
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 301 Session of
1991

INTRODUCED BY O'DONNELL, KOSINSKI, JOSEPHS, DALEY, MELIO, PESCI,
GIGLIOTTI AND VROON, FEBRUARY 6, 1991

SENATE AMENDMENTS TO HOUSE AMENDMENTS, NOVEMBER 17, 1992

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for municipal
3 court jurisdiction over landlord-tenant cases; further
4 providing for the establishment of fees and charges; imposing
5 a criminal laboratory user fee; providing for disposition of
6 revenues generated by the fee; providing for the abatement of
7 and for other remedies relating to drug-related nuisances;
8 providing for procedure, for injunctions and for powers and
9 duties of the courts; and making repeals.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 1123(a)(3) of Title 42 of the
13 Pennsylvania Consolidated Statutes is amended to read:

14 § 1123. Jurisdiction and venue.

15 (a) General rule.--Except as otherwise prescribed by any
16 general rule adopted pursuant to section 503 (relating to
17 reassignment of matters), the Philadelphia Municipal Court shall
18 have jurisdiction of the following matters:

19 * * *

20 (3) Matters arising under the act of April 6, 1951

(P.L.69, No.20), known as ["The Landlord and Tenant Act of 1951."] The judges of the Philadelphia Municipal Court shall have the power to enter judgments exceeding \$5,000 in matters arising under this subsection.

* * *

Section 2. Section 1725 of Title 42 is amended by adding subsections to read:

§ 1725. Establishment of fees and charges.

* * *

(c) Counties of the first class.~~--In counties of the first class:~~

~~(1) There shall be charged and set apart by the officer receiving the fees fixed in this section and remitted monthly to the treasurer of the bar association or other nonprofit corporation operating the public law library of such county, an amount equal to 30% of the filing fees at the time in effect for the probate of wills, the issue of letters testamentary, the issue of letters of administration and the filing of accounts with the register of wills, the filing of accounts of trustees and guardians in the court of common pleas of the county and of all filings in the office of the prothonotary of the county.~~

~~(2) The provisions of paragraph (1) shall not apply to any actions taken or initiated by any political subdivision.~~

~~(3) The written receipt for the moneys of the treasurer of the bar association or nonprofit corporation shall be the only legal discharge of the officer.~~

~~(4) The Department of General Services shall annually, and free of charge, distribute to the treasurer of each bar association or nonprofit corporation for the use of its~~

~~library, 60 copies of the Laws of Pennsylvania for the purpose of enabling the library to exchange a copy of the laws for a copy of similar publications of other states and of the territories of the United States.~~

~~(5)~~ (1) The following fees shall be received by the clerks of orphans' courts of counties of the first class:

(i) The following fees shall be charged for the filing of accounts of guardians and trustees based upon the size of the estate:

Estate not exceeding \$1,000.....	\$14.00
Each additional \$1,000 or fraction thereof over \$1,000, but not exceeding \$10,000.....	7.00
Over \$10,000, but not exceeding \$25,000.....	140.00
Over \$25,000, but not exceeding \$100,000.....	279.00
Over \$100,000, but not exceeding \$500,000.....	419.00
Over \$500,000, but not exceeding \$1,000,000.....	559.00
Each additional \$500,000 or fraction thereof over \$1,000,000.....	300.00

(ii) The following fees shall be charged for the indicated activity or function:

Affidavit.....	\$3.00
Appeal to Supreme Court.....	35.00
Attachment.....	3.00
Auditor's report.....	14.00

1	<u>Bond.....</u>	<u>7.00</u>
2	<u>Bond, refunding.....</u>	<u>7.00</u>
3	<u>Claim of creditor.....</u>	<u>7.00</u>
4	<u>Copy of any record, per page.....</u>	<u>3.00</u>
5	<u>Disclaimer.....</u>	<u>7.00</u>
6	<u>Docket entries, per page.....</u>	<u>8.00</u>
7	<u>Election to take under or against will.</u>	<u>7.00</u>
8	<u>Exceptions to adjudication, opinion and</u>	
9	<u>decree or master's or auditor's report.....</u>	<u>14.00</u>
10	<u>Execution of deed by clerk.....</u>	<u>14.00</u>
11	<u>Excerpt from schedule and</u>	
12	<u>certification.....</u>	<u>7.00</u>
13	<u>Exemplification of any record.....</u>	<u>7.00</u>
14	<u>Exemption, petition for.....</u>	<u>7.00</u>
15	<u>Family settlement:</u>	
16	<u>not exceeding three pages.....</u>	<u>25.00</u>
17	<u>each additional page.....</u>	<u>6.00</u>
18	<u>Guardian, appointment of:</u>	
19	<u>not exceeding \$2,500.....</u>	<u>14.00</u>
20	<u>exceeding \$2,500.....</u>	<u>35.00</u>
21	<u>Inventory, guardian's.....</u>	<u>3.00</u>
22	<u>Marriage license.....</u>	<u>5.00</u>
23	<u>(Plus \$10.00 surcharge for</u>	
24	<u>Commonwealth of Pennsylvania)</u>	
25	<u>Consent of parent or guardian.....</u>	<u>3.00</u>
26	<u>Appointment of temporary guardian.....</u>	<u>3.00</u>
27	<u>Master's report.....</u>	<u>13.00</u>
28	<u>Petition and decree.....</u>	<u>14.00</u>
29	<u>Petition and decree for citation.....</u>	<u>28.00</u>
30	<u>Pleading (other than petition):</u>	

1 (3) The sum of \$1 for appointments of Boards of View.

2 (4) The sum of \$1 for certiorari to district justices
3 and the Pittsburgh Magistrates Court and the Traffic Court of
4 Pittsburgh.

5 (5) The sum of \$1 for the commencement of a civil action
6 or proceeding.

7 (6) The sum of \$1 for the filing of a praecipe for and
8 issuance of a writ of execution or attachment.

9 (7) The sum of \$1 for the entry of a judgment by
10 confession or otherwise.

11 (8) The sum of \$1 for the filing of adversary and
12 amicable scire facias proceedings.

13 (9) The sum of \$1 for every filing with respect to
14 fictitious names, whether individual or corporate.

15 (10) The sum of \$1 for the probate of a will, the
16 issuance of letters of administration, or a petition for
17 disposition of decedents estates independent of the issuance
18 of letters testamentary or of administration.

19 (11) The sum of \$1 for the filing of an account of
20 fiduciary in the office of the clerk of the orphans' court
21 division or in the office of the prothonotary.

22 (12) The sum of \$1 for the filing of a petition for a
23 writ of habeas corpus for the custody of a minor child or a
24 petition for the award of custody of a minor child.

25 (13) The sum of \$1 for the filing of a praecipe for the
26 issuance of miscellaneous writs, for the filing of a petition
27 for a citation or for the filing of a caveat not specifically
28 provided for in this subsection.

29 (e) Counties of the second class A.--In counties of the
30 second class A, the prothonotary, the register of wills and the

1 clerk of the court shall set apart from the fees fixed in this
2 section or under any other statute and collected by them on the
3 following actions and proceedings, and remit monthly the total
4 collected to the county treasurer for the exclusive use and
5 benefit of the public law library in the county, if the county
6 commissioners so request and in the amount they so request:

7 (1) The sum of not less than \$5, nor more than \$40, for
8 the commencement of any civil action or proceeding.

9 (2) The sum of not less than \$5, nor more than \$40, for
10 the probate of a will, the issuance of letters of
11 administration or any petition for disposition of decedents
12 estates independent of the issuance of letters testamentary
13 or of administration.

14 (3) The sum of not less than \$5, nor more than \$40, for
15 each misdemeanor or felony case processed by the clerk of
16 courts.

17 Section 3. Title 42 is amended by adding a section to read:
18 § 1725.3. Criminal laboratory user fee.

19 (a) Imposition.--A person who is placed on probation without
20 verdict pursuant to section 17 of the act of April 14, 1972
21 (P.L.233, No.64), known as The Controlled Substance, Drug,
22 Device and Cosmetic Act, or who receives Accelerated
23 Rehabilitative Disposition or who pleads guilty to or nolo
24 contendere to or who is convicted of a crime as defined in 18
25 Pa.C.S. § 106 (relating to classes of offenses) or 75 Pa.C.S. §
26 3731 (relating to driving under influence of alcohol or
27 controlled substance) or 3735 (relating to homicide by vehicle
28 while driving under influence) or a violation of The Controlled
29 Substance, Drug, Device and Cosmetic Act, shall, in addition to
30 any fines, penalties or costs, in every case where laboratory

1 services were required to prosecute the crime or violation, be
2 sentenced to pay a criminal laboratory user fee which shall
3 include, but not be limited to, the cost of sending a laboratory
4 technician to court proceedings.

5 (b) Amount of user fee.--

6 (1) Where the prosecution is conducted in a county of
7 the first class or a county of the second class and the
8 county operates a county laboratory that has provided
9 services in the prosecution, the director or similar officer
10 of the county laboratory shall determine the actual cost of
11 the laboratory services provided in the prosecution and
12 transmit a statement for services rendered to the court. If a
13 county of the first class or a county of the second class
14 does not operate a county laboratory and laboratory services
15 in the prosecution were provided by the Pennsylvania State
16 Police, the fee shall be determined under paragraph (2).

17 (2) Where the prosecution is conducted in a county other
18 than a county of the first class or a county of the second
19 class and a Pennsylvania State Police laboratory has provided
20 services in the prosecution, the director or similar officer
21 of the Pennsylvania State Police laboratory shall determine
22 the actual cost of the laboratory services provided in the
23 prosecution and transmit a statement for services rendered to
24 the court.

25 (c) Disposition of fees.--

26 (1) In a county of the first class or a county of the
27 second class that operates a county laboratory, the criminal
28 laboratory user fee shall be paid to the county and shall be
29 used solely for operation and maintenance of the county
30 laboratory. If a county of the first class or a county of the

1 second class does not operate a county laboratory, the
2 criminal laboratory user fee shall be paid into the Criminal
3 Laboratory User Fee Fund created under paragraph (2).

4 (2) In a county other than a county of the first class
5 or a county of the second class, or where a county of the
6 first class or a county of the second class does not operate
7 a county laboratory, the criminal laboratory user fee shall
8 be paid into a special nonlapsing fund of the State Treasury,
9 which is hereby established and shall be known as the
10 Criminal Laboratory User Fee Fund. Money in the Criminal
11 Laboratory User Fee Fund is hereby appropriated to the
12 Pennsylvania State Police and shall be used solely for
13 operation and maintenance of Pennsylvania State Police
14 criminal laboratories.

15 (d) Other laws.--The criminal laboratory user fee shall be
16 imposed notwithstanding any other provision of law to the
17 contrary.

18 Section 4. Chapter 83 of Title 42 is amended by adding a
19 subchapter to read:

20 CHAPTER 83

21 PARTICULAR RIGHTS AND IMMUNITIES

22 * * *

23 SUBCHAPTER H

24 DRUG NUISANCES

25 Sec.

26 8381. Short title of subchapter.

27 8382. Definitions.

28 8383. Action to abate.

29 8384. Complaint.

30 8385. Service of original process.

1 8386. Preliminary injunction.

2 8387. Protection of witnesses.

3 8388. Security.

4 8389. Judgment and remedies.

5 8390. Violation of injunctions or abatement order.

6 8391. Release and cancellation.

7 8392. Severability.

8 § 8381. Short title of subchapter.

9 This subchapter shall be known and may be cited as the Drug
10 Nuisance Law.

11 § 8382. Definitions.

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

15 "Community-based organization." Any group affiliated with or
16 organized for the benefit of one or more communities or
17 neighborhoods, or any group organized to benefit the quality of
18 life in a residential area.

19 "Controlled substance act." The act of April 14, 1972
20 (P.L.233, No.64), known as The Controlled Substance, Drug,
21 Device and Cosmetic Act.

22 "Drug-related nuisance." The use of any property, in whole
23 or in part, which facilitates or is intended to facilitate any
24 violation of the act of April 14, 1972 (P.L.233, No.64), known
25 as The Controlled Substance, Drug, Device and Cosmetic Act, or
26 similar act of the United States or any other state.

27 "Manufacture" or "manufacturing." The production,
28 preparation, propagation, compounding, conversion or processing
29 of a controlled substance, other drug or device or the packaging
30 or repackaging of such substance or article, or the labeling or

1 relabeling of the commercial container of such substance or
2 article, but does not include the activities of a practitioner
3 who, as an incident to his administration or dispensing such
4 substance or article in the course of his professional practice,
5 prepares, compounds, packages or labels such substance or
6 article. The term "manufacturer" means a person who manufactures
7 a controlled substance, other drug or device.

8 "Owner." An individual, corporation, partnership, trust
9 association, joint venture or any other business entity in whom
10 is vested all or any part of the title to the property alleged
11 to be a drug-related nuisance.

12 "Property." Any tangible or intangible property, including
13 an interest in any leasehold, license or real estate, such as
14 any house, apartment building, condominium, cooperative, office
15 building, store, restaurant, tavern, nightclub or warehouse, and
16 the land extending to the boundaries of the lot upon which the
17 structure is situated and anything growing on, affixed or found
18 on the land.

19 "Tenant." A person who resides in or occupies real property
20 belonging to another person pursuant to a lease agreement or
21 common law tenancy.

22 § 8383. Action to abate.

23 Wherever there is reason to believe that a drug-related
24 nuisance exists, the district attorney, the Attorney General if
25 requested by a district attorney, the solicitor for the county
26 or municipality, a resident within 1,000 feet of the property,
27 including a tenant of the property, the owner of property or any
28 community-based organization may file an action in the court of
29 common pleas to abate, enjoin and prevent the drug-related
30 nuisance. Such actions shall be commenced by the filing of a

1 complaint alleging the facts constituting the drug-related
2 nuisance.

3 § 8384. Complaint.

4 (a) Adverse impact.--The complaint or an affidavit attached
5 thereto shall describe the adverse impact associated with the
6 drug nuisance upon the surrounding neighborhood. Adverse impact
7 includes, without limitation, the presence of any one or more of
8 the following conditions:

9 (1) Diminished property value.

10 (2) Increased fear of residents to walk through and in
11 public areas, including sidewalks and streets, increased
12 volume of vehicular and pedestrian traffic to and from the
13 property.

14 (3) An increase in the number of ambulance or police
15 calls to the property which are related to the use of drugs
16 or to violence stemming from illegal activity.

17 (4) Increased noise, bothersome solicitors or approaches
18 by persons wishing to sell drugs or solicit the donation of
19 money on or near the property.

20 (5) The display of dangerous weapons on or near the
21 property.

22 (6) The discharge of firearms on or near the property.

23 (7) Search warrants served on tenants or occupants of
24 the property which resulted in the seizure of drugs.

25 (8) Investigative purchases of drugs on or near the
26 property by law enforcement officers.

27 (9) Arrests of person on or near the property for
28 violation of criminal laws.

29 (10) Housing code violations relating to the property.

30 (11) Health code violations relating to the property.

1 (12) Accumulated trash and refuse in common areas on or
2 adjacent to the property.

3 (13) An unsecured entryway on the property.

4 (b) Attempts to notify owner.--The complaint shall contain a
5 description of what attempts, if any, have been made by the
6 plaintiff or any other person or entity to notify the owner of
7 the property of the drug-related nuisance or resulting adverse
8 impact.

9 § 8385. Service of original process.

10 (a) General rule.--A copy of the summons and complaint shall
11 be served upon the defendant at least five business days prior
12 to the first hearing in the action. Service of original process
13 shall be made in accordance with the Pennsylvania Rules of Civil
14 Procedure.

15 (b) Posting at property.--If personal service cannot be
16 made, service may be made by posting the papers at the property.
17 If service is made by posting at the property, a copy of the
18 summons and complaint shall be mailed registered mail, to the
19 last known mail address, if any, of the defendant. Actual
20 receipt of the registered mail shall not be required for
21 service.

22 § 8386. Preliminary injunction.

23 Upon the filing of a motion for preliminary injunction to
24 abate the drug-related nuisance, the plaintiff shall be entitled
25 to a hearing on the motion for preliminary injunction within 10
26 business days of the filing. If it shall be made to appear, by
27 affidavit or otherwise, that there is a substantial likelihood
28 that the plaintiff will show at trial, by a preponderance of the
29 evidence, that drug-related nuisance exists, the court shall
30 enter an order preliminarily enjoining the drug-related nuisance

1 and granting such other relief as the court may deem to be
2 appropriate, including those remedies provided for in section 8.
3 Whenever possible, the court shall order the trial of the action
4 on the merits advanced and consolidated with the hearing of the
5 motion. This section shall not be construed to prohibit the
6 application for or the granting of a temporary restraining
7 order.

8 § 8387. Protection of witnesses.

9 At the time of an application for the issuance of a
10 restraining order or an injunction, if proof of the existence of
11 the drug-related nuisance depends, in whole or part, upon the
12 affidavits of witnesses who are not law enforcement officers,
13 upon a showing of prior threats of violence or acts of violence
14 by any defendant or other person alleged to be involved in the
15 drug-related nuisance, the court may issue orders to protect
16 those witnesses, providing for nondisclosure of the name,
17 address or any other identifying information pertaining to the
18 witnesses, and such other and further relief as the court may
19 deem appropriate.

20 § 8388. Security.

21 No bond shall be required to issue a preliminary injunction
22 or special injunction sought by the district attorney or the
23 solicitor for the county or municipality. A bond in an amount
24 fixed and with security approved by the court may be required to
25 issue a preliminary injunction or special injunction when the
26 plaintiff is not the district attorney, the Attorney General or
27 a solicitor for the county or municipality. Where such relief is
28 issued after an evidentiary hearing at which witnesses are
29 subject to cross examination, the court shall not require a bond
30 in excess of \$500.

1 § 8389. Judgment and remedies.

2 (a) Burden of proof.--The plaintiff must establish that a
3 drug-related nuisance exists by a preponderance of the evidence.

4 (b) Relief.--If the existence of a drug-related nuisance is
5 found, the judgment may include actual damages and a temporary
6 or permanent injunction to restrain, abate and prevent the
7 continuance or recurrence of the drug-related nuisance. The
8 court may grant declaratory relief, mandatory orders or any
9 other relief deemed necessary to accomplish the purposes of the
10 injunction or order and enforce the same, and the court may
11 retain jurisdiction of the case for the purpose of enforcing its
12 orders.

13 (c) Additional remedies.--If the existence of a drug-related
14 nuisance is found, the court shall have the power additionally
15 to fashion any one or more of the following remedies:

16 (1) Assess costs of the action against the defendant.

17 (2) When a governmental agency is a plaintiff in the
18 action, assess a civil penalty against the defendant of not
19 less than \$500 nor more than \$10,000.

20 (3) Order the owner to clean up the property and make
21 repairs upon the property.

22 (4) Suspend or revoke any business, professional,
23 operational or liquor license.

24 (5) Order the owner to make additional reasonable
25 expenditures upon the property, including, but not limited
26 to, installing secure locks on doors, increasing lighting in
27 common areas and using videotaped surveillance of the
28 property and adjacent alleyways, sidewalks and parking lots.

29 (6) Order all rental income from the property to be
30 placed in an escrow account with the court for up to 90 days

1 or until the drug-related nuisance is abated.

2 (7) Order all rental income for the property transferred
3 to a trustee, to be appointed by the court, who shall be
4 empowered to use the rental income to make reasonable
5 expenditures upon the property in order to abate the drug-
6 related nuisance.

7 (8) Order the suspension of any State, city or local
8 governmental subsidies payable to the owners of the property,
9 such as tenant assistance payments to landlords, until the
10 nuisance is abated.

11 (9) Allow the plaintiff to seal the property with the
12 cost of sealing payable by the defendant.

13 (10) Order the defendant to pay the plaintiff the cost
14 of the suit, including reasonable attorney fees.

15 (d) Factors to consider.--In making an order under
16 subsection (c), the court shall consider, among others, the
17 following factors:

18 (1) The number of people residing at the property.

19 (2) The proximity of the property to other residential
20 structures.

21 (3) The number of times the property has been cited for
22 housing code or health code violations.

23 (4) The number of times the owner has been notified of
24 drug-related problems at the property.

25 (5) The extent and duration of the drug-related nuisance
26 at the time of the order.

27 (6) Prior efforts or lack of effort by the defendant to
28 abate the drug-related nuisance.

29 (7) The availability of alternative housing for tenants
30 of the building.

1 (8) The extent of concern about the drug-related
2 nuisance that has been expressed by nearby residents or
3 visitors to the area.

4 (9) The owner's involvement in the drug-related
5 nuisance.

6 (10) The owner's involvement in other drug-related
7 nuisances.

8 § 8390. Violation of injunctions or abatement order.

9 (a) Contempt.--A violation of any court order issued under
10 this subchapter is punishable as a contempt of court by a fine
11 of not less than \$500 nor more than \$75,000. The court may order
12 the sheriff or other proper officer of any county to take into
13 custody and commit to jail any person fined for a contempt until
14 the fine shall be paid or discharged. If unable to pay the fine,
15 the person may be committed to jail by the court for not more
16 than three months. Evidence concerning the duration and
17 repetitive nature of the violations shall be considered by the
18 court in determining the contempt penalties.

19 (b) Additional orders.--In addition, upon finding that a
20 defendant has willfully violated a court order issued under this
21 subchapter, the court shall be also empowered to issue any
22 additional orders necessary to abate this drug-related nuisance.

23 § 8391. Release and cancellation.

24 (a) No knowledge and abatement.--The court may suspend the
25 effectiveness of an order of abatement for no more than 90 days
26 if the owner of the property establishes that he had no
27 knowledge of the drug-related nuisance and could not reasonably
28 be expected to have such knowledge and the owner avers that he
29 will immediately undertake specified measures to abate the
30 nuisance and prevent it from being a drug-related nuisance for

1 the following two-year period.

2 (b) Fines and bond.--The courts shall cancel the order of
3 abatement if the owner of the property pays all fines and liens
4 against the property, satisfies the court that the drug-related
5 nuisance has been abated for the past 90 days, corrects all
6 housing code and health code violations and posts a bond in an
7 amount to be determined by the court, which will be immediately
8 forfeitable if the drug-related nuisance recurs during the
9 following one-year period.

10 § 8392. Severability.

11 If any provision of this subchapter or its application to any
12 person or circumstance is held invalid or unenforceable, the
13 remainder of this subchapter or the application of the provision
14 to other persons or circumstances shall not be affected.

15 Section 5. (a) The following acts and parts of acts are
16 repealed:

17 Section 24(d) and (e) of the act of July 9, 1976 (P.L.586,
18 No.142), known as the Judiciary Act of 1976.

19 42 Pa.C.S. § 1725.

20 (b) All other acts and parts of acts are repealed insofar as
21 they are inconsistent with this act.

22 Section 6. The addition of 42 Pa.C.S. § 1725.3 shall apply
23 to offenses committed on or after the effective date of this
24 act.

25 Section 7. This act shall take effect as follows:

26 (1) The addition of 42 Pa.C.S. § 1725.3 shall take
27 effect immediately, except that § 1725.3(b)(2) and (c)(2)
28 shall take effect January 1, 1994.

29 (2) This section shall take effect immediately.

30 (3) The remainder of this act shall take effect in 60

1 days.