

DEC 10 2010

MEMO



Senate of Pennsylvania

December 8, 2010

TO: ALL SENATORS

FROM: Stewart J. Greenleaf

Stewart

SUBJECT: Cosponsorship – **Judicial Conduct Board amendments**

During the investigation of the juvenile justice system in Luzerne County, the Judicial Conduct Board came under scrutiny. In its report, the Interbranch Commission on Juvenile Justice noted that the “chief counsel had acquired and exercised far too much autonomy and absolute discretion over how complaints were investigated, deferred, referred, or resolved. The record further shows that chief counsel would unilaterally act without consultation, knowledge or approval of the Judicial Conduct Board.” The Interbranch Commission recommended a review of the Judicial Conduct Board’s internal operating procedures.

I am reintroducing **Senate Bill 1274**, addressing several concerns relating to the board and how it operates.

(1) The legislation prohibits the Judicial Conduct Board from deferring an investigation of alleged judicial misconduct because there may be an ongoing criminal investigation arising from the same conduct. If the board is aware of the criminal investigation, the board must notify the prosecuting attorney that it is investigating the conduct as well.

(2) The board must review every complaint filed against a judge and make a decision whether further action should be taken. A complaint may not be dismissed solely upon the review of and a decision by the board’s counsel.

(3) A judge who receives a “target letter” from a prosecuting attorney must promptly notify the Judicial Conduct Board that the letter has been received and provide the board with a copy of the letter.

The judicial disciplinary system is part of the state constitution, Article V, section 18. In 1993 the voters adopted a constitutional amendment establishing the disciplinary system. The system includes the Judicial Conduct Board and the Court of Judicial Discipline. The Judicial Conduct Board receives and investigates complaints regarding alleged judicial misconduct filed by individuals or initiated by the board. If the board finds by “probable cause” that judicial misconduct occurred, the board files formal charges with the Court of Judicial Discipline. The board must prove to the court by “clear and convincing evidence” that there was judicial misconduct.

The Judicial Conduct Board is further provided for in the Judicial Code, Title 42 of the Pennsylvania Consolidated Statutes. My legislation amends the Judicial Code.

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