

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2345 Session of
1992

INTRODUCED BY STURLA, FAJT, STEELMAN, JAROLIN, TIGUE, NICKOL,
ARMSTRONG, DENT, BILLOW, HARLEY, STETLER AND SURRA,
JANUARY 28, 1992

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 28, 1992

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, authorizing judges to be
3 conservators of the peace; providing for complaints against
4 persons or groups who threaten public peace; and further
5 providing for security to keep the peace.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Chapter 41 of Title 42 of the Pennsylvania
9 Consolidated Statutes is amended by adding a subchapter to read:

10 CHAPTER 41

11 ADMINISTRATION OF JUSTICE

12 * * *

13 SUBCHAPTER D

14 COMMUNITY PEACE

15 Sec.

16 4141. Short title of subchapter.

17 4142. Definitions.

18 4143. Authority to enforce laws to conserve public peace.

19 4144. Security to keep peace.

1 4145. Recognizance to keep peace.

2 4146. Forfeiture and remittance of recognizance.

3 4147. Appeal of decisions.

4 4148. Costs of prosecution.

5 § 4141. Short title of subchapter.

6 This subchapter shall be known and may be cited as the
7 Community Peace Act.

8 § 4142. Definitions.

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

12 "Breach of the peace." A violation of the public peace or
13 order by any act or conduct which incites violence or tends to
14 provoke others to break the peace, or any act which disturbs the
15 public tranquility enjoyed by the citizens of a community.

16 "Conservator of the peace." A judge of a district, county or
17 municipal court authorized to enforce the laws to maintain the
18 public peace.

19 "Elected official." The principal administrative officer
20 elected or appointed to act as chief executive or nominal head
21 of a city, township, borough or other political subdivision
22 vested with the authority to exercise some portion of the
23 functions of government.

24 "Peace." The tranquility enjoyed by the citizens of a
25 community where good order and harmony prevail among its
26 inhabitants.

27 "Penalty." The amount of money to be forfeited for breaking
28 the conditions stipulated in a recognizance.

29 "Recognizance." An obligation entered into before a court
30 obliging those persons or group of persons whom there is

1 probable cause to suspect future misbehavior to stipulate with
2 and to give full assurance to the public that the offense as is
3 anticipated shall not be committed. This is done by giving
4 securities for keeping the peace or for good behavior or both.

5 "Security." A bond or recognizance which a judge exacts from
6 a person or group of persons brought before the court on a
7 charge of breaching the public peace or threatening violence,
8 conditioned upon maintaining good behavior or keeping the peace
9 for a specified period of time.

10 § 4143. Authority to enforce laws to conserve public peace.

11 The judges of the district, county and municipal courts of
12 this Commonwealth shall enforce all laws enacted for the
13 preservation of the public peace. In execution of the ex officio
14 power of the judiciary to be conservators of the peace, judges
15 may require persons or groups of persons to give security to
16 keep the peace or for their good behavior, or both, in
17 accordance with the provisions of this subchapter.

18 § 4144. Security to keep peace.

19 (a) General rule.--Security to keep the peace may be
20 demanded if:

21 (1) A person or group of persons, because of race,
22 religion, national origin, lifestyle, belief or professional
23 occupation, have received threats of injury to person or
24 property from another person or group of persons and who can
25 provide evidence supporting that such threats have operated
26 to take away the person's or group's freedom of action.

27 (2) An elected official or a designee has probable cause
28 to fear that the action or conduct of a person or group of
29 persons will breach the peace of a community and the action
30 or conduct is a voluntary invasion of the security and

1 protection afforded by law to all citizens of the community
2 and is motivated by hatred toward the race, color, religion,
3 national origin, lifestyles, beliefs or professional
4 occupation of others.

5 (b) Complaints.--When a formal complaint is made in writing
6 and under oath to a judge that a person or group of persons have
7 threatened to commit an offense against the person or property
8 of another or that the action or conduct of a person or group of
9 persons will cause consternation and alarm or breach the peace
10 and the action or conduct is a voluntary invasion of the
11 security and protection afforded all citizens under the laws of
12 this Commonwealth and is motivated by hatred toward the race,
13 color, religion, national origin, lifestyles, beliefs or
14 professional occupation of others, the judge shall:

15 (1) Examine the complainant and any witnesses that may
16 be produced, under oath.

17 (2) Reduce the complaint to writing.

18 (3) Cause the complaint to be subscribed by the
19 complainant.

20 (c) Issuance of warrant.--If, upon examination of the
21 complaint, it is determined beyond a reasonable doubt that there
22 is probable cause to believe that the threatened offense may be
23 committed or that the action or conduct will breach the peace of
24 a community or will violate any laws enacted to preserve peace
25 and good order, the judge shall issue a signed warrant. The
26 warrant shall recite the substance of the complaint and require
27 the officer of the court to whom it is directed to apprehend the
28 person complained of and bring the person before the court
29 having jurisdiction.

30 (d) Examination.--When a person or group of persons

1 complained of is brought before a judge in accordance with
2 subsections (a) and (b), the judge shall, in the presence of the
3 person or group of persons complained of, immediately examine
4 the complainant and any witnesses in support of the complainant,
5 under oath, regarding all matters pertinent to the complaint.
6 The person or group of persons complained of and witnesses shall
7 be subsequently sworn and examined. The person or group of
8 persons complained of shall be afforded the opportunity to be
9 assisted by counsel during the proceedings.

10 § 4145. Recognizance to keep peace.

11 (a) General rule.--If it is determined, upon examination,
12 that there is probable cause to believe that the threatened
13 offense will be committed or that the action or conduct of the
14 person or group of persons will breach the peace of a community,
15 invading the security and protection the law affords all
16 citizens of this Commonwealth, the person or group of persons
17 shall be required to enter into a recognizance, with sufficient
18 sureties, in the amount of money as the judge so directs, to
19 keep the peace toward all people of this Commonwealth and
20 especially toward the person requiring the security for such
21 time as the judge orders, not exceeding six months. However, the
22 person or group of persons complained of shall not be ordered to
23 recognize for appearance at the district court or court of
24 common pleas, unless the person or group is charged with some
25 other offense which the person or group must be held to answer
26 at court.

27 (b) Discharge or commitment.--Upon compliance with the order
28 of the court to provide a recognizance to keep the peace, the
29 person or group of persons complained of shall be discharged. If
30 the person or group of persons refuses or neglects to comply

1 with the order to recognize, the court shall commit the person
2 or group of persons to jail during the period for which the
3 person or group of persons was required to give security or
4 until the person or group of persons complies with the order to
5 recognize, stating in the warrant the cause of commitment, with
6 the amount of money and time for which security was required.
7 The person or group of persons shall be given the opportunity to
8 comply with the conditions of the recognizance before being
9 committed to jail. A person or group of persons committed to
10 jail for not providing security or for refusing to recognize as
11 required by the court may be discharged upon complying with the
12 order to recognize to keep the peace.

13 (c) Filing of recognizance; prosecutions.--Every
14 recognizance taken in accordance with the provisions of this
15 subchapter shall be filed and upon a breach of the conditions
16 shall be prosecuted by the Commonwealth.

17 § 4146. Forfeiture and remittance of recognizance.

18 (a) General rule.--A recognizance ordered to keep the peace
19 or for good behavior, or both, may be forfeited by actual
20 violence or threat of violence to the person or group on whose
21 complaint the person or group of persons is held, or by any
22 action or conduct which tends to or breaches the peace. The
23 judge may declare the recognizance forfeited and order it to be
24 prosecuted before a jury in the court having jurisdiction.

25 (b) Remittance of judgment on recognizance to
26 municipality.--When an action is brought on a recognizance to
27 keep the peace or for good behavior, or both, and the penalty is
28 adjudged forfeited, a community may initiate proceedings to
29 recover the forfeited penalty or any portion of the penalty if
30 the actions or conduct of the person or group of persons bound

1 to keep the peace resulted in the use of the police to preserve
2 public peace and to protect citizens, placing a financial burden
3 on the community.

4 (c) Remittance of judgment on recognizance.--When no action
5 is brought by a community to secure the penalty of a forfeited
6 recognizance in accordance with subsection (b), the Commonwealth
7 shall be the sole beneficiary of a forfeited recognizance. The
8 person or group of persons bound to keep the peace or for good
9 behavior, or both, shall have no pecuniary interest in a
10 forfeited recognizance.

11 (d) Remittance of recognizance.--Upon compliance with all
12 the conditions of a recognizance, the court may remit a portion
13 of the penalty on the petition of the person or group of persons
14 bound by the recognizance, as the circumstances of the case
15 render just and reasonable.

16 § 4147. Appeal of decisions.

17 (a) General rule.--A person or group of persons aggrieved by
18 a court order requiring the person or group of persons to
19 recognize to keep the peace or for good behavior, or both, upon
20 giving the security required, may appeal the court's decision to
21 an appellate court.

22 (b) Proceedings.--The court before which the appeal is
23 prosecuted may:

24 (1) Affirm the order of the lower court.

25 (2) Dismiss the complaint.

26 (3) Require the appellant to enter into a new
27 recognizance, with sufficient sureties, for an amount of
28 money and a length of time as the court deems appropriate.

29 (4) Make an order relating to the costs of prosecution
30 as the court deems just and reasonable.

1 § 4148. Costs of prosecution.

2 (a) Person or group liable.--When a person or group of
3 persons is required to give security to keep the peace or for
4 good behavior, the judge may further order the costs of
5 prosecution, or any part, to be paid by the person or group of
6 persons who shall remain committed until all costs are paid or
7 until otherwise legally discharged from jail.

8 (b) Complainant liable.--If, upon examination of a
9 complaint, it is determined that there is no cause to believe
10 that a threatened offense will be committed or that the action
11 or conduct of the person or group of persons will disrupt the
12 peace of a community, the person or group of persons shall be
13 immediately discharged. If the judge further determines the
14 complaint malicious or without probable cause, the judge shall
15 order the complainant to pay the costs of prosecution.

16 Section 2. This act shall take effect in 60 days.