

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 983 Session of  
1989

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

SENATOR TILGHMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,  
NOVEMBER 28, 1989

## AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, adding provisions  
3 relating to constables.

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

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

9 § 102. Definitions.

10 Subject to additional definitions contained in subsequent  
11 provisions of this title which are applicable to specific  
12 provisions of this title, the following words and phrases when  
13 used in this title shall have, unless the context clearly  
14 indicates otherwise, the meanings given to them in this section:

15 \* \* \*

16 "Officer enforcing orders." Includes:

17 (1) A recorder of deeds when the order affects the

ownership of an interest in property described or describable by a document which has been or may be filed or recorded in his office, or relates to the indexing of documents filed or recorded in his office.

(2) A register of wills.

(3) A sheriff.

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

Section 2. Sections 2131 and 2132 of Title 42 are amended to read:

§ 2131. Minor Judiciary Education Board.

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

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

§ 2132. Composition of board.

(a) General rule.--The Minor Judiciary Education Board shall consist of the following appointed by the Governor with the consent of a majority of the members elected to the Senate:

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

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

(3) One lay elector.

(4) Two constables who are certified pursuant to section 2943 (relating to certification) and who shall be residents

of different counties.

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

(c) Compensation.--Members of the board shall receive such fees or salary as shall be fixed by the governing authority in the manner provided by section 503(b) (relating to procedures).

Section 3. Subchapter C of Chapter 29 of Title 42 is amended to read:

## CHAPTER 29

### OFFICERS SERVING PROCESS AND

#### ENFORCING ORDERS

\* \* \*

#### SUBCHAPTER C

##### CONSTABLES

[(Reserved)]

Sec.

2941. Definitions.

2942. Powers and duties.

2943. Certification.

2944. Basic education.

2945. Continuing education.

2946. Firearms.

2947. Fees.

2948. Discipline.

§ 2941. Definitions.

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

1 "Board." The Minor Judiciary Education Board established  
2 pursuant to Subchapter D of Chapter 21 (relating to Minor  
3 Judiciary Education Board).

4 "Clerk." The clerk of the courts, or other person holding a  
5 similar office in counties that do not have a clerk of courts,  
6 of common pleas of the judicial district in which the constable  
7 or deputy constable was elected or appointed.

8 "Constable." Any person holding the elective office of  
9 constable, whether by election or by appointment to fill a  
10 vacancy in such elective office.

11 "Deputy constable." Any person holding the office of deputy  
12 constable as a result of appointment by a constable as provided  
13 by law.

14 "Judicial duties." Service, execution and return of court-  
15 authorized process; levy of attachment, levy or execution;  
16 presale and postsale control of property; sales and conveyances;  
17 collection, custody and disposition of money; custody and  
18 control of respondents, defendants and convicts; court-ordered  
19 security; and preservation of official exhibits and papers.  
20 Nothing in this definition shall be construed as expanding,  
21 modifying or diminishing the powers and duties of constables or  
22 deputy constables as conferred or imposed by law or rule of  
23 court.

24 "Program." The Constables' Education and Training Program  
25 established pursuant to section 2943 (relating to  
26 certification).

27 § 2942. Powers and duties.

28 (a) Certification required.--No constable or deputy  
29 constable shall perform any judicial duties, nor receive any  
30 compensation therefor, unless he is certified pursuant to

1 section 2943 (relating to certification).

2 (b) ~~Supervision~~ PERFORMANCE OF DUTIES.--Constables and <—  
3 deputy constables may perform judicial duties if they are  
4 certified pursuant to section 2943 and, while doing so, shall be  
5 subject to the supervision of the president judge of the  
6 judicial district in which they were elected or appointed. The  
7 president judge may appoint a deputy court administrator for the  
8 purpose of assisting him in administering the constable system  
9 in the judicial district.

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

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

30 (e) Judicial duties.--Constables and deputy constables shall

1 continue to have all powers and to exercise all duties provided  
2 by law, whether or not they become certified, except as provided  
3 in subsection (a), and as follows:

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

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

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

21 (F) LIMITATIONS ON LIABILITY.--THE PROVISIONS OF THIS  
22 SUBCHAPTER SHALL NOT BE DEEMED TO IMPOSE RESPONDEAT SUPERIOR  
23 LIABILITY ON ANY COUNTY.

24 § 2943. Certification.

25 (a) Requirements.--Any constable or deputy constable shall  
26 become certified to perform judicial duties upon successfully  
27 completing the program established pursuant to section 2944  
28 (relating to basic education), filing a certificate attesting  
29 thereto with the clerk and filing with the clerk proof that he  
30 has, currently in force, a policy of professional liability

1 insurance covering him in the performance of his judicial duties  
2 with a minimum coverage of \$250,000 per incident and a minimum  
3 aggregate of \$500,000 per year.

4 (b) Completion of program.--Any person shall be deemed to  
5 have completed the program if he successfully completes the  
6 examination administered at the end of any such course. No one  
7 who fails to achieve a passing score on the examination may  
8 thereafter repeat the examination without attending the course  
9 of study.

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

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

28 (e) Insurance required.--Any constable or deputy constable  
29 who fails, neglects or refuses to maintain a current insurance  
30 policy as required by subsection (a), or to file proof thereof

1 with the clerk, shall cease automatically to be certified to  
2 perform judicial duties upon the expiration of the policy of  
3 which proof has been filed with the clerk, and the clerk shall  
4 so notify the Administrative Office.

5 (f) 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 (e) may later be recertified  
8 immediately by filing with the clerk proof that such insurance  
9 has been in force continuously since the officer was last  
10 certified to perform judicial duties, and the clerk shall so  
11 notify the Administrative Office or, in the case of a violation  
12 of subsection (e), the individual may be recertified by  
13 complying with subsection (a).

14 § 2944. Basic education.

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

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



1 the examination.

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

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

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

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

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

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

26 (a) General rule.--The board shall prescribe and approve a  
27 course of continuing education and training for constables and  
28 deputy constables and shall administer the course and shall  
29 conduct it at such times, at such places and in such manner as  
30 the regulations of the board may prescribe. The course shall be

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

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

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

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

24 § 2946. Firearms.

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

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

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

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

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

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

26 (2) Any program approved pursuant to the act of October  
27 10, 1974 (P.L.705, No.235), known as the Lethal Weapons  
28 Training Act.

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

1           (4) Any program approved by the board pursuant to  
2       subsection (a).  
3   § 2947. Fees.

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

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

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

17      (d) Additional persons.--A constable or deputy constable,  
18      when he is transporting a prisoner, serving a warrant in a court  
19      case or serving a warrant on a defendant of the opposite sex,  
20      may be accompanied by a second constable or deputy constable who  
21      is certified pursuant to section 2943 (relating to  
22      certification) to perform judicial duties. In such cases, each  
23      officer shall receive the fee set out in this section. In all  
24      other civil and criminal cases, the issuing authority may  
25      authorize such payment to a second such officer.

26      (e) Civil cases.--In civil cases, constable fees must be  
27      paid in advance for services desired to be performed. Such fees  
28      shall not be refundable to the plaintiff if a case is settled or  
29      a debt is satisfied less than 48 hours prior to a scheduled sale  
30      or ejectment, in which latter case the constable or deputy

1 constable shall be paid for a nonforcible ejectment.

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

5 (1) the service is performed; and

6 (2) the request for payment is submitted.

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

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

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

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

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

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

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

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

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

22 (9) For nonforcible ejectment on order of possession,  
23 \$35.

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

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

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

28 (h) Criminal cases.--Fees in criminal cases shall be as  
29 follows:

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



1 court shall assess the fee and surcharge to the affiant.

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

6 (l) Surcharge.--There is hereby assessed a surcharge of \$2  
7 on each fee payable for the performance of judicial duties to  
8 every constable or deputy constable who is certified pursuant to  
9 section 2943 to perform judicial duties. This surcharge is  
10 imposed on each individual service for which a fee is provided,  
11 including each hour for which an hourly rate is to be paid.  
12 Moneys collected pursuant to this subsection shall be turned  
13 over monthly by the issuing authority to the county treasurer of  
14 the county in which the issuing authority serves.

15 (m) Special account.--There is hereby established a special  
16 restricted receipts account within the General Fund of the State  
17 Treasury, which shall be known as the Constables' Education and  
18 Training Account, for the purpose of financing expenses AND <—  
19 costs of administration ~~and all other~~ BY THE BOARD AND OTHER <—  
20 DIRECT costs associated with the program and continuing  
21 education courses established pursuant to this subchapter. No  
22 funds from this special account shall be ~~used for administrative~~ <—  
23 ~~costs of the court administrator.~~ USED EXCEPT FOR COSTS <—  
24 ASSOCIATED WITH THE PROGRAM AND CONTINUING EDUCATION COURSES  
25 ESTABLISHED PURSUANT TO THIS SUBCHAPTER AND IN NO EVENT SHALL BE  
26 USED BY THE COURT ADMINISTRATOR OR THE ADMINISTRATIVE OFFICE OF  
27 THE PENNSYLVANIA COURTS FOR ANY PURPOSE WHATSOEVER.

28 (n) Disposition of funds.--The moneys collected by county  
29 treasurers under subsection (l) shall be forwarded monthly by  
30 each county treasurer to the Department of Revenue for deposit

1 into the special account. None of these moneys shall be  
2 transferred by the State Treasurer to another account or fund.

3 (o) Appropriations.--

4 (1) For the 1989-1990 fiscal year, all moneys deposited  
5 in the special account established under subsection (m) are  
6 hereby appropriated to the Court Administrator of  
7 Pennsylvania to be used for the constable education and  
8 training program as set forth in subsection (m).

9 (2) For the fiscal year beginning July 1, 1990, and each  
10 year thereafter, the General Assembly shall appropriate to  
11 the Court Administrator of Pennsylvania from the special  
12 account established under subsection (m) such funds as may be  
13 necessary to carry out the provisions of this act.

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

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

19 § 2948. Discipline.

20 (a) Loss of certification.--A constable or deputy constable  
21 who is convicted of or pleads guilty or nolo contendere to  
22 murder or a felony or misdemeanor shall automatically cease to  
23 be certified to perform judicial duties and shall be suspended  
24 from performing judicial duties by the president judge of the  
25 judicial district in which the constable or deputy constable was  
26 elected or appointed. After all appeals are exhausted, if the  
27 conviction is affirmed, the president judge shall revoke the  
28 certification of the person to perform judicial duties. If the  
29 conviction is reversed, the president judge shall immediately  
30 lift the suspension.



1       (b) Recertification.--A constable or deputy constable who  
2 has been convicted of or pleads guilty or nolo contendere to  
3 murder or a felony shall be forever barred from performing  
4 judicial duties. A constable who has been convicted of or pleads  
5 guilty or nolo contendere to a misdemeanor, and who has  
6 subsequently been elected or reelected as constable, may then  
7 seek recertification pursuant to section 2943(a) (relating to  
8 certification). A deputy constable who has been convicted of or  
9 pleads guilty or nolo contendere to a misdemeanor may seek  
10 recertification to perform judicial duties only after all of the  
11 following events have taken place in the following order:

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

14           (2) Another election for the office of constable has  
15 taken place in the jurisdiction of the constable who had  
16 appointed him.

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

18       (c) Administration.--The Administrative Office shall  
19 administer the constables and deputy constables who are  
20 certified under section 2943 pursuant to the Pennsylvania Rules  
21 of Judicial Administration as the governing authority may  
22 direct.

23       (d) Judicial duties.--Upon petition of any person, supported  
24 by affidavit, a president judge may issue, on any constable or  
25 deputy constable who is elected or appointed within the judicial  
26 district and who is certified to perform judicial duties, a rule  
27 to show cause why his certification should not be suspended or  
28 revoked for incompetence, neglect or violation of any rule of  
29 court relating to the conduct of constables or deputy constables  
30 in the performance of their judicial duties. The rule to show

1 cause shall set forth the grounds for the proposed suspension or  
2 revocation and shall be returnable to a judge other than the  
3 president judge. After a hearing, the judge may suspend or  
4 revoke the certification of the constable or deputy constable  
5 for such cause.

6 (e) Suspension or restrictions.--Pending a final ruling  
7 pursuant to subsection (d), the president judge may suspend or  
8 place restrictions upon the certification to perform judicial  
9 duties of any constable or deputy constable on an interim basis  
10 if facts alleged under oath demonstrate that continued and/or  
11 unrestricted performance of judicial duties by the officer would  
12 pose a clear and present danger to the person or property of  
13 others.

14 (f) Duration of order.--

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

19 (i) A hearing is held on the continuation of the  
20 interim order and the court determines that the order  
21 shall remain in effect.

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

24 (iii) The constable or deputy constable fails to  
25 appear for such hearing.

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

30 (i) The constable or deputy constable requests and

1 receives a continuance of the hearing provided for in  
2 subsection (d).

3 (ii) The constable or deputy constable fails to  
4 appear for such hearing.

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

9 (g) Other duties.--A constable or deputy constable whose  
10 certification to perform judicial duties is suspended or revoked  
11 may continue to serve as a constable or deputy constable  
12 performing other duties unless removed from office as provided  
13 by law.

14 Section 4. This act shall take effect immediately.