certified under this subchapter.

14 (d) Vacancy.--A member appointed to fill a vacancy created
15 by any reason other than expiration of a term shall be appointed
16 for the unexpired term of the member whom he is to succeed in
17 the same manner as the original appointment.

18 (e) Expenses.--The members of the board shall serve without
19 compensation but shall be reimbursed the necessary and actual
20 expenses incurred in attending meetings of the board and in the
21 performance of their duties under this subchapter.

22 (f) Removal.--Members of the board may be removed by the
23 appointing authority for good cause upon written notice from the
24 appointing authority specifically setting forth the cause for
25 removal.

26 (g) Chairman elected.--The members of the board shall elect
27 a chairman from among the members to serve for a period of one
28 year. A chairman may be elected to serve successive terms. The
29 Governor shall designate the first chairman for organizational
30 purposes only.

1 (h) Meetings.--The board shall meet as often as it deems
2 necessary but at least four times each year. Meetings may be
3 called by the chairman of the board or by any four members
4 thereof, in either case upon at least ten days' written notice
5 to all members of the board. A quorum shall consist of four
6 members.

7 § 7144. Program established.

8 The board, with the review and approval of the commission,
9 shall:

10 (1) Establish, implement and administer the Constables'
11 Education and Training Program according to the minimum
12 requirements set forth in this subchapter.

13 (2) Establish, implement and administer requirements for
14 the minimum courses of study and training for constables and
15 deputy constables.

16 (3) Establish, implement and administer requirements for
17 courses of study and in-service training for constables and
18 deputy constables.

19 (4) Establish, implement and administer requirements for
20 a continuing education program for constables and deputy
21 constables concerning subjects the board may deem necessary
22 and appropriate for the continued education and training of
23 constables and deputy constables.

24 (5) Approve or revoke the approval of any school which
25 may be utilized for the educational and training requirements
26 of this subchapter.

27 (6) Establish the minimum qualifications for instructors
28 and certify instructors.

29 (7) Consult, cooperate and contract with universities,
30 colleges, law schools, community colleges and institutes for

1 the development of basic and continuing education courses for
2 constables and deputy constables.

3 (8) Promote the most efficient and economical program
4 for constable and deputy constable training by utilizing
5 existing facilities, programs and qualified State and local
6 personnel.

7 (9) Certify constables and deputy constables who have
8 satisfactorily completed the basic and continuing education
9 and training requirements of this subchapter and issue
10 appropriate certificates to them.

11 (10) Make rules and regulations and perform other duties
12 as may be reasonably necessary or appropriate to administer
13 the education and training program for constables and deputy
14 constables.

15 (11) In consultation with the Insurance Commissioner,
16 monitor the price and availability of the liability insurance
17 required by section 7142(b) (relating to conduct and
18 insurance) and, if deemed necessary by the board, provide
19 information and coordination to assure the availability and
20 competitive pricing of such insurance.

21 (12) Make an annual report to the Governor and to the
22 General Assembly concerning:

23 (i) The administration of the Constables' Education
24 and Training Program.

25 (ii) The activities of the board.

26 (iii) The costs of the program.

27 (iv) Proposed changes, if any, in this subchapter.

28 § 7145. Program contents.

29 The Constables' Education and Training Program shall include
30 training for a total of 80 hours, the content of which shall be

1 determined by regulation. The training shall include instruction
2 in the interpretation and application of the fees provided for
3 in section 7161 (relating to fees).

4 § 7146. Continuing education.

5 The board, with the review and approval of the commission,
6 shall establish a mandatory continuing education program for
7 constables and deputy constables, which shall include no more
8 than 40 hours per year, concerning subjects the board may deem
9 necessary and appropriate for the continued education and
10 training of constables and deputy constables.

11 § 7147. (Reserved).

12 § 7148. Use of firearms.

13 The Constables' Education and Training Board, with the review
14 and approval of the Pennsylvania Commission on Crime and
15 Delinquency, shall establish standards for the certification or
16 qualification of constables and deputy constables to carry or
17 use firearms in the performance of any duties.

18 § 7149. Restricted account.

19 (a) Account established.--There is established a special
20 restricted account within the General Fund, which shall be known
21 as the Constables' Education and Training Account, for the
22 purposes of financing training program expenses, the costs of
23 administering the program and all other costs associated with
24 the activities of the board and the implementation of this
25 subchapter and as provided under subsection (f).

26 (b) Surcharge.--There is assessed as a cost in each case
27 before a magisterial district judge a surcharge of \$5 per docket
28 number in each criminal case and \$5 per named defendant in each
29 civil case in which a constable or deputy constable performs a
30 service provided in Subchapter G (relating to compensation),

1 except that no county shall be required to pay this surcharge on
2 behalf of any indigent or other defendant in a criminal case.

3 (c) Disposition of funds.--The surcharges collected under
4 subsection (b), if collected by a constable or deputy constable,
5 shall be turned over within one week to the issuing authority.
6 The issuing authority shall remit the same to the Department of
7 Revenue for deposit into the account.

8 (d) Disbursements.--Disbursements from the account shall be
9 made by the commission.

10 (e) Audit.--The Auditor General shall conduct an audit of
11 the account as he may deem necessary or advisable, from time to
12 time, but not less than once every three years.

13 (f) Fund surplus.--If account money are sufficient to meet
14 the expenses and costs under subsection (a), the commission may
15 allocate any surplus funds in the account to assist constables
16 and deputy constables with costs associated with attendance at
17 continuing education programs under section 7146 (relating to
18 continuing education).

19 SUBCHAPTER F

20 POWERS AND DUTIES

21 Sec.

22 7151. General imposition of duties and grant of powers.

23 7152. Elections.

24 7153. Service of process.

25 7154. Collection of taxes.

26 7155. Arrest of offenders against forest laws.

27 7156. Executions.

28 7157. Returns and appearance.

29 7158. Arrest in boroughs.

30 7159. Trespassing livestock.

1 7159.1. Sale of trespassing livestock.

2 § 7151. General imposition of duties and grant of powers.

3 Constables shall perform all duties authorized or imposed on
4 them by statute.

5 § 7152. Elections.

6 The constable of a borough, township or ward, or his deputy,
7 shall do all of the following:

8 (1) Be present at the polling place in each election
9 district of the borough, township or ward at each election
10 during the continuance of each election and while the votes
11 are being counted, for the purpose of preserving the peace.

12 (2) Serve at all elections.

13 § 7153. Service of process.

14 If no coroner is in commission to serve process in a suit
15 instituted in a court of this Commonwealth in which the sheriff
16 of a county may be a party, a constable in the county where the
17 process has been issued may serve as the coroner and perform the
18 authorized duties of the coroner.

19 § 7154. Collection of taxes.

20 (a) Bond.--It shall be unlawful for a tax collector to do
21 any of the following:

22 (1) Give a warrant against delinquent tax payers to a
23 constable unless the constable has given security by bond and
24 warrant, with two sufficient sureties and to the satisfaction
25 of the Court of Common Pleas, in the sum of \$5,000.

26 (2) Give a constable, at any one time, warrants for a
27 greater amount of taxes than the amount of the bond required
28 under paragraph (1).

29 (b) Report and payment.--A constable shall make a report and
30 payment of all collections on warrants under subsection (a) at

1 least once in every week after the warrants have been issued.

2 (c) Interest.--In addition to any commissions that may be
3 imposed for the collection of taxes, all taxes remaining unpaid
4 on the first day of January after the year for which they were
5 assessed shall accrue interest until they are paid.

6 § 7155. Arrest of offenders against forest laws.

7 If a person is detected by a constable in the act of
8 trespassing upon any forest or timber land within this
9 Commonwealth, under circumstances as to warrant reasonable
10 suspicion that the person has, is or may commit an offense
11 against any law for the protection of forests and timber land,
12 the constable may, without first procuring a warrant, arrest the
13 person.

14 § 7156. Executions.

15 (a) Debt, interests and costs.--The debt, interest and costs
16 of a writ of execution delivered to a constable shall be entered
17 into the docket of a magisterial district court and on the back
18 of the writ of execution. A constable may not be discharged from
19 the writ of execution unless he provides to the magisterial
20 district judge on or before the return day of the writ of
21 execution the receipt of the plaintiff or any other legally
22 sufficient return.

23 (b) Invalid returns.--If a constable makes a false return,
24 does not produce the plaintiff's receipt on the return day or
25 makes a return deemed insufficient by the magisterial district
26 judge, the magisterial district judge shall issue a summons to
27 the constable to appear on the designated day, which may not be
28 more than eight days from the date of issuance, to show cause
29 why a writ of execution should not be issued against the
30 constable for the amount of the writ of execution under

1 subsection (a). If the constable does not appear or does not
2 show sufficient cause why the writ of execution should not be
3 issued against him, the magisterial district judge shall enter
4 judgment against the constable for the amount of the writ of
5 execution under subsection (a) with costs. No stay may be
6 entered upon the writ of execution and upon application of the
7 plaintiff or his agent, the magisterial district judge shall
8 issue an execution against the constable for the amount of the
9 judgment, which may be directed to an authorized person. The
10 summons under this subsection shall be issued to an authorized
11 person to serve. If the summons is not served, that person shall
12 pay a fine of \$20. If an authorized person cannot be
13 conveniently found to serve the summons, the magisterial
14 district judge shall direct it to the supervisor of the highways
15 of the township, ward or district where the constable resides,
16 whose shall serve the summons or pay a penalty of \$20.

17 (c) Insolvent debtors.--Nothing in this section shall affect
18 proceedings regarding insolvent debtors and their discharge on a
19 full surrender of their property.

20 § 7157. Returns and appearance.

21 (a) Returns.--In a county of the sixth, seventh or eighth
22 class, a constable is not required to make a return, if required
23 by law, to the court of common pleas if the constable has no
24 information to impart in the return.

25 (b) Appearance.--A court may summon a constable to appear
26 before it and direct the constable to investigate a complaint of
27 a violation of law or of a condition which a constable is
28 required to report to the court and to make a report of his
29 investigation.

30 § 7158. Arrest in boroughs.

1 In addition to any other powers granted under law, a
2 constable of a borough shall, without warrant and upon view,
3 arrest and commit for hearing any person who:

4 (1) Is guilty of a breach of the peace, vagrancy,
5 riotous or disorderly conduct or drunkenness.

6 (2) May be engaged in the commission of any unlawful act
7 tending to imperil the personal security or endanger the
8 property of the citizens.

9 (3) Violates any ordinance of the borough for which a
10 fine or penalty is imposed.

11 § 7159. Trespassing livestock.

12 (a) In general.--An owner or tenant of an enclosed or
13 unenclosed, improved land in this Commonwealth who discovers
14 trespassing livestock shall notify the constable of the
15 township, borough or ward in which the improved land lies. If
16 the constable of the township, borough or ward is unavailable or
17 unable to assist, the owner or tenant shall notify the constable
18 of the county. The following shall apply:

19 (1) The constable shall impound the livestock either
20 with the owner or tenant of the land if the owner, and the
21 tenant if one exists, agree or with another individual or
22 entity that the constable may deem best situated to care for
23 the livestock.

24 (2) All reasonable costs of keeping the livestock shall
25 be part of the costs of care.

26 (b) Notification.--The owner of the livestock shall be
27 notified in the following manner:

28 (1) If the owner is known and resides within the county
29 where the trespass has been committed, the constable shall
30 give written notice to the owner that the livestock has been

1 impounded, the location of the livestock and the name of the
2 owner of the land where the livestock trespassed. Notice
3 shall be given within 24 hours of impounding in accordance
4 with the Pennsylvania Rules of Civil Procedure.

5 (2) If the owner is known but does not reside in the
6 county where the trespass has been committed, the constable
7 shall give written notice to the owner that the livestock has
8 been impounded, the location of the livestock, and the name
9 of the owner of the land where the livestock trespassed.
10 Notice shall be served within 24 hours of impounding by
11 registered mail.

12 (c) Payment.--If, within four days of receiving notice, the
13 owner of the trespassing livestock pays for the cost of the
14 damage to the land, the costs of care and the fee for the
15 constable, the livestock shall be returned to the owner within
16 three days after receiving payment.

17 (d) Refusal.--If the owner fails to pay the costs and fees
18 within four days, the constable shall notify the magisterial
19 district judge of the county where the trespass was committed.
20 The magisterial district judge shall then direct three
21 disinterested owners of land in the locale where the damage
22 occurred to inspect the trespass, value and appraise the damage.
23 The three shall then consider the appraisal, value and costs of
24 care and make a report to the magisterial district judge within
25 five days.

26 § 7159.1. Sale of trespassing livestock.

27 (a) Process.--If the owner of the livestock fails to pay for
28 the costs, damages and fees within one day of the filing of the
29 report of the appraisers, the livestock shall be sold at a
30 public sale. The following shall apply:

1 (1) The livestock must be described with particularity
2 in a printed or written advertisement. The following shall
3 apply:

4 (i) The advertisement must be posted at six of the
5 most public places in the locale of the damaged property.

6 (ii) The advertisement must set forth a place and
7 time of public sale of the livestock.

8 (2) At the named time and place, the livestock shall be
9 sold to the highest bidder unless at any time prior to the
10 sale the owner of the livestock shall pay all costs, damages
11 and fees or has begun an action for replevin against the
12 owner of the land.

13 (3) The constable shall remit a written report of the
14 sale and all money realized from the sale of the livestock to
15 the magisterial district judge. The following shall apply:

16 (i) The magisterial district judge shall pay the
17 costs and damages to the land owner.

18 (ii) Not less than three, nor more than four, months
19 after the sale the magisterial district judge shall remit
20 any surplus to the county treasurer in the county where
21 the damage occurred.

22 (iii) The owner of the livestock shall have the
23 right to submit proof of ownership to the magisterial
24 district judge or the county treasurer at any time within
25 two years of the sale to claim any surplus of the sale.

26 (4) If the sale results in a deficit, the payment shall
27 be made as follows:

28 (i) First, the costs shall be paid in full or
29 divided pro rata among the constable, magisterial
30 district judge, the appraisers and the cost of care.

1 (ii) After the costs are paid in full, the remaining
2 amount shall be paid to the owner of the land for any
3 damage sustained.

4 (b) Redemption.--The owner of livestock impounded under this
5 section shall have the right, at any time before the livestock
6 are sold, to pay all the costs accrued and the amount of damages
7 awarded in the appraisalment in section 7159 (relating to
8 trespassing livestock) and to recover the livestock.

9 (c) Replevin.--The owner may also recover the impounded
10 livestock, at any time before the livestock are sold, through a
11 successful action of replevin. The following shall apply:

12 (1) The action for replevin must be on the condition
13 that the owner of the livestock pay all damages and fees
14 including:

15 (i) Amount of damages sustained by the land owner.

16 (ii) Costs of care.

17 (iii) Fees to the constable, magisterial district
18 judge and the three disinterested appraisers.

19 (2) The damages and fees shall be itemized by costs,
20 damages and fees.

21 (3) If a jury or the appraisers determine that the harm
22 to the owner of the livestock was greater than the harm to
23 the owner of the land, the owner of the livestock must still
24 pay the costs and fees, but not to the attorney for the owner
25 of the land.

26 (4) If a jury or the appraisers determine that the harm
27 to the owner of the land is greater than the harm to the
28 owner of the livestock, the court shall require the owner of
29 the livestock to pay a reasonable fee to the attorney for the
30 owner of the land.

1 SUBCHAPTER G

2 COMPENSATION

3 Sec.

4 7161. Fees.

5 7161.1. Specific fees.

6 7162. Returns.

7 7163. Election services.

8 7164. Impounding, selling and viewing fees.

9 7165. Seizure fees.

10 7166. Returns to court.

11 \$ 7161. Fees.

12 (a) Travel or mileage.--Actual mileage for travel by motor
13 vehicle shall be reimbursed at a rate equal to the highest rate
14 allowed by the Internal Revenue Service. If travel occurs by a
15 mode other than motor vehicle, reimbursement shall be for the
16 vouchered travel expenses.

17 (b) Apportionment.--If more than one defendant is
18 transported simultaneously, reimbursements shall be for miles
19 traveled and the travel cost shall be divided between or among
20 the defendants.

21 (c) Additional persons.--A constable or deputy constable
22 when he is transporting a prisoner, serving a felony or
23 misdemeanor warrant or serving a warrant on a juvenile or a
24 defendant of the opposite sex may, at his discretion, be
25 accompanied by a second constable or deputy constable who is
26 certified under section 7147 (relating to automatic
27 certification) to perform judicial duties. In those cases, each
28 officer shall receive the fee set out in this section. In all
29 other civil, landlord-tenant and summary criminal cases, the
30 issuing authority may authorize payment to a second officer.

1 (d) Civil and landlord-tenant cases.--In civil and landlord-
2 tenant cases, constable fees must be paid in advance to the
3 court for services desired to be performed. These fees shall not
4 be refundable to the plaintiff if a case is settled or a debt is
5 satisfied less than 48 hours prior to a scheduled sale or
6 ejectment. In the latter case, the constable or deputy constable
7 shall be paid for holding the sale or carrying out an ejectment,
8 respectively.

9 (e) Payment.--All civil, landlord-tenant and criminal fees
10 shall be paid by the court to the constable as soon as possible
11 and in no case not more than 15 days in civil and landlord-
12 tenant cases and 30 days in criminal cases after the service is
13 performed and a proper request for payment is submitted,
14 provided that, in criminal cases where the books and accounts of
15 the relevant county offices are payable on a monthly basis,
16 payment shall be made not more than 15 days after the close of
17 the month.

18 (f) Civil and landlord-tenant cases.--Fees in civil and
19 landlord-tenant 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, \$13, plus
22 \$5 for each additional defendant at the same address, \$2.50
23 for each return of service, plus mileage.

24 (2) For levying goods, including schedule of property
25 levied upon and set aside, notice of levy and return of
26 service, \$75, plus mileage.

27 (3) For advertising personal property for public sale,
28 \$7 per posting, with a maximum \$21 fee, plus mileage, plus
29 the cost of advertising.

30 (4) For selling goods levied, receipts and returns to

1 court, \$85, plus mileage.

2 (5) For making return of not found, \$13, plus mileage.
3 Payment shall be limited to three returns of not found.

4 (6) For executing order of possession, \$13, plus \$5 for
5 each additional defendant at the same address, \$2.50 for each
6 return of service, plus mileage.

7 (7) For ejectment, \$90, \$2.50 for each return of
8 service, plus mileage.

9 (8) For making any return of service other than not
10 found, \$2.50 each.

11 (9) For providing courtroom security as ordered, \$13 per
12 hour, assessed against one or more parties as determined by
13 the court.

14 (10) Actual mileage for travel by motor vehicle shall be
15 reimbursed at the rate equal to the highest rate allowed by
16 the Internal Revenue Service. If travel is by other than
17 motor vehicle, reimbursement shall be for vouchered travel
18 expenses.

19 (g) Criminal cases.--Fees in criminal cases shall be as
20 follows:

21 (1) For executing each warrant of arrest, or for
22 effectuating the payment of fines and costs by attempting to
23 execute each warrant of arrest, \$25 for each docket number
24 and \$2.50 for each return of service, plus mileage.

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

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

28 (4) For attendance at arraignment or hearing, \$13.

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

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

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

2 (8) For making returns to the court, \$2.50.

3 (9) Transporting each nonincarcerated defendant to jail,
4 \$17, plus mileage; transporting an incarcerated prisoner, \$38
5 per prisoner, plus an hourly rate of \$13 per hour, plus
6 mileage. Computation of hourly rate will apply after the
7 expiration of the first hour per prisoner per hour, not to
8 exceed \$26 per hour per constable.

9 (10) Receipt of the fees for transporting a
10 nonincarcerated defendant under paragraph (9) shall not
11 exclude receipt of the fees under paragraphs (6) and (8) for
12 that transport.

13 (11) Receipt of the fees for transporting an
14 incarcerated prisoner under paragraph (9) shall exclude
15 receipt of the fees under paragraphs (2), (3), (4) and (7)
16 for the transport.

17 (12) Actual mileage for travel by motor vehicle shall be
18 reimbursed at the rate equal to the highest rate allowed by
19 the Internal Revenue Service. If travel is by other than
20 motor vehicle, reimbursement shall be for vouchered travel
21 expenses.

22 (13) For conveying defendants for fingerprinting, \$17
23 per defendant, plus \$13 per hour beyond the first hour per
24 defendant per hour, not to exceed \$26 per hour per constable,
25 plus mileage.

26 (14) For holding one or more defendants at the office of
27 a magisterial district judge, \$13 per hour per defendant
28 beyond the first half hour.

29 (15) For courtroom security as ordered, \$13 per hour,
30 assessed against one or more parties as determined by the

1 court.

2 (16) In all criminal cases wherein the defendant is
3 discharged or indigent or the case is otherwise dismissed,
4 the court shall assess to the county the fee provided in this
5 section, except that in cases of private criminal complaints
6 where the defendant is discharged prior to the indictment or
7 the filing of any information or the case is otherwise
8 dismissed at the summary offense hearing, the court shall
9 assess the fee to the affiant.

10 (h) Subpoenas.--For serving district court-issued subpoenas
11 for civil, landlord-tenant or criminal matters, \$13 for first
12 witness, plus \$5 for each additional witness at the same
13 address, \$2.50 return of service for each subpoena, plus
14 mileage. The same fee shall be payable for attempting to serve a
15 subpoena at a wrong address supplied by the party requesting the
16 service.

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

21 § 7161.1. Specific fees.

22 (a) Court appearances and returns.--For attendance on court
23 and making returns, the fees to be received by constables shall
24 be \$2.50 per day.

25 (b) Notices of election.--For serving notices of their
26 election upon township or borough officers, the fees to be
27 received by constables shall be \$0.15 for each service.

28 (c) Juvenile matters.--Constables shall receive the same
29 fees for serving writs in juvenile cases as they receive for
30 similar services in criminal cases.

1 § 7162. Returns.

2 The returns required by law to be made by constables to the
3 court of common pleas may, at the discretion of the court, be
4 abolished, or be made at times and relating to subjects as the
5 court may require. No constable shall be entitled to fees or
6 mileage for making a return, except as required by the court.

7 § 7163. Election services.

8 For services performed under section 7152 (relating to
9 election services), the constables and deputies performing the
10 services shall receive the same compensation payable to
11 inspectors and clerks under section 412.2(a) of the act of June
12 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election
13 Code. The compensation shall be paid by the county and the sum
14 shall include pay for serving notices in writing to persons
15 elected at the election.

16 § 7164. Impounding, selling and viewing fees.

17 (a) Impounding and selling.--The fees collected by the
18 constable for impounding an animal shall be \$1 and \$2 for each
19 animal sold, provided the fees of the constable for impounding
20 and selling amount to not more than \$4. The fees of the
21 magisterial district judge shall be \$1 for each case, without
22 regard to the number of animals impounded, for all cases where
23 no sale is made and \$3 for all cases where a sale is made.

24 (b) Viewing.--The fees for each viewer appointed to assess
25 the damages shall be \$1 for the first hour and \$.50 per hour for
26 each hour necessarily engaged after the first hour.

27 § 7165. Seizure fees.

28 (a) Registration plates and cards.--If constables and deputy
29 constables are delegated authority to seize registration plates
30 and registration cards under 75 Pa.C.S. § 1376(b)(5) (relating

1 to surrender of registration plates and cards upon suspension or
2 revocation), they shall be compensated by the department at the
3 rate of \$15 for each registration plate and card jointly seized,
4 plus mileage. The department shall pay a constable or deputy
5 constable within 30 days after a documented request for payment
6 is submitted to it.

7 (b) Drivers' licenses.--If constables and deputy constables
8 are delegated authority to seize drivers' licenses under 75
9 Pa.C.S. § 1540(c)(1)(v) (relating to surrender of license), they
10 shall be compensated by the department at the rate of \$15 for
11 each driver's license seized, plus mileage. The department shall
12 pay a constable or deputy constable within 30 days after a
13 documented request is submitted to it.

14 § 7166. Returns to court.

15 (a) Scope.--This section shall apply to counties of the
16 sixth, seventh and eighth class.

17 (b) Requirements.--No compensation for making a return to
18 court shall be paid to a constable unless he has appeared in
19 court and presented his return containing information required
20 by the court, at the regular time fixed by law for making the
21 return.

22 SUBCHAPTER H

23 PENALTIES AND REMEDIES

24 Sec.

25 7171. Election notice in certain areas.

26 7172. Incompetence.

27 7173. Taxes.

28 7174. Action against security.

29 7175. Criminal penalty.

30 7176. Compensation violation.

1 7177. Failure to execute process.

2 7178. Failure to serve in a township.

3 § 7171. Election notice in certain areas.

4 (a) Scope.--This section applies to wards, townships and
5 districts.

6 (b) Acting constables.--The acting constable shall, within
7 six days after the election for a constable, give notice in
8 writing to the elected individual of election to the office. An
9 acting constable who violates this subsection shall pay a civil
10 penalty of \$16 to the Commonwealth.

11 (c) Elected constables.--An individual elected and notified
12 under subsection (b) shall appear on the next day that the court
13 of common pleas of the applicable judicial district is in
14 session and either decline or accept the office. A constable
15 elect who violates this subsection shall pay a civil penalty of
16 \$16 to the Commonwealth.

17 (d) Court.--The applicable court of common pleas has the
18 authority to levy the penalty under subsection (b) or (c).

19 § 7172. Incompetence.

20 (a) Inquiry.--A court of common pleas with competent
21 jurisdiction may inquire into the official conduct of the
22 constable if any of the following apply:

23 (1) A surety of the constable files a verified petition
24 alleging that the constable is incompetent to discharge
25 official duties because of intemperance or neglect of duty.

26 (2) Any person files a verified petition alleging that
27 the constable is incompetent to discharge official duties for
28 a reason other than intemperance or neglect of duty. This
29 paragraph includes an act of oppression of a litigant or a
30 witness.

1 (b) Determination.--If the court determines that the
2 constable is incompetent to discharge official duties, the
3 following apply:

4 (1) The court may:

5 (i) require additional security from the constable;

6 or

7 (ii) remove the constable from office.

8 (2) Upon removal under paragraph (1)(ii), the court may
9 appoint a suitable individual to fill the vacancy until a
10 successor is elected and qualified. The appointed individual
11 must have a freehold estate with at least \$1,000 beyond
12 incumbrance or furnish security.

13 § 7173. Taxes.

14 If a constable defaults on remittance of collected tax
15 pursuant to law, all of the following apply:

16 (1) The constable is no longer authorized to receive
17 tax.

18 (2) The person that was entitled to the remittance shall
19 publish, three times in three daily newspapers, notice of the
20 loss of authority under paragraph (1).

21 (3) The constable may not draw compensation until the
22 default is cured.

23 § 7174. Action against security.

24 (a) Scope.--This section applies to a constable subject to
25 all of the following:

26 (1) The constable has furnished security for the
27 faithful performance of the duties of office.

28 (2) The constable fails to perform the duties of office.

29 (3) One of the following subparagraphs applies:

30 (i) The constable leaves the country before a

1 judgment is entered on the failure under paragraph (2).

2 (ii) A judgment is entered against the constable for
3 failure under paragraph (2), and the judgment cannot be
4 paid.

5 (b) Procedure.--A court of competent jurisdiction may issue
6 a writ of scire facias and proceed against the security.

7 (c) Appeal.--A surety and a constable may appeal from a
8 judgment on a writ under subsection (b).

9 § 7175. Criminal penalty.

10 A constable who neglects or refuses to perform the duties
11 under the act of June 3, 1937 (P.L.1333, No.320), known as the
12 Pennsylvania Election Code, commits a misdemeanor of the third
13 degree and shall, upon conviction, be sentenced to pay a fine of
14 \$500 or to imprisonment for not less than one month nor more
15 than one year, or both.

16 § 7176. Compensation violation.

17 A constable who violates the act of July 14, 1897 (P.L.206,
18 No.209), entitled "An act to regulate the remuneration of
19 policemen and constables employed as policemen throughout the
20 Commonwealth of Pennsylvania, and prohibiting them from charging
21 or accepting any fee or other compensation, in addition to their
22 salary, except as public rewards and mileage for traveling
23 expenses," commits a misdemeanor of the third degree and shall,
24 upon conviction, be sentenced to pay a fine of \$50 or to
25 imprisonment for not more than 30 days, or both.

26 § 7177. Failure to execute process.

27 (a) Scope.--This section applies to a constable subject to
28 all of the following:

29 (1) The constable is entrusted with a the execution of a
30 process for the collection of money.

1 (2) The constable, by neglect of duty, fails to collect
2 the money.

3 (3) The constable's security is used to pay the money.

4 (b) Equitable interest.--The person that pays the security
5 under subsection (a) (3):

6 (1) has an equitable interest in the judgment; and

7 (2) may collect the judgment in the name of the party
8 that won the judgment.

9 § 7178. Failure to serve in a township.

10 (a) Scope.--This section applies to an individual in a
11 township if all of the following circumstances exist:

12 (1) The individual is elected or appointed a constable.

13 (2) The individual has a freehold estate worth at least
14 \$1,000.

15 (3) The individual fails to:

16 (i) serve; or

17 (ii) appoint a deputy to serve.

18 (b) Fine.--Except as set forth in subsection (c), an
19 individual under subsection (a) shall be fined \$40 for the use
20 of the appropriate township.

21 (c) Exception.--Subsection (b) shall not apply to an
22 individual who:

23 (1) has served personally or by deputy in the office of
24 constable of the same township within 15 years of election or
25 appointment; or

26 (2) has paid a fine under subsection (b) within 15 years
27 of election or appointment.

28 Section 3. Sections 1376(b) (5) and 1540(c) (1) (v) of Title 75
29 are amended to read:

30 § 1376. Surrender of registration plates and cards upon

1 suspension or revocation.

2 * * *

3 (b) Delegation of authority.--If after 30 days from the mail
4 date of a notice of suspension or revocation, the registration
5 plates and cards are not surrendered under subsection (a), the
6 department may delegate authority to the following persons to
7 seize a registration plate and registration card which are
8 required to be surrendered under subsection (a):

9 * * *

10 (5) Constables or deputy constables. [If constables and
11 deputy constables are delegated authority to seize
12 registration plates and registration cards under this
13 section, they shall be compensated by the department at the
14 rate of \$15 for each registration plate and card jointly
15 seized, plus mileage. The department shall pay a constable or
16 deputy constable within 30 days after a documented request
17 for payment is submitted to it.]

18 * * *

19 § 1540. Surrender of license.

20 * * *

21 (c) Seizure of revoked, suspended, canceled or disqualified
22 licenses.--

23 (1) The department may delegate authority to the
24 following persons to seize the driver's license of any person
25 whose driver's license has been ordered to be surrendered by
26 a court or district attorney or by the department:

27 * * *

28 (v) Constables or deputy constables. [If constables
29 and deputy constables are delegated authority to seize
30 drivers' licenses under this subsection, they shall be

1 compensated by the department at the rate of \$15 for each
2 driver's license seized, plus mileage. The department
3 shall pay a constable or deputy constable within 30 days
4 after a documented request is submitted to it.]

5 * * *

6 Section 4. Repeals are as follows:

7 (1) The General Assembly declares that the repeals under
8 paragraph (2) are necessary to effectuate the addition of 44
9 Pa.C.S. Ch. 71 Subchs. A, B, C, D, F, G and H.

10 (2) The following acts and parts of acts are repealed to
11 the extent specified:

12 (i) Section 1 of the act of 1799 (3 Sm.L.2012 Ch.6),
13 entitled "A supplement to the act, entitled 'An act to
14 extend the powers of the justices of the peace of this
15 state,'" absolutely.

16 (ii) Sections 12 and 19 of the act of March 20, 1810
17 (P.L.208, No.132), entitled "An act to amend and
18 consolidate with its Supplements, the Act entitled 'An
19 act for the recovery of debts and demands, not exceeding
20 one hundred dollars, before a Justice of the Peace, and
21 for the election of Constables, and for other purposes,"
22 absolutely.

23 (iii) Section 3 of the act of April 24, 1829
24 (P.L.369, No.216), entitled "A further supplement to the
25 act entitled An act to amend and consolidate with its
26 supplements, the act entitled An act for the recovery of
27 debts and demands not exceeding one hundred dollars
28 before a justice of the peace, and for the election of
29 constables, and for other purposes," absolutely.

30 (iv) Sections 107, 108, 109, 110, 111, 112, 113 and

1 114 of the act of April 15, 1834 (P.L.537, No.247),
2 entitled "An act relating to counties and townships, and
3 county and township officers," absolutely.

4 (v) Section 12 of the act of October 13, 1840
5 (Special Session 1, P.L. 1, No.258).

6 (vi) Section 14 of the act of May 27, 1841 (P.L.400,
7 No.141), entitled "An act relating to the Election of
8 County Treasurers, and for other purposes," absolutely.

9 (vii) Section 19 of the act of April 22, 1850
10 (P.L.549, No.342), entitled "A supplement to an act,
11 entitled 'An Act to prevent waste in certain cases within
12 this commonwealth,' passed the twenty-ninth day of March,
13 one thousand eight hundred and twenty-two; to land and
14 building associations; giving the court of Susquehanna
15 county jurisdiction in a certain case; relative to the
16 service of process in certain cases; to party walls in
17 West Philadelphia; to the proof of a certain will; to the
18 sale and purchase of certain burial grounds in
19 Philadelphia; to the laying of gas pipes in the district
20 of Moyamensing; to the release of certain sureties in
21 Erie county; to the State Lunatic hospital; relative to
22 the service of process against sheriffs; to the rights of
23 married women; to ground rents; and relating to foreign
24 insurance companies," absolutely.

25 (viii) Section 15 of the act of April 21, 1855
26 (P.L.264, No.281), entitled "A supplement to the act
27 Consolidating the city of Philadelphia," absolutely.

28 (ix) Section 17 of the act of April 21, 1855
29 (P.L.264, No.281), as to constables.

30 (x) Section 1 of the act of May 3, 1876 (P.L.99,

1 No.67), entitled "An act regulating procedure for
2 violation of ordinances of cities of the first class," as
3 to constables.

4 (xi) Section 1 of the act of February 12, 1889
5 (P.L.3, No.1), entitled "An act to provide for the
6 commencement of the terms of office of councilmen,
7 constables and school directors in new wards, when
8 erected in cities of the first class under existing laws
9 and where the several wards constitute separate school
10 districts, to provide for the supervision of the public
11 schools in such new wards until the organization of the
12 board of school directors of the new school section, and
13 to provide for the term of councilmen and constables
14 already elected by the voters of the old ward," as to
15 constables.

16 (xii) Section 1 of the act of February 14, 1889
17 (P.L.6, No.5), entitled "An act to authorize the election
18 of constables for three years," absolutely.

19 (xiii) Section 1 of the act of May 4, 1889 (P.L.83,
20 No.79), entitled "An act to authorize the election of
21 constables for three years in cities of the second and
22 third class," absolutely.

23 (xiv) Section 1 of the act of April 29, 1897
24 (P.L.29, No.25), entitled "An act to authorize constables
25 and other peace officers, without first procuring a
26 warrant, to arrest persons reasonably suspected by them
27 of offending against the laws protecting timber lands,"
28 absolutely.

29 (xv) Section 1 of the act of June 4, 1897 (P.L.121,
30 No.101), entitled "An act relating to boroughs, providing

1 a method of procedure for violations of law and borough
2 ordinances, and for the collection of the fines and
3 penalties imposed for said violations," as to constables.

4 (xvi) Section 2 of the act of July 14, 1897
5 (P.L.266, No.209), entitled "An act to regulate the
6 remuneration of policemen and constables employed as
7 policemen throughout the Commonwealth of Pennsylvania,
8 and prohibiting them from charging or accepting any fee
9 or other compensation, in addition to their salary,
10 except as public rewards and mileage for traveling
11 expenses," absolutely.

12 (xvii) Section 3 of the act of July 14, 1897
13 (P.L.266, No.209), as to constables.

14 (xviii) Section 1 of the act of April 25, 1905
15 (P.L.309, No.214), entitled "An act authorizing policemen
16 to hold and exercise the office of constables,"
17 absolutely.

18 (xix) Section 1 of the act of April 23, 1909
19 (P.L.151, No.104), entitled "An act fixing the fees to be
20 received by constables in this Commonwealth," absolutely.

21 (xx) Section 1 of the act of June 9, 1911 (P.L.727,
22 No.299), entitled "An act authorizing the election in
23 first class townships of an additional constable, and
24 fixing his term," absolutely.

25 (xxi) Section 1 of the act of June 19, 1913
26 (P.L.534, No.342), entitled "An act relating to
27 appointment of deputy constables," absolutely.

28 (xxii) Sections 1, 2 and 3 of the act of May 31,
29 1919 (P.L.357, No.171), entitled "An act relating to the
30 duties of constables in certain counties; prohibiting

1 them from making returns to the court of quarter sessions
2 in certain cases; authorizing the court to direct
3 investigations and reports by constables, and fixing
4 their compensation in such cases," absolutely.

5 (xxiii) Section 14 of the act of June 28, 1923
6 (P.L.903, No.348), entitled "A supplement to an act,
7 approved the fourteenth day of May, one thousand nine
8 hundred and fifteen (Pamphlet Laws, three hundred and
9 twelve), entitled 'An act providing a system for
10 government of boroughs, and revising, amending, and
11 consolidating the law relating to boroughs'; so as to
12 provide a system of government where a borough now has
13 annexed or hereafter shall annex land in an adjoining
14 county, including assessment of property, levying and
15 collection of taxes, making municipal improvements, and
16 filing and collecting of liens for the same; the
17 jurisdiction of courts for the enforcement of borough
18 ordinances and State laws, and primary, general,
19 municipal, and special elections; and repealing
20 inconsistent laws," absolutely.

21 (xxiv) Section 1 of the act of April 6, 1925
22 (P.L.155, No.113), entitled "An act providing constables'
23 fees for service of writs in juvenile cases," absolutely.

24 (xxv) Section 1 of the act of March 20, 1929
25 (P.L.32, No.32), entitled "An act providing for the
26 filling of vacancies in the office of constable in any
27 borough, town, ward of any city, borough, or town or
28 township of this Commonwealth," absolutely.

29 (xxvi) Sections 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the
30 act of June 10, 1931 (P.L.492, No.156), entitled "An act

1 relating to the trespassing of live stock on improved
2 lands; providing for the taking up, impounding and sale
3 thereof; imposing duties on and fixing the fees of
4 constables, justices of the peace, and viewers appointed
5 in connection therewith; prescribing the procedure for
6 repossession by the owner thereof; providing for the
7 fixing and taxing of costs, including attorneys' fees;
8 and repealing inconsistent legislation," absolutely.

9 (xxvii) Section 1 of the act of February 28, 1933
10 (P.L.5, No.3), entitled "An act relating to constables'
11 returns to the court of quarter sessions," absolutely.

12 (xxviii) Section 412.2(g) of the act of June 3, 1937
13 (P.L.1333, No.320), entitled "An act concerning
14 elections, including general, municipal, special and
15 primary elections, the nomination of candidates, primary
16 and election expenses and election contests; creating and
17 defining membership of county boards of elections;
18 imposing duties upon the Secretary of the Commonwealth,
19 courts, county boards of elections, county commissioners;
20 imposing penalties for violation of the act, and
21 codifying, revising and consolidating the laws relating
22 thereto; and repealing certain acts and parts of acts
23 relating to elections," absolutely.

24 (xxix) The first two sentences of section 1207 of
25 the act of June 3, 1937 (P.L.1333, No.320), absolutely.

26 (xxx) Section 1822 of the act of June 3, 1937
27 (P.L.1333, No.320), absolutely.

28 (xxxi) Section 1 of the act of May 26, 1943
29 (P.L.637. No.280), entitled "An act providing that the
30 terms of constables hereafter elected in cities of the

second, second class A and third classes, boroughs and townships, shall be for six years," absolutely.

(xxxii) Section 1 of the act of April 3, 1955 (1956 P.L.1382, No.441), entitled "An act making the offices of constable and justice of the peace or alderman incompatible," absolutely.

(xxxiii) Section 1126 of the act of February 1, 1966 (1965 P.L.1656, No.581), entitled "An act concerning boroughs, and revising, amending and consolidating the law relating to boroughs," absolutely.

(xxxiv) Section 1 of the act of February 2, 1970 (P.L.2, No.2), entitled "An act abolishing the office of constable in the City of Philadelphia and providing for the performance of duties under The Landlord and Tenant Act of 1951," absolutely.

(xxxv) Sections 1 and 2 of the act of June 29, 1976 (P.L.475, No.121), entitled "An act clarifying the powers of constables, county detectives, sheriffs, deputy sheriffs, waterways patrolmen and game protectors," as to constables.

(xxxvi) Section 10 of the act of October 4, 1978 (P.L.883, No.170), entitled "An act relating to conflicts of interest involving certain public officials serving in State or State agencies and local political subdivision positions and prohibiting certain public employees from engaging in certain conflict of interest activities requiring certain disclosures and providing penalties," absolutely.

(3) All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 5. The General Assembly finds and declares as follows:

(1) THIS ACT CONSOLIDATES A MAJOR TITLE OF THE
PENNSYLVANIA CONSOLIDATED STATUTES.

(2) IN ORDER TO FURTHER THE PROCESS OF STATUTORY CONSOLIDATION, IT IS NECESSARY TO ELIMINATE OBSOLETE PROVISIONS IN EVERY TITLE OF THE PENNSYLVANIA CONSOLIDATED STATUTES.

(3) THE REPEAL OF 44 PA.C.S. CH. 53 IS NECESSARY BECAUSE THE CHAPTER BECAME OBSOLETE WHEN IT WAS REPLACED BY 61 PA.C.S. CH. 45 IN THE ACT OF AUGUST 11, 2009 (P.L.147, NO.33), ENTITLED "AN ACT AMENDING TITLE 42 (JUDICIARY AND JUDICIAL PROCEDURE) AND CODIFYING TITLE 61 (PENAL AND CORRECTIONAL INSTITUTIONS) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, FURTHER PROVIDING FOR ADOPTION OF GUIDELINES FOR RESENTENCING, FOR ADOPTION OF GUIDELINES FOR PAROLE AND FOR ADOPTION OF RECOMMITMENT RANGES FOLLOWING REVOCATION OF PAROLE BY BOARD; PROVIDING FOR TEMPORARY RELEASE FROM COUNTY CORRECTIONAL INSTITUTIONS; FURTHER PROVIDING FOR SENTENCE OF TOTAL CONFINEMENT; PROVIDING FOR PAROLE WITHOUT BOARD SUPERVISION, FOR JUDICIAL POWER TO RELEASE INMATES AND FOR TRANSFERS OF INMATES IN NEED OF MEDICAL TREATMENT; FURTHER PROVIDING FOR STATE INTERMEDIATE PUNISHMENT; PROVIDING FOR OTHER CRIMINAL PROVISIONS; AMENDING THE HEADING OF TITLE 61; ADDING DEFINITIONS, PROVISIONS RELATING TO GENERAL ADMINISTRATION OF CORRECTIONAL INSTITUTIONS, STATE CORRECTIONAL INSTITUTIONS, COUNTY CORRECTIONAL INSTITUTIONS, HOUSE OF DETENTION FOR UNTRIED INMATES AND WITNESSES, INMATE LABOR, MEDICAL SERVICES, VISITATION, INMATE PRERELEASE PLANS, MOTIVATIONAL BOOT CAMP, EXECUTION PROCEDURE AND METHOD,

1 RECIDIVISM RISK REDUCTION INCENTIVE, MISCELLANEOUS MATTERS
2 RELATING THERETO, PROBATION AND PAROLE GENERALLY, THE
3 PENNSYLVANIA BOARD OF PROBATION AND PAROLE, COUNTY PROBATION
4 AND PAROLE OFFICERS' FIREARM EDUCATION AND TRAINING, AND
5 CORRECTIONAL INSTITUTION INTERSTATE COMPACTS; AND MAKING
6 CONFORMING AMENDMENTS, EDITORIAL CHANGES AND REPEALS RELATING
7 TO CODIFICATION."

8 (4) The addition of 44 Pa.C.S. Ch. 71 Subchs. A, B, C,
9 D, F, G and H is a continuation of the statutory provisions
10 repealed in section 4(2) of this act. The following apply:

11 (i) Except as otherwise provided in 44 Pa.C.S. Ch.
12 71, all activities initiated under the statutory
13 provisions repealed in section 4(2) of this act shall
14 continue and remain in full force and effect and may be
15 completed under 44 Pa.C.S. Ch. 71. Orders, regulations,
16 rules and decisions which were made under the statutory
17 provisions set forth in section 4(2) of this act and
18 which are in effect on the effective date of 4(2) of this
19 act shall remain in full force and effect until revoked,
20 vacated or modified under 44 Pa.C.S. Ch. 71. Contracts,
21 obligations and collective bargaining agreements entered
22 into under the statutory provisions repealed in section
23 4(2) of this act are not affected nor impaired by the
24 repeal in section 4(2) of this act.

25 (ii) Except as set forth in subparagraph (iii), any
26 difference in language between 44 Pa.C.S. Ch. 71 Subchs.
27 A, B, C, D, F and G and the statutory provisions repealed
28 in section 4(2) of this act is intended only to conform
29 to the style of the Pennsylvania Consolidated Statutes
30 and is not intended to change or affect the legislative

1 intent, judicial construction or administration and
2 implementation of the statutory provisions repealed in
3 section 4(2) of this act.

4 (iii) Subparagraph (ii) does not apply to any of the
5 following provisions of Title 44:

6 (A) Section 7112.

7 (B) Section 7113.

8 (C) Section 7114(a).

9 (D) Section 7143(h).

10 (E) Section 7148(b).

11 (F) Section 7149(b).

12 (G) Section 7151.

13 ~~(2)~~ (5) The provisions on constable training have been 
14 transferred from former 42 Pa.C.S. §§ 2941 through 2949 to 44
15 Pa.C.S. Ch. 71 Subch. E. Revisions have been made in 44
16 Pa.C.S. §§ 7143(h), 7148(b) and 7149(b). Except as otherwise
17 provided in 44 Pa.C.S. Ch. 71, all activities initiated under
18 former 42 Pa.C.S. §§ 2941 through 2949 shall continue and
19 remain in full force and effect and may be completed under 44
20 Pa.C.S. Ch. 71 Subch. E. Orders, regulations, rules and
21 decisions which were made under former 42 Pa.C.S. §§ 2941
22 through 2949 and which are in effect on the effective date of
23 section 1 (42 Pa.C.S. §§ 2941 through 2949) of this act shall
24 remain in full force and effect until revoked, vacated or
25 modified under 44 Pa.C.S. Ch. 71 Subch. E. Contracts,
26 obligations and collective bargaining agreements entered into
27 under former 42 Pa.C.S. §§ 2941 through 2949 and which are in
28 effect on the effective date of section 1 (42 Pa.C.S. §§ 2941
29 through 2949) of this act are not affected nor impaired by
30 section 1 (42 Pa.C.S. §§ 2941 through 2949) of this act.

1 ~~(3)~~ (6) Provisions on constable fees have been
2 transferred from 42 Pa.C.S. § 2950 to 44 Pa.C.S. § 7161.
3 Except as otherwise provided in 44 Pa.C.S. § 7161, all
4 activities initiated under former 42 Pa.C.S. § 2950 shall
5 continue and remain in full force and effect and may be
6 completed under 44 Pa.C.S. § 7161. Orders, regulations, rules
7 and decisions which were made under former 42 Pa.C.S. § 2950
8 and which are in effect on the effective date of section 1
9 (42 Pa.C.S. § 2950) of this act shall remain in full force
10 and effect until revoked, vacated or modified under 44
11 Pa.C.S. § 7161. Contracts, obligations and collective
12 bargaining agreements entered into under former 42 Pa.C.S. §
13 2950 and which are in effect on the effective date of section
14 1 (42 Pa.C.S. § 2950) of this act are not affected nor
15 impaired by section 1 (42 Pa.C.S. § 2950) of this act.

16 ~~Section 6. This act shall take effect in 60 days.~~

17 (7) THIS ACT DEALS WITH FEES AND FUNDS AFFECTING THE
18 JUDICIAL BRANCH OF STATE GOVERNMENT, INCLUDING FEES WHICH MAY
19 BE CHARGED BY CONSTABLES IN CIVIL AND CRIMINAL CASES AND
20 ADDITIONAL FEES AND SURCHARGES ON THE INITIATION OF LEGAL
21 PROCEEDINGS AND ON THE FILING OF LEGAL DOCUMENTS. IN ORDER TO
22 FURTHER THE PROCESS OF STATUTORY CONSOLIDATION, IT IS
23 NECESSARY TO MAINTAIN AND CONTINUE THE COORDINATION OF FEES
24 AND FUNDING AFFECTING ANY BRANCH OF STATE GOVERNMENT.

25 SECTION 6. IF THIS SECTION TAKES EFFECT AFTER OCTOBER 13,
26 2009, THE REPEAL OF 44 PA.C.S. CH. 53 SHALL APPLY RETROACTIVELY
27 TO OCTOBER 13, 2009.

28 SECTION 7. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

29 (1) THE REPEAL OF 44 PA.C.S. CH. 53 SHALL TAKE EFFECT
30 OCTOBER 13, 2009, OR IMMEDIATELY, WHICHEVER IS LATER.

1 (2) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
2 IMMEDIATELY:
3 (I) SECTIONS 5(1), (2) AND (3) AND 6 OF THIS ACT.
4 (II) THIS SECTION.
5 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
6 DAYS.