
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

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 13, 1990

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:

1 (1) A recorder of deeds when the order affects the
2 ownership of an interest in property described or describable
3 by a document which has been or may be filed or recorded in
4 his office, or relates to the indexing of documents filed or
5 recorded in his office.

6 (2) A register of wills.

7 (3) A sheriff.

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

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

13 § 2131. Minor Judiciary Education Board.

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

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

21 § 2132. Composition of board.

22 (a) General rule.--The Minor Judiciary Education Board shall
23 consist of the following appointed by the Governor [with].
24 Appointments made after the effective date of this amendatory
25 act shall require the consent of a majority of the members
26 elected to the Senate:

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

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

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

4 "Board." The Minor Judiciary Education Board established
5 pursuant to Subchapter D of Chapter 21 (relating to Minor
6 Judiciary Education Board).

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

11 "Constable." Any person holding the elective office of
12 constable, whether by election or by appointment to fill a
13 vacancy in such elective office.

14 "Deputy constable." Any person holding the office of deputy
15 constable as a result of appointment by a constable as provided
16 by law.

17 "Judicial duties." Service, execution and return of court-
18 authorized process; levy of attachment, levy or execution;
19 presale and postsale control of property; sales and conveyances;
20 collection, custody and disposition of money; custody and
21 control of respondents, defendants and convicts; court-ordered
22 security; and preservation of official exhibits and papers FOR <—
23 THE DISTRICT JUSTICE COURTS, THE PITTSBURGH MAGISTRATES COURT
24 AND THE TRAFFIC COURT OF PHILADELPHIA. Nothing in this
25 definition shall be construed as expanding, modifying or
26 diminishing the powers and duties of constables or deputy
27 constables as conferred or imposed by law or rule of court.

28 "Program." The Constables' Education and Training Program
29 established pursuant to section 2943 (relating to
30 certification).

1 § 2942. Powers and duties.

2 (a) Certification required.--No constable or deputy
3 constable shall perform any judicial duties, nor receive any
4 compensation therefor, unless he is certified pursuant to
5 section 2943 (relating to certification).

6 (b) Performance of duties.--Constables and deputy constables
7 may perform judicial duties if they are certified pursuant to
8 section 2943 and, while doing so, shall be subject to the
9 supervision of the president judge of the judicial district in
10 which they were elected or appointed. The president judge may
11 appoint a deputy court administrator for the purpose of
12 assisting him in administering the constable system in the
13 judicial district.

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

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

1 is invalidated or suspended as to constables or deputy
2 constables, then this entire subchapter shall be deemed to be
3 invalidated or suspended.

4 (e) Judicial duties.--Constables and deputy constables shall
5 continue to have all powers and to exercise all duties provided
6 by law, whether or not they become certified, except as provided
7 in subsection (a), and as follows:

8 (1) Constables and deputy constables who are certified
9 pursuant to section 2943 to perform judicial duties shall
10 give priority to their judicial duties over their other
11 constable functions.

12 (2) While a constable or deputy constable is performing
13 his judicial duties, he shall not simultaneously exercise any
14 of the other powers or perform any of the other duties of a
15 constable or deputy constable.

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

25 (f) Limitations on liability.--The provisions of this
26 subchapter shall not be deemed to impose respondeat superior
27 liability on any county.

28 § 2943. Certification.

29 (a) Requirements.--Any constable or deputy constable shall
30 become certified to perform judicial duties upon successfully

1 completing the program established pursuant to section 2944
2 (relating to basic education), filing a certificate attesting
3 thereto with the clerk and filing with the clerk proof that he
4 has, currently in force, a policy of professional liability
5 insurance covering him in the performance of his judicial duties
6 with a minimum coverage of \$250,000 per incident and a minimum
7 aggregate of \$500,000 per year.

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

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

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

1 which such regulations were not complied with.

2 (e) Insurance required.--Any constable or deputy constable
3 who fails, neglects or refuses to maintain a current insurance
4 policy as required by subsection (a), or to file proof thereof
5 with the clerk, shall cease automatically to be certified to
6 perform judicial duties upon the expiration of the policy of
7 which proof has been filed with the clerk, and the clerk shall
8 so notify the Administrative Office.

9 (f) Recertification.--Any constable or deputy constable who
10 ceases to be certified to perform judicial duties as a result of
11 the operation of subsection (e) may later be recertified
12 immediately by filing with the clerk proof that such insurance
13 has been in force continuously since the officer was last
14 certified to perform judicial duties, and the clerk shall so
15 notify the Administrative Office or, in the case of a violation
16 of subsection (e), the individual may be recertified by
17 complying with subsection (a).

18 § 2944. Basic education.

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

1 course shall be offered on an evening and/or weekend basis and
2 shall not exceed 80 hours in duration.

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

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

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

13 (2) Second preference shall be given to deputy
14 constables. Within this category, preference shall be given
15 to those whose appointing constables are serving terms which
16 will expire sooner rather than later.

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

24 (4) Fourth preference shall be given to other interested
25 persons who are eligible to become constables or deputy
26 constables.

27 (d) Completion.--Every person who successfully completes the
28 program shall receive from the board a certificate so stating.

29 § 2945. Continuing education.

30 (a) General rule.--The board shall prescribe and approve a

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

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

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

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

28 § 2946. Firearms.

29 (a) General rule.--No constable or deputy constable may
30 carry or use a firearm in the performance of judicial duties

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

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

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

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

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

30 (2) Any program approved pursuant to the act of October

1 10, 1974 (P.L.705, No.235), known as the Lethal Weapons
2 Training Act.

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

5 (4) Any program approved by the board pursuant to
6 subsection (a).

7 § 2947. Fees.

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

12 (b) 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 is by other
15 than motor vehicle, reimbursement shall be for actual, vouchered
16 travel expenses.

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

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

30 (e) Civil cases.--In civil cases, constable fees must be

1 paid in advance for services desired to be performed. Such fees
2 shall not be refundable to the plaintiff if a case is settled or
3 a debt is satisfied less than 48 hours prior to a scheduled sale
4 or ejectment, in which latter case the constable or deputy
5 constable shall be paid for a nonforcible ejectment.

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

9 (1) the service is performed; and

10 (2) the request for payment is submitted.

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

12 (1) For serving complaint, summons or notice on suitor
13 or tenant, either personally or by leaving a copy, \$10 plus
14 \$5 for each additional defendant at the same address.

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

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

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

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

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

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

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

26 (9) For nonforcible ejectment on order of possession,
27 \$35.

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

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

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

2 (h) Criminal cases.--Fees in criminal cases shall be as
3 follows:

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

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

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

8 (4) For attendance at arraignment or hearing, \$5 per
9 defendant.

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

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

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

13 (8) For making returns to the court of process served or
14 non est inventus (not found), \$2.50.

15 (9) Pursuant to a policy established by the president
16 judge, \$10 per defendant per hour beyond the first half hour,
17 assessed to the court.

18 (10) For conveying defendants for fingerprinting, \$5 per
19 defendant.

20 (11) For overseeing the fingerprinting of defendants at
21 the direction of the district justice, \$5 per defendant plus
22 \$10 per defendant per hour beyond the first half hour.

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

24 (i) Similar fees.--For civil and criminal services not
25 specifically provided for, the court shall pay the same fees as
26 it pays for services that it determines to be similar to those
27 performed.

28 (j) Assessment by court.--In all criminal cases wherein the
29 defendant is discharged or indigent, or the case is otherwise
30 dismissed, the court shall assess to the county the fee and the

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

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

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

19 (m) Special account.--There is hereby established a special
20 restricted receipts account within the General Fund of the State
21 Treasury, which shall be known as the Constables' Education and
22 Training Account, for the purpose of financing expenses and
23 costs of administration by the board and other direct costs
24 associated with the program and continuing education courses
25 established pursuant to this subchapter. No funds from this
26 special account shall be used except for costs associated with
27 the program and continuing education courses established
28 pursuant to this subchapter and in no event shall be used by the
29 court administrator or the Administrative Office of the
30 Pennsylvania Courts for any purpose whatsoever.

(n) Disposition of funds.--The moneys collected by county treasurers under subsection (l) shall be forwarded monthly by each county treasurer to the Department of Revenue for deposit into the special account. None of these moneys shall be transferred by the State Treasurer to another account or fund.

(o) Appropriations.--

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

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

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

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

§ 2948. Discipline.

(a) Loss of certification.--A constable or deputy constable who is convicted of or pleads guilty or nolo contendere to murder or a felony or misdemeanor shall automatically cease to be certified to perform judicial duties and shall be suspended from performing judicial duties by the president judge of the judicial district in which the constable or deputy constable was elected or appointed. After all appeals are exhausted, if the conviction is affirmed, the president judge shall revoke the

1 certification of the person to perform judicial duties. If the
2 conviction is reversed, the president judge shall immediately
3 lift the suspension.

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

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

17 (2) Another election for the office of constable has
18 taken place in the jurisdiction of the constable who had
19 appointed him.

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

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

26 (d) Judicial duties.--Upon petition of any person, supported
27 by affidavit, a president judge may issue, on any constable or
28 deputy constable who is elected or appointed within the judicial
29 district and who is certified to perform judicial duties, a rule
30 to show cause why his certification should not be suspended or

1 revoked for incompetence, neglect or violation of any rule of
2 court relating to the conduct of constables or deputy constables
3 in the performance of their judicial duties. The rule to show
4 cause shall set forth the grounds for the proposed suspension or
5 revocation and shall be returnable to a judge other than the
6 president judge. After a hearing, the judge may suspend or
7 revoke the certification of the constable or deputy constable
8 for such cause.

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

17 (f) Duration of order.--

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

22 (i) A hearing is held on the continuation of the
23 interim order and the court determines that the order
24 shall remain in effect.

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

27 (iii) The constable or deputy constable fails to
28 appear for such hearing.

29 (2) The interim order provided for in subsection (e)
30 shall in all cases dissolve on the 30th day after it is

signed unless one or more of the following events takes place within that 30-day period:

(i) The constable or deputy constable requests and receives a continuance of the hearing provided for in subsection (d).

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

(3) The interim order is sooner dissolved by the court.

No more than one interim suspension or restriction proceeding may be initiated pursuant this subsection on the basis of the same alleged facts.

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

Section 4. This act shall take effect in 60 days.