

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 184 Session of  
2011

---

INTRODUCED BY GODSHALL, MICOZZIE, REED, BOYD, CALTAGIRONE,  
CREIGHTON, CUTLER, EVERETT, GINGRICH, GROVE, O'NEILL, ROAE  
AND ROSS, JANUARY 24, 2011

---

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 24, 2011

---

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, adding and changing  
3 definitions; further providing for the unified judicial  
4 system; establishing the appellate division of Medical  
5 Professional Liability Court; further providing for transfers  
6 between intermediate appellate courts, for lien of judgments  
7 for money, for direct appeals to the Supreme Court from  
8 courts of common pleas, for allowance of appeals from  
9 Superior and Commonwealth Courts, for appeals to Superior  
10 Court from courts of common pleas, for original jurisdiction  
11 of the Commonwealth Court and for appeals to the Commonwealth  
12 Court from courts of common pleas; providing for the  
13 jurisdiction of the appellate division of Medical  
14 Professional Liability Court and for the organization and  
15 jurisdiction of the Medical Professional Liability Court;  
16 establishing the Medical Professional Liability Court  
17 Qualifications Commission and prescribing its powers and  
18 duties; further providing for selection of judicial officers,  
19 for vacancies in judicial offices and for retention election  
20 of judicial officers; providing for selection and retention  
21 of judges of the Medical Professional Liability Court and for  
22 salaries of judges of the Medical Professional Liability  
23 Court; establishing the Medical Professional Liability Court  
24 Fund and providing for receipts and payments; further  
25 providing for right to appellate review and for appeals  
26 generally; and making editorial changes.

27 The General Assembly of the Commonwealth of Pennsylvania  
28 hereby enacts as follows:

29 Section 1. The definition of "appellate court" in section

1 102 of Title 42 of the Pennsylvania Consolidated Statutes is  
2 amended and the section is amended by adding definitions to  
3 read:

4 § 102. Definitions.

5 Subject to additional definitions contained in subsequent  
6 provisions of this title which are applicable to specific  
7 provisions of this title, the following words and phrases when  
8 used in this title shall have, unless the context clearly  
9 indicates otherwise, the meanings given to them in this section:

10 \* \* \*

11 "Appellate court." Includes the Supreme Court, the Superior  
12 Court [and], the Commonwealth Court[.] and the appellate  
13 division of Medical Professional Liability Court.

14 "Appellate division." The appellate division of Medical  
15 Professional Liability Court established under section 581  
16 (relating to appellate division of Medical Professional  
17 Liability Court).

18 \* \* \*

19 "Medical Professional Liability Court." The court  
20 established under section 811 (relating to Medical Professional  
21 Liability Court).

22 "Medical Professional Liability Court rule." A rule or order  
23 promulgated by the Medical Professional Liability Court.

24 \* \* \*

25 "Statewide judges." Judges of the Supreme Court, Superior  
26 Court, Commonwealth Court and Medical Professional Liability  
27 Court.

28 \* \* \*

29 Section 2. Section 301 of Title 42 is amended to read:

30 § 301. Unified judicial system.

1 The judicial power of the Commonwealth shall be vested in a  
2 unified judicial system consisting of the:

3 (1) Supreme Court.

4 (2) Superior Court.

5 (3) Commonwealth Court.

6 (4) Medical Professional Liability Court.

7 [(4)] (5) Courts of common pleas.

8 [(5)] (6) Community courts.

9 [(6)] (7) Philadelphia Municipal Court.

10 [(7)] (8) Pittsburgh Magistrates Court.

11 [(8)] (9) Traffic Court of Philadelphia.

12 [(9)] (10) Magisterial district judges.

13 All courts and magisterial district judges and their  
14 jurisdiction shall be in this unified judicial system.

15 Section 3. Chapter 5 of Title 42 is amended by adding a  
16 subchapter to read:

17 SUBCHAPTER D

18 APPELLATE DIVISION OF MEDICAL PROFESSIONAL

19 LIABILITY COURT OF PENNSYLVANIA

20 Sec.

21 581. Appellate division of Medical Professional Liability  
22 Court.

23 582. Powers of appellate division.

24 583. Seat of appellate division.

25 § 581. Appellate division of Medical Professional Liability  
26 Court.

27 (a) General rule.--There shall be an appellate division of  
28 Medical Professional Liability Court which shall consist of the  
29 president judge and the other judges in regular active service.

30 (b) Panels and en banc.--When reviewing orders of the

1 Medical Professional Liability Court, the appellate division  
2 shall sit in panels, and no member of the appellate division  
3 shall participate as a member of a panel in the judicial review  
4 of any order or other action in which the person participated as  
5 a matter of original jurisdiction. A decision of a panel may be  
6 reviewed by the division en banc.

7 § 582. Powers of appellate division.

8 The appellate division of Medical Professional Liability  
9 Court shall have all powers necessary or appropriate in aid of  
10 its jurisdiction which are agreeable to the usages and  
11 principles of law.

12 § 583. Seat of appellate division.

13 The regular sessions of the appellate division of Medical  
14 Professional Liability Court shall be held in the cities of  
15 Harrisburg, Philadelphia and Pittsburgh and elsewhere as  
16 prescribed by Medical Professional Liability Court rule.

17 Section 4. Sections 705, 707, 722, 724, 742, 761(a) and  
18 762(b) of Title 42 are amended to read:

19 § 705. Transfers [between] among intermediate appellate courts.

20 The Superior Court [and], the Commonwealth Court and the  
21 appellate division of Medical Professional Liability Court shall  
22 have power pursuant to general rules, on their own motion or  
23 upon [petition] application of any party, to transfer any appeal  
24 to [the other court] another appellate court or division for  
25 consideration and decision with any matter pending in such other  
26 court or division involving the same or related questions of  
27 fact, law or discretion.

28 § 707. Lien of judgments for money.

29 Any judgment or other order of the Supreme Court, the  
30 Superior Court [or], the Commonwealth Court or the appellate

1 division of Medical Professional Liability Court for the payment  
2 of money shall not be a lien upon real property in any county  
3 until it is entered of record in the office of the clerk of the  
4 court of common pleas of the county where the property is  
5 situated, or in the office of the clerk of the branch of the  
6 court of common pleas embracing such county, in the same manner  
7 as a judgment transferred from the court of common pleas of  
8 another county.

9 § 722. Direct appeals from courts of common pleas.

10 (a) General rule.--The Supreme Court shall have exclusive  
11 jurisdiction of appeals from final orders of the courts of  
12 common pleas in the following classes of cases:

13 (1) Matters prescribed by general rule.

14 (2) The right to public office.

15 (3) Matters where the qualifications, tenure or right to  
16 serve, or the manner of service, of any member of the  
17 judiciary is drawn in question.

18 (4) Automatic review of sentences as provided by [42  
19 Pa.C.S. §§] sections 9546(d) (relating to relief and order)  
20 and 9711(h) (relating to review of death sentence).

21 (5) Supersession of a district attorney by an Attorney  
22 General or by a court or where the matter relates to the  
23 convening, supervision, administration, operation or  
24 discharge of an investigating grand jury or otherwise  
25 directly affects such a grand jury or any investigation  
26 conducted by it.

27 (6) Matters where the right or power of the Commonwealth  
28 or any political subdivision to create or issue indebtedness  
29 is drawn in direct question.

30 (7) Matters where the court of common pleas has held

1 invalid as repugnant to the Constitution, treaties or laws of  
2 the United States, or to the Constitution of this  
3 Commonwealth, any treaty or law of the United States or any  
4 provision of the Constitution of, or of any statute of, this  
5 Commonwealth, or any provision of any home rule charter.

6 (8) Matters where the right to practice law is drawn in  
7 direct question.

8 (b) Exception.--The Supreme Court shall not have  
9 jurisdiction under subsection (a)(7) of the classes of appeals  
10 from the courts of common pleas as are under section 762  
11 (relating to appeals from courts of common pleas) within the  
12 exclusive jurisdiction of the appellate division of Medical  
13 Professional Liability Court.

14 § 724. Allowance of appeals from [Superior and Commonwealth  
15 Courts] intermediate appellate courts.

16 (a) General rule.--Except as provided by section 9781(f)  
17 (relating to limitation on additional appellate review), final  
18 orders of the Superior Court and final orders of the  
19 Commonwealth Court not appealable under section 723 (relating to  
20 appeals from Commonwealth Court) may be reviewed by the Supreme  
21 Court upon allowance of appeal by any two justices of the  
22 Supreme Court upon petition of any party to the matter.

23 (a.1) Medical Professional Liability Court appeals.--Final  
24 orders of the appellate division of Medical Professional  
25 Liability Court may be reviewed by the Supreme Court upon  
26 allowance of appeal by any two justices of the Supreme Court  
27 upon petition of any party to the matter if the petition is  
28 granted within 90 days after it is filed.

29 (a.2) Scope of review.--If the petition shall be granted,  
30 the Supreme Court shall have jurisdiction to review the order in

1 the manner provided by section 5105(d)(1) (relating to scope of  
2 appeal).

3 (b) Improvident appeals.--If an appeal is improvidently  
4 taken to the Supreme Court under section 723 in a case where the  
5 proper mode of review is by petition for allowance of appeal  
6 under this section, this alone shall not be a ground for  
7 dismissal, but the papers whereon the appeal was taken shall be  
8 regarded and acted on as a petition for allowance of appeal and  
9 as if duly filed at the time the appeal was taken.

10 § 742. Appeals from courts of common pleas.

11 The Superior Court shall have exclusive appellate  
12 jurisdiction of all appeals from final orders of the courts of  
13 common pleas, regardless of the nature of the controversy or the  
14 amount involved, except such classes of appeals as are by any  
15 provision of this chapter within the exclusive jurisdiction of  
16 the Supreme Court [or], the Commonwealth Court or the appellate  
17 division of Medical Professional Liability Court.

18 § 761. Original jurisdiction.

19 (a) General rule.--The Commonwealth Court shall have  
20 original jurisdiction of all civil actions or proceedings:

21 (1) Against the Commonwealth government, including any  
22 officer thereof, acting in his official capacity, except:

23 (i) actions or proceedings in the nature of  
24 applications for a writ of habeas corpus or post-  
25 conviction relief not ancillary to proceedings within the  
26 appellate jurisdiction of the court;

27 (ii) eminent domain proceedings;

28 (iii) actions or proceedings conducted pursuant to  
29 Chapter 85 (relating to matters affecting government  
30 units);

1 (iv) actions or proceedings conducted pursuant to  
2 [the act of May 20, 1937 (P.L.728, No.193), referred to  
3 as the Board of Claims Act; and] 62 Pa.C.S. Ch. 17 Subch.  
4 C (relating to Board of Claims);

5 (v) actions or proceedings in the nature of trespass  
6 as to which the Commonwealth government formerly enjoyed  
7 sovereign or other immunity and actions or proceedings in  
8 the nature of assumpsit relating to such actions or  
9 proceedings in the nature of trespass[.]; and

10 (vi) matters as are under Subchapter C of Chapter 8  
11 (relating to jurisdiction of Medical Professional  
12 Liability Court) within the jurisdiction of the Medical  
13 Professional Liability Court.

14 (2) By the Commonwealth government, including any  
15 officer thereof, acting in his official capacity, except:

16 (i) eminent domain proceedings[.]; and

17 (ii) matters as are under section 832 (relating to  
18 original jurisdiction) within the jurisdiction of the  
19 Medical Professional Liability Court.

20 [(3) Arising under Article V of the act of May 17, 1921  
21 (P.L.789, No.285), known as "The Insurance Department Act of  
22 1921."]

23 (4) Original jurisdiction of which is vested in the  
24 Commonwealth Court by any unrepealed statute hereafter  
25 enacted.

26 \* \* \*

27 § 762. Appeals from courts of common pleas.

28 \* \* \*

29 (b) Exception.--The Commonwealth Court shall not have  
30 jurisdiction of such classes of appeals from courts of common



1 pleas as are by [section]:

2 (1) Section 722 (relating to direct appeals from courts  
3 of common pleas) within the exclusive jurisdiction of the  
4 Supreme Court.

5 (2) Section 782 (relating to appeals from Medical  
6 Professional Liability Court original hearing matters) within  
7 the exclusive jurisdiction of the appellate division of  
8 Medical Professional Liability Court.

9 Section 5. Chapter 7 of Title 42 is amended by adding a  
10 subchapter to read:

11 SUBCHAPTER E

12 JURISDICTION OF APPELLATE DIVISION OF

13 MEDICAL PROFESSIONAL LIABILITY COURT

14 Sec.

15 781. Original jurisdiction.

16 782. Appeals from Medical Professional Liability Court original  
17 hearing matters.

18 783. Answer of certified questions of law.

19 784. Certification of questions of law.

20 § 781. Original jurisdiction.

21 The appellate division of Medical Professional Liability  
22 Court shall have no original jurisdiction, except:

23 (1) in cases of mandamus and prohibition to:

24 (i) the judges of the Medical Professional Liability  
25 Court when exercising the original jurisdiction of the  
26 Medical Professional Liability Court; or

27 (ii) courts of inferior jurisdiction where such  
28 relief is ancillary to matters within the appellate  
29 jurisdiction of the division; and

30 (2) that the division, or any member thereof, shall have

1 full power and authority when and as often as there may be  
2 occasion to issue writs of habeas corpus under like  
3 conditions returnable to the said court.

4 § 782. Appeals from Medical Professional Liability Court  
5 original hearing matters.

6 The appellate division of Medical Professional Liability  
7 Court shall have exclusive appellate jurisdiction of all appeals  
8 from final orders of the Medical Professional Liability Court  
9 entered by a single member thereof, regardless of the nature of  
10 the controversy or the amount involved.

11 § 783. Answer of certified questions of law.

12 (a) General rule.--The appellate division of Medical  
13 Professional Liability Court may answer questions of law  
14 certified to it by a United States appellate court or the  
15 highest appellate court or the intermediate appellate court of  
16 any other state or jurisdiction, when requested by the  
17 certifying court, if there are involved in any matter pending  
18 before the certifying court questions of law of this  
19 Commonwealth within the jurisdiction of the appellate division  
20 which may be determinative of the matter in the certifying court  
21 and as to which it appears to the certifying court there is no  
22 controlling precedent in the decisions of the appellate  
23 division.

24 (b) Contents of certification order.--A certification order  
25 shall set forth:

26 (1) The questions of law to be answered.

27 (2) A statement of all facts relevant to the questions  
28 certified and showing fully the nature of the controversy in  
29 which the question arose.

30 (c) Preparation of certification order.--The certification

1 order shall be prepared by the certifying court, signed by the  
2 judge presiding over the matter and forwarded to the appellate  
3 division of Medical Professional Liability Court by the clerk of  
4 the certifying court under its official seal. The appellate  
5 division may require the original or copies of all or of any  
6 portion of the record before the certifying court to be filed  
7 with the certification order if, in the opinion of the appellate  
8 division, the record or portion thereof may be necessary in  
9 answering the questions.

10 (d) Costs of certification.--Fees and costs shall be the  
11 same as in appeals docketed before the appellate division and  
12 shall be equally divided between the parties unless otherwise  
13 ordered by the certifying court in its order of certification.

14 (e) Briefs and argument.--Proceedings in the appellate  
15 division under this section shall be governed by Medical  
16 Professional Liability Court rules, which may provide  
17 specifically for the answering and certification of questions of  
18 law under this section.

19 (f) Opinion.--The written opinion of the appellate division  
20 stating the law governing the questions certified shall be sent  
21 by the clerk under the seal of the appellate division of Medical  
22 Professional Liability Court to the certifying court and to the  
23 parties. An order adopting a written opinion shall be subject to  
24 appeal under section 724(b) (relating to allowance of appeals  
25 from intermediate appellate courts).

26 § 784. Certification of questions of law.

27 (a) General rule.--The appellate division of Medical  
28 Professional Liability Court, on its own motion or on the  
29 application of any party, may order certification of questions  
30 of law to a United States appellate court or to the highest

1 appellate court or the intermediate appellate court of any other  
2 state or jurisdiction when it appears to the appellate division  
3 that:

4 (1) there are involved in any matter pending before the  
5 appellate division questions of law of the receiving  
6 jurisdiction which may be determinative of the matter in the  
7 appellate division; and

8 (2) there is not controlling precedent in the decisions  
9 of the appellate courts of the receiving jurisdiction.

10 (b) Law of case.--The certification order may contain an  
11 undertaking on behalf of the unified judicial system that the  
12 answer to the certified question shall be deemed the law of the  
13 case for the purposes of all further proceedings in the courts  
14 of this Commonwealth.

15 (c) Procedure.--The procedures for certification from this  
16 Commonwealth to the receiving jurisdiction shall be as provided  
17 by the laws of the receiving jurisdiction.

18 Section 6. The heading of Article C of Subpart A of Part II  
19 of Title 42 is amended to read:

20 ARTICLE C

21 MEDICAL PROFESSIONAL LIABILITY COURT

22 AND COURTS OF COMMON PLEAS

23 Section 7. Article C of Subpart A of Part II of Title 42 is  
24 amended by adding a chapter to read:

25 CHAPTER 8

26 ORGANIZATION AND JURISDICTION OF

27 MEDICAL PROFESSIONAL LIABILITY COURT

28 Subchapter

29 A. (Reserved)

30 B. Organization of Medical Professional Liability Court

1 C. Jurisdiction of Medical Professional Liability Court

2 D. Transitional Provisions

3 SUBCHAPTER A

4 (RESERVED)

5 SUBCHAPTER B

6 ORGANIZATION OF MEDICAL PROFESSIONAL

7 LIABILITY COURT

8 Sec.

9 811. Medical Professional Liability Court.

10 812. Powers of Medical Professional Liability Court.

11 813. Seat of court.

12 814. Lien of judgments for money.

13 § 811. Medical Professional Liability Court.

14 There shall be a Medical Professional Liability Court of  
15 Pennsylvania which shall consist of 18 judges.

16 § 812. Powers of Medical Professional Liability Court.

17 The Medical Professional Liability Court shall have power to  
18 issue, under its judicial seal, every lawful writ and process  
19 necessary or suitable for the exercise of its jurisdiction and  
20 for the enforcement of any order which it may make, including  
21 such writs and process to or to be served or enforced by system  
22 and related personnel as the courts of common pleas are  
23 authorized by law or usage to issue. The court shall also have  
24 all powers of a court of record possessed by the courts of  
25 common pleas.

26 § 813. Seat of court.

27 (a) Central filing.--The Medical Professional Liability  
28 Court shall maintain offices for the receipt of filings at one  
29 or more locations within this Commonwealth as may be prescribed  
30 by Medical Professional Liability Court rule. The Medical

1 Professional Liability Court is comprised of three districts as  
2 follows:

3 (1) The eastern district comprises the counties of  
4 Berks, Bucks, Chester, Delaware, Lancaster, Lehigh,  
5 Montgomery, Northampton and Philadelphia.

6 (2) The middle district comprises the counties of Adams,  
7 Bradford, Cameron, Carbon, Centre, Clinton, Columbia,  
8 Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata,  
9 Lackawanna, Lebanon, Luzerne, Lycoming, Mifflin, Monroe,  
10 Montour, Northumberland, Perry, Pike, Potter, Schuylkill,  
11 Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming  
12 and York.

13 (3) The western district comprises the counties of  
14 Allegheny, Armstrong, Beaver, Bedford, Blair, Butler,  
15 Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette,  
16 Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer,  
17 Somerset, Venango, Warren, Washington and Westmoreland.

18 (b) Regular sessions.--The regular sessions of the Medical  
19 Professional Liability Court shall be held in the eastern  
20 district of Pennsylvania with locations in Media and Scranton,  
21 middle district of Pennsylvania with locations in Harrisburg and  
22 Williamsport and western district of Pennsylvania with locations  
23 in Pittsburgh and Erie.

24 (c) Other sessions.--Within the limits of available  
25 appropriations, special sessions of the Medical Professional  
26 Liability Court may be held at such other places from time to  
27 time within this Commonwealth as may be necessary for the  
28 convenience of parties or witnesses.

29 (d) Reimbursement.--When regular or other sessions of the  
30 Medical Professional Liability Court are held in facilities

1 provided by counties under this section, reimbursement for  
2 actual and reasonable expenses shall be made to the counties  
3 from the Medical Professional Liability Court Fund.

4 § 814. Lien of judgments for money.

5 Any judgment or other order of the Medical Professional  
6 Liability Court for the payment of money shall not be a lien  
7 upon real property in any county until it is entered of record  
8 in the office of the clerk of the court of common pleas of the  
9 county in which the property is situated, or in the office of  
10 the clerk of the branch of the court of common pleas embracing  
11 such county, in the same manner as a judgment transferred from  
12 the court of common pleas of another county.

13 SUBCHAPTER C

14 JURISDICTION OF MEDICAL PROFESSIONAL

15 LIABILITY COURT

16 Sec.

17 831. Definitions.

18 832. Original jurisdiction.

19 833. Exclusive jurisdiction.

20 § 831. Definitions.

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

24 "Health care provider." An individual or health care  
25 facility that is licensed, certified or otherwise authorized to  
26 provide health care under the laws of this Commonwealth. The  
27 term also includes both of the following:

28 (1) An officer, employee or agent of a health care  
29 provider acting within the scope of the person's duties and  
30 authority.





1 846. Expiration review.

2 § 841. Organization of court.

3 (a) General rule.--The Medical Professional Liability Court  
4 shall meet and organize in the City of Harrisburg. The court  
5 shall procure the necessary supplies, equipment and personnel to  
6 commence operation and promulgate any necessary rules of court  
7 or operating procedures. When the court is organized and ready  
8 for the transaction of business, the president judge of the  
9 court shall so certify to the Governor, who shall issue a  
10 proclamation stating that the court is organized and ready for  
11 the transaction of its judicial business.

12 (b) Initial term of office.--The Governor shall proceed to  
13 appoint persons to serve as judges of the court for purposes of  
14 organizing its affairs. In order to permit the efficient  
15 organization of the court, the date of appointment by the  
16 Governor shall be deemed to be the date on which the vacancies  
17 in the offices of the initial judges of the court filled by the  
18 Governor under this subsection occurred, so that the first  
19 election of judges of the court shall not be held until the  
20 first municipal election following the initial appointment by  
21 the Governor.

22 § 842. Existing cases unaffected.

23 A change in jurisdiction effected by amendments to this title  
24 or to any other act shall not affect the jurisdiction of any  
25 court over any pending matter, but, in the interest of justice,  
26 an existing matter may be transferred to the Medical  
27 Professional Liability Court.

28 § 843. Rules.

29 (a) Medical Professional Liability Court.--Prior to the  
30 commencement of operations, specific rules shall be adopted that

1 will be applicable to original matters heard in Medical  
2 Professional Liability Court.

3 (b) Appellate division.--Until otherwise provided by Medical  
4 Professional Liability Court rule, the Pennsylvania Rules of  
5 Appellate Procedure shall be applicable to matters in the  
6 appellate division of Medical Professional Liability Court, and  
7 rules of court promulgated by the Medical Professional Liability  
8 Court applicable in the appellate division shall be classified  
9 under Pa.R.A.P. No.104 (relating to rules of court).

10 § 844. Procurement of juries.

11 (a) Master list of prospective jurors.--At least annually  
12 the jury selection commission shall prepare a district-wide  
13 master list of prospective jurors for each judicial district.  
14 This list shall contain all voter registration lists for each  
15 district, which lists may be incorporated by reference, or names  
16 from other lists which in the opinion of the commission will  
17 provide a number of names of prospective jurors which is equal  
18 to or greater than the number of names contained in the voter  
19 registration list. The commission may, but shall not be required  
20 to, supplement the master list of prospective jurors to include,  
21 without being limited to, persons in any of the following  
22 categories:

23 (1) Persons listed in telephone directories, city  
24 directories, municipal directories and similar directories.

25 (2) Persons who pay taxes or are assessed for taxes  
26 imposed by any political subdivisions.

27 (3) Persons in the county participating in any State,  
28 county or local program authorized by law and, to the extent  
29 such names are available, persons participating in any  
30 Federal program authorized by law.

1           (4) Persons who are on school census lists.

2           (5) Any other person whose name does not appear in the  
3 master list of prospective jurors and who meets the  
4 qualifications for jurors set forth in this chapter and who  
5 makes application to the commission to be listed on the  
6 master list of prospective jurors.

7           (b) Selection, compensation and maintenance of jurors.--

8 Except as provided under subsection (a) or unless otherwise  
9 provided by the Medical Professional Liability Court, the  
10 procedures for the selection, compensation and maintenance of  
11 juries for service in the Commonwealth Court shall be applicable  
12 to the selection, compensation and maintenance of juries in the  
13 Medical Professional Liability Court.

14 § 845. Filing fees.

15           Until otherwise provided by Medical Professional Liability  
16 Court rule, the fee bill applicable in the Commonwealth Court  
17 shall be applicable in the Medical Professional Liability Court.

18 § 846. Expiration review.

19           (a) Reports to General Assembly.--The following reports  
20 shall be submitted within 120 days after the expiration of ten  
21 years after entry by the Medical Professional Liability Court of  
22 its first final order in any action, proceeding or appeal:

23           (1) The Medical Professional Liability Court shall  
24 submit to the General Assembly any recommendations for  
25 legislation relating to size, structure or operations of the  
26 court.

27           (2) The Attorney General shall submit a report to the  
28 General Assembly reviewing and commenting upon the operations  
29 of the Medical Professional Liability Court and making any  
30 recommendations for legislation relating to size, structure

1 or operations of the court.

2 (b) Request for comments.--Appropriate committees of the  
3 General Assembly shall request comments from the organized bar  
4 and the general public concerning the size, structure and  
5 operations of the Medical Professional Liability Court.

6 Section 8. Chapter 21 of Title 42 is amended by adding a  
7 subchapter to read:

8 SUBCHAPTER G

9 MEDICAL PROFESSIONAL LIABILITY COURT

10 QUALIFICATIONS COMMISSION

11 Sec.

12 2161. Medical Professional Liability Court Qualifications  
13 Commission.

14 2162. Composition of Medical Professional Liability Court  
15 Qualifications Commission.

16 2163. Organization.

17 2164. Powers and duties.

18 § 2161. Medical Professional Liability Court Qualifications  
19 Commission.

20 (a) General rule.--The Medical Professional Liability Court  
21 Qualifications Commission shall consist of 12 residents of this  
22 Commonwealth selected as provided under this subchapter.

23 (b) Seal.--The Medical Professional Liability Court  
24 Qualifications Commission shall have a seal engraved with its  
25 name and such other inscriptions as may be specified by Medical  
26 Professional Liability Court rule. A facsimile or preprinted  
27 seal may be used for all purposes in lieu of the original seal.

28 (c) Status.--The Medical Professional Liability Court  
29 Qualifications Commission shall not be deemed to be an agency  
30 for purposes of 65 Pa.C.S. Ch. 7 (relating to open meetings).

1 § 2162. Composition of Medical Professional Liability Court

2 Qualifications Commission.

3 (a) General rule.--The Medical Professional Liability Court  
4 Qualifications Commission shall consist of:

5 (1) Three commissioners appointed by the President pro  
6 tempore of the Senate.

7 (2) Three commissioners appointed by the Minority Leader  
8 of the Senate.

9 (3) Three commissioners appointed by the Speaker of the  
10 House of Representatives.

11 (4) Three commissioners appointed by the Minority Leader  
12 of the House of Representatives.

13 (b) Qualifications.--Two of the commissioners appointed  
14 under each paragraph of subsection (a) shall be members of the  
15 bar of the courts of this Commonwealth. The third commissioner  
16 appointed in each case shall be a nonlawyer elector.

17 (c) Terms of office.--Except as provided under subsection  
18 (e), each commissioner shall be appointed for a four-year term.  
19 A commissioner shall not be appointed for more than two  
20 successive full terms. An appointment to fill an unexpired term  
21 which has fewer than two years remaining shall not be deemed a  
22 full term. A vacancy on the commission shall be filled for the  
23 balance of the term by appointment made by the person who at the  
24 time is the ranking member in the same chamber of the General  
25 Assembly and of the same political party as the person who  
26 appointed the vacating member of the commission.

27 (d) Restriction on public or political activities.--During a  
28 commissioner's term of service, a commissioner shall not hold:

29 (1) A compensated public office or public appointment.

30 (2) Office in any political party or political

1 organization.

2 (e) Transitional provisions.--

3 (1) The initial Medical Professional Liability Court  
4 Qualifications Commission provided for under this section  
5 shall come into existence upon the effective date of this  
6 chapter.

7 (2) The initial members of the Medical Professional  
8 Liability Court Qualifications Commission shall serve as  
9 follows:

10 (i) the commissioners appointed by the President pro  
11 tempore of the Senate, one each for two, three and four  
12 years;

13 (ii) the commissioners appointed by the Minority  
14 Leader of the Senate, one each for two, three and four  
15 years;

16 (iii) the commissioners appointed by the Speaker of  
17 the House of Representatives, one each for one, two and  
18 three years; and

19 (iv) the commissioners appointed by the Minority  
20 Leader of the House of Representatives, one each for one,  
21 two and three years.

22 § 2163. Organization.

23 The Medical Professional Liability Court Qualifications  
24 Commission shall elect a presiding officer from among its  
25 members and shall establish its own rules of procedure. The  
26 Medical Professional Liability Court shall furnish staff support  
27 as may be necessary for the conduct of the business of the  
28 commission. The cost and expense of the commission shall be paid  
29 out of the Medical Professional Liability Court Fund established  
30 under section 3591 (relating to Medical Professional Liability

1 Court Fund).

2 § 2164. Powers and duties.

3 (a) General rule.--The Medical Professional Liability Court  
4 Qualifications Commission shall evaluate the qualifications of  
5 all of the following:

6 (1) Applicants seeking election as a judge of the  
7 Medical Professional Liability Court who request evaluation  
8 of their qualifications under section 3161(c) (relating to  
9 election of judges of Medical Professional Liability Court).

10 (2) Applicants seeking appointment by the Governor to a  
11 vacancy on the Medical Professional Liability Court under  
12 section 3162 (relating to vacancies in office of judge of  
13 Medical Professional Liability Court).

14 (3) Judges of the Medical Professional Liability Court  
15 who seek retention in office under section 3163 (relating to  
16 retention of judges of Medical Professional Liability Court).

17 (b) Rules and regulations.--The commission may adopt rules  
18 and regulations as it deems necessary to discharge its duties.

19 (c) Immunity.--A member of the commission shall not be held  
20 to have violated any criminal law or to be civilly liable under  
21 any law by reason of the performance by the member of any duty,  
22 function or activity authorized or required of the commission if  
23 the member has exercised due care in his performance. This  
24 subsection shall not apply with respect to any action taken by  
25 any individual if the individual, in taking the action, was  
26 motivated by malice toward any person affected by the action.

27 Section 9. Sections 3131, 3132 and 3153 of Title 42 are  
28 amended by adding subsections to read:

29 § 3131. Selection of judicial officers for regular terms.

30 \* \* \*

1 (f) Medical Professional Liability Court.--The judges of the  
2 Medical Professional Liability Court shall be elected in the  
3 manner provided under section 3161 (relating to election of  
4 judges of Medical Professional Liability Court).

5 § 3132. Vacancies in office.

6 \* \* \*

7 (e) Medical Professional Liability Court.--Subsections (a)  
8 through (d) shall not apply to a vacancy in the office of a  
9 judge of the Medical Professional Liability Court. The  
10 provisions of section 3162 (relating to vacancies in office of  
11 judge of Medical Professional Liability Court) shall apply.

12 § 3153. Retention elections after regular term.

13 \* \* \*

14 (d) Medical Professional Liability Court.--Except as  
15 provided under section 3163 (relating to retention of judges of  
16 Medical Professional Liability Court), subsections (a), (b) and  
17 (c) shall apply to the judges of the Medical Professional  
18 Liability Court.

19 Section 10. Chapter 31 of Title 42 is amended by adding a  
20 subchapter to read:

21 SUBCHAPTER E

22 SELECTION AND RETENTION OF JUDGES

23 OF MEDICAL PROFESSIONAL LIABILITY COURT

24 Sec.

25 3161. Election of judges of Medical Professional Liability  
26 Court.

27 3162. Vacancies in office of judge of Medical Professional  
28 Liability Court.

29 3163. Retention of judges of Medical Professional Liability  
30 Court.



1 § 3161. Election of judges of Medical Professional Liability  
2 Court.

3 (a) General rule.--Judges of the Medical Professional  
4 Liability Court shall be elected for a regular term of office at  
5 the municipal election next preceding the commencement of their  
6 respective regular terms of office by the electors of this  
7 Commonwealth.

8 (b) Special procedures.--The judges of the Medical  
9 Professional Liability Court shall be elected as provided in the  
10 act of June 3, 1937 (P.L.1333, No.320), known as the  
11 Pennsylvania Election Code, except that:

12 (1) The following dates prescribed by the Pennsylvania  
13 Election Code shall not apply:

14 (i) The date by which the Secretary of the  
15 Commonwealth is to notify the county boards of election  
16 of the offices for which candidates are to be nominated  
17 at the ensuing primary.

18 (ii) The date by which the county boards of election  
19 are to publish notice of public offices for which  
20 nominations are to be made.

21 (2) The date before and after which nomination petitions  
22 and nomination papers may be circulated shall be 60 days  
23 prior to the dates that would otherwise apply in the absence  
24 of this section.

25 (3) Candidates for nomination who desire to have their  
26 qualifications evaluated by the Medical Professional  
27 Liability Court Qualifications Commission shall proceed as  
28 provided in subsection (c). Candidates who do not desire to  
29 have their qualifications evaluated by the commission shall  
30 not be subject to subsection (c) and shall proceed instead in

1 the manner provided in the Pennsylvania Election Code.

2 (4) Candidates for nomination shall present a nominating  
3 petition containing valid signatures of at least 1,000  
4 registered and enrolled members of the proper party,  
5 including at least 100 members from each of at least five  
6 counties.

7 (5) Each person filing a nomination petition or  
8 nomination papers for a candidate shall pay a filing fee, at  
9 the time of filing either with the commission or the  
10 Department of State, as the case may be, of \$200. A  
11 nomination petition or nomination papers shall not be  
12 accepted or filed unless and until the filing fee is paid in  
13 cash or by certified or cashier's check or money order made  
14 payable to the Commonwealth of Pennsylvania. All moneys paid  
15 on account of filing fees for candidates for nomination for  
16 the office of judge of the Medical Professional Liability  
17 Court shall be transmitted to the State Treasurer and shall  
18 become part of the Medical Professional Liability Court Fund.

19 (6) (Reserved).

20 (7) On all official ballots except absentee ballots, the  
21 names of all candidates from the same political party for  
22 nomination or election shall be rotated from one precinct to  
23 another. On absentee ballots the names of those candidates  
24 shall be so alternated that each name shall appear, insofar  
25 as reasonably possible, substantially an equal number of  
26 times at the beginning, at the end and at each intermediate  
27 place, if any, of the group of candidates from the same  
28 political party.

29 (c) Evaluation of qualifications.--Candidates who desire to  
30 have their qualifications evaluated by the commission shall

1 proceed in the following fashion:

2 (1) Nomination petitions and nomination papers shall be  
3 filed with the commission instead of the Department of State  
4 and must be filed with the commission no later than 60 days  
5 prior to the date for filing nomination petitions and  
6 nomination papers generally.

7 (2) The affidavit of candidates submitted to the  
8 commission shall be in the form prescribed by the  
9 Pennsylvania Election Code, with additional information as  
10 may be required by the rules and regulations of the  
11 commission.

12 (3) The commission shall evaluate the qualifications of  
13 each candidate in accordance with such criteria and measures  
14 of qualification as the commission promulgates in regulations  
15 and shall assign each candidate a rating of one of the  
16 following:

17 (i) Extremely well qualified.

18 (ii) Well qualified.

19 (iii) Qualified.

20 (iv) Unqualified.

21 (4) The commission shall publish in the Pennsylvania  
22 Bulletin a report containing the rating assigned to each  
23 candidate by the commission. The report of the commission  
24 shall be published not later than the date the nomination  
25 petition or nomination papers of the candidate would have  
26 been due to be filed absent the provisions of this  
27 subsection. The report shall include the nomination petition  
28 or nomination papers and the affidavit of the candidate.

29 (5) A determination by the commission to report a  
30 candidate as unqualified may be challenged in the same manner

1 as a contested nomination of the second class under Article  
2 XVII(b) of the Pennsylvania Election Code, except that the  
3 petition commencing the proceeding shall be filed by the  
4 candidate himself within 20 days after the last day for  
5 filing reports of the commission with the Department of  
6 State. A determination by the commission to report a  
7 candidate as extremely well qualified, well qualified or  
8 qualified shall not be subject to challenge.

9 § 3162. Vacancies in office of judge of Medical Professional  
10 Liability Court.

11 (a) General rule.--A vacancy in the office of judge of the  
12 Medical Professional Liability Court shall be filled by  
13 appointment by the Governor in the manner provided in this  
14 section.

15 (b) Advertisement of vacancy.--Whenever a vacancy occurs in  
16 the office of judge of the Medical Professional Liability Court,  
17 the Medical Professional Liability Court Qualifications  
18 Commission shall publicly advertise the vacancy and solicit  
19 applications. When it is known that a vacancy will occur in the  
20 future on a date certain, the process under this section may  
21 begin 90 days prior to that date.

22 (c) Preparation of list.--From the applications received,  
23 the commission shall prepare and submit to the Governor a list  
24 of not more than seven persons who are qualified to hold the  
25 office of judge of the Medical Professional Liability Court.  
26 When more than one vacancy exists, the maximum number of persons  
27 who may be included on the list submitted to the Governor shall  
28 be increased by two persons for each additional vacancy. The  
29 list shall be submitted to the Governor no later than 60 days  
30 after the vacancy occurs. Immediately following submission of

1 the list to the Governor, the list shall be filed with the  
2 Senate and made public by the commission. The commission shall  
3 maintain the confidentiality of the information on the list but  
4 disclose the names of applicants whose names do not appear on  
5 the list and applicants who have not requested that their names  
6 remain confidential.

7 (d) Vote required for commission endorsement.--The list  
8 submitted to the Governor shall contain the names of those  
9 persons who receive affirmative votes from eight or more  
10 commissioners, except that the number of persons shall not  
11 exceed the limitations imposed under subsection (c).

12 (e) Nomination to Senate.--The Governor shall nominate from  
13 the list one person for each vacancy with respect to which a  
14 list of recommended applicants has been submitted. If the  
15 Governor does not nominate, within 30 days of receipt of the  
16 list, as many of the persons recommended as there are vacancies  
17 to be filled, the first person or persons named on the list in  
18 the order determined by the commission who have not been  
19 nominated by the Governor, up to the number of vacancies the  
20 Governor has failed to make nominations for, shall be deemed  
21 nominated.

22 (f) Action by Senate.--Senate action on a nomination to fill  
23 a vacancy in the office of judge of the Medical Professional  
24 Liability Court shall be in accordance with section 8 of Article  
25 IV of the Constitution of Pennsylvania.

26 (g) Substitute nominations.--The Governor may make a  
27 substitute nomination from the list within 30 days after  
28 receiving notification from the Senate of the rejection of a  
29 prior nominee. If the Governor does not make a substitute  
30 nomination under this subsection, the ranking person on the list

1 who has not been rejected by the Senate shall be deemed  
2 nominated as a substitute.

3 (h) Rejection of all candidates.--If all of the persons on a  
4 list have been nominated and rejected by the Senate, the Senate  
5 shall so notify the commission. The commission shall meet within  
6 ten days of receipt of notification by the Senate and publicly  
7 select by lot one person from the list. The person selected  
8 shall thereupon be deemed appointed and confirmed to the vacant  
9 position and shall be so commissioned by the Governor.

10 § 3163. Retention of judges of Medical Professional Liability  
11 Court.

12 At the expiration of the term of office of a judge of the  
13 Medical Professional Liability Court, the judge shall be subject  
14 to retention in office and retirement as provided under this  
15 part except that whenever a judge of the Medical Professional  
16 Liability Court files a declaration of candidacy for retention  
17 election, the Medical Professional Liability Court  
18 Qualifications Commission shall review the judge's judicial  
19 performance and shall, on or before the first Monday of April of  
20 the year of the retention election, report to the Department of  
21 State whether or not in the opinion of the commission the judge  
22 is qualified to be retained in office.

23 Section 11. Title 42 is amended by adding a section to read:

24 § 3582. Salaries of judges of Medical Professional Liability  
25 Court.

26 (a) Salaries.--The annual salary of the President Judge of  
27 the Medical Professional Liability Court shall be \$104,500. The  
28 annual salary of each of the other judges of the Medical  
29 Professional Liability Court shall be \$104,000.

30 (b) Annual cost-of-living adjustment.--Beginning January 1,

1 2008, and each January 1 thereafter, the annual salaries under  
2 this section shall be increased by the percentage change in the  
3 Consumer Price Index for All Urban Consumers (CPI-U) for the  
4 Pennsylvania, New Jersey, Delaware and Maryland area for the  
5 most recent 12-month period for which figures have been  
6 officially reported by the Department of Labor, Bureau of Labor  
7 Statistics, immediately prior to the date the adjustment is due  
8 to take effect. The percentage increase and salary amounts shall  
9 be determined prior to the annual effective date of the  
10 adjustment by the Supreme Court and shall be published in the  
11 Pennsylvania Bulletin by the Court Administrator of Pennsylvania  
12 within 20 days of the date the determination is made.

13 Section 12. Chapter 35 of Title 42 is amended by adding a  
14 subchapter to read:

15 SUBCHAPTER G

16 MEDICAL PROFESSIONAL LIABILITY COURT FUND

17 Sec.

18 3591. Medical Professional Liability Court Fund.

19 3592. Receipts and other credits.

20 3593. Payments and other debits.

21 § 3591. Medical Professional Liability Court Fund.

22 There shall be established in the State Treasury a special  
23 operating fund to be known as the Medical Professional Liability  
24 Court Fund. Debits and credits shall be made to that fund under  
25 this subchapter. The operating and capital expenses of the  
26 Medical Professional Liability Court shall be paid solely from  
27 the Medical Professional Liability Court Fund.

28 § 3592. Receipts and other credits.

29 (a) General rule.--There shall be paid or credited to the  
30 Medical Professional Liability Court Fund:

1           (1) Amounts appropriated to the Medical Professional  
2 Liability Court in the manner provided by law.

3           (2) The following surcharges, which are hereby imposed:

4           (i) A surcharge upon the health care facility  
5 licensure application and renewal fees of the Department  
6 of Health under section 807(b) of the act of July 19,  
7 1979 (P.L.130, No.48), known as the Health Care  
8 Facilities Act, in the amount of 10% of each fee.

9           (ii) A surcharge upon the civil penalties collected  
10 by the Department of Health under section 817(b) of the  
11 Health Care Facilities Act, in the amount of 25% of each  
12 fee.

13           (iii) A surcharge upon the licensing, examination,  
14 registration, certificates and other fees of all health  
15 care-related professionals of the Bureau of Professional  
16 and Occupational Affairs of the Department of State, in  
17 the amount of 10% of each fee.

18           (3) Amounts received by the Commonwealth on account of  
19 the operation of the Medical Professional Liability Court.  
20 Fees and charges of the Medical Professional Liability Court  
21 shall be fixed by the governing authority of the Medical  
22 Professional Liability Court with a view initially to the  
23 operation of the Medical Professional Liability Court on a  
24 self-sustaining basis to the extent feasible and eventually  
25 to the elimination of the surcharges under paragraph (2)(ii)  
26 and (iii) and the reduction of the surcharge under paragraph  
27 (2)(i).

28           (b) Money paid into court.--Money paid into court shall not  
29 be credited to the Medical Professional Liability Court Fund  
30 except to the extent that the amounts constitute an allowance



1 due a public officer upon the amount levied under an execution.  
2 § 3593. Payments and other debits.

3 There shall be disbursed from or debited to the Medical  
4 Professional Liability Court Fund amounts payable by the  
5 Commonwealth on account of the operation of the Medical  
6 Professional Liability Court.

7 Section 13. Sections 5105(b) and 5571(a) of Title 42 are  
8 amended to read:

9 § 5105. Right to appellate review.

10 \* \* \*

11 (b) Successive appeals.--

12 (1) Except as otherwise provided in this subsection, the  
13 rights conferred by subsection (a) are cumulative, so that a  
14 litigant may as a matter of right cause a final order of any  
15 tribunal in any matter which itself constitutes an appeal to  
16 such tribunal, to be further reviewed by the court having  
17 jurisdiction of appeals from such tribunal. Except as  
18 provided in section 723 (relating to appeals from [the]  
19 Commonwealth Court) there shall be no right of appeal from  
20 the Superior Court or the Commonwealth Court to the Supreme  
21 Court under this section or otherwise.

22 (2) There shall be a right of appeal in all cases from  
23 the Medical Professional Liability Court to its appellate  
24 division, which shall constitute a separate court for the  
25 purposes of section 9 of Article V of the Constitution of  
26 Pennsylvania. Except as provided under section 724(b)  
27 (relating to allowance of appeals from intermediate appellate  
28 courts), there shall be no right of appeal from the Medical  
29 Professional Liability Court or the appellate division of the  
30 Medical Professional Liability Court to the Supreme Court

1 under this section or any other provision of law.

2 \* \* \*

3 § 5571. Appeals generally.

4 (a) General rule.--The time for filing an appeal, a petition  
5 for allowance of appeal, a petition for permission to appeal or  
6 a petition for review of a quasi-judicial order, in the Supreme  
7 Court, the Superior Court [or], the Commonwealth Court or the  
8 Medical Professional Liability Court shall be governed by  
9 general rules. No other provision of this subchapter shall be  
10 applicable to matters subject to this subsection.

11 \* \* \*

12 Section 14. This act shall take effect in 30 days.