

MEMO



DEC 07 2010

Senate of Pennsylvania

December 6, 2010

TO: ALL SENATORS
FROM: Stewart J. Greenleaf *Stewart*
SUBJECT: Cosponsorship -- **Amending constitution with "magisterial district judge"**

I am reintroducing **Senate Bill 220**, proposing an amendment to Pennsylvania's constitution to make editorial changes that replace "justice of the peace" with "magisterial district judge." All references in the constitution to "justice of the peace" will be changed to "magisterial district judge."

These editorial changes update the constitution by removing the antiquated use of "justice of the peace," a job title no longer used in Pennsylvania. For many years the title "district justice" was used instead of "justice of the peace." However, 2004 Act 207 changed all statutory references from "district justice" to "magisterial district judge."

The Judicial Code (42 Pa.C.S. §102) equates a magisterial district judge with the Pennsylvania constitution's justice of the peace. The Judicial Code definition of "magisterial district judge" is a "justice of the peace who holds office under section 7(a) of Article V of the Constitution of Pennsylvania and Subchapter B of Chapter 15 (relating to magisterial district judges)." The proposed constitutional amendment makes the language of the State constitution consistent with codified law.

As a proposed constitutional amendment, this legislation must pass each house of the General Assembly in two separate legislative sessions and then be presented to the voters for adoption. Despite amending several sections of the constitution, the proposed changes are integrated and shall constitute one ballot question.

Magisterial district judges preside over magisterial district courts in all of the counties but Philadelphia. They conduct non-jury trials concerning criminal summary matters not involving delinquent acts, non-jury trials concerning civil claims where the amount in controversy does not exceed \$12,000 (notably landlord-tenant and trespass cases), preside over preliminary arraignments, fix and accept bail, issue arrest warrants, accept DUI guilty pleas, and preside over non-jury trials for Game Code offenses.

There are 546 magisterial district judges. Magisterial district judges are not required to be lawyers but, if they are not, they must complete a course and pass a qualifying examination. They must also complete continuing education requirements.

The Supreme Court of Pennsylvania and the Special Court Judges' Association of Pennsylvania agreed on this name change.

If you would like to cosponsor this legislation, please contact Pat Snively of my office by e-mailing her at psnively@pasen.gov.