

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 552 Session of
1999

INTRODUCED BY BARD, DRUCE, CLARK, HENNESSEY, KENNEY, BAKER,
BARRAR, BELARDI, BENNINGHOFF, CIVERA, CLYMER, L. I. COHEN,
DALEY, DeLUCA, EACHUS, EGOLF, FAIRCHILD, FARGO, HARHAI,
LAUGHLIN, LEDERER, LYNCH, MAHER, MELIO, NAILOR, PETRARCA,
READSHAW, ROEBUCK, ROSS, RUBLEY, SCHRODER, SEMMEL, SERAFINI,
SEYFERT, STABACK, STERN, SURRA, E. Z. TAYLOR, THOMAS, TIGUE,
TRELLO, WILLIAMS, WILT, WOGAN, YOUNGBLOOD, WASHINGTON AND
STRITTMATTER, FEBRUARY 10, 1999

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 19, 1999

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, FURTHER PROVIDING FOR
3 CRIMINAL LABORATORY USER FEE; AND providing for civil
4 immunity for antidrug and town-watch volunteers. <—

5 The General Assembly finds and declares as follows:

6 (1) The willingness of antidrug and town-watch
7 volunteers to offer their services has been increasingly
8 deterred by a perception that they put personal assets at
9 risk in the event of tort actions seeking damages arising
10 from their activities as volunteers.

11 (2) The contributions of antidrug and town-watch
12 programs, activities and services to communities are
13 diminished by the resulting unwillingness of individuals to
14 serve either as volunteers or as officers, directors and
15 trustees of nonprofit public and private organizations.

1 (3) It is in the public interest to strike a balance
2 between the right of a person to seek redress for injury and
3 the right of an individual to freely give time and energy
4 without compensation as a volunteer working to reduce crime
5 and drug use in the community, without fear of personal
6 liability for acts undertaken in good faith, absent willful
7 or wanton conduct on the part of the volunteer.

8 (4) This act is intended to encourage volunteers to
9 contribute their services to reduce the amount of crime and
10 drug use in their communities and at the same time provide a
11 reasonable basis for redress of claims which may arise
12 relating to those services.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 ~~Section 1. Title 42 of the Pennsylvania Consolidated~~ <—
16 ~~Statutes is amended by adding a section to read:~~

17 SECTION 1. SECTION 1725.3 OF TITLE 42 OF THE PENNSYLVANIA <—
18 CONSOLIDATED STATUTES IS AMENDED TO READ:

19 § 1725.3. CRIMINAL LABORATORY USER FEE.

20 [(A) IMPOSITION.--A PERSON WHO IS PLACED ON PROBATION
21 WITHOUT VERDICT PURSUANT TO SECTION 17 OF THE ACT OF APRIL 14,
22 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG,
23 DEVICE AND COSMETIC ACT, OR WHO RECEIVES ACCELERATED
24 REHABILITATIVE DISPOSITION OR WHO PLEADS GUILTY TO OR NOLO
25 CONTENDERE TO OR WHO IS CONVICTED OF A CRIME AS DEFINED IN 18
26 PA.C.S. § 106 (RELATING TO CLASSES OF OFFENSES) OR 75 PA.C.S. §
27 3731 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
28 CONTROLLED SUBSTANCE) OR 3735 (RELATING TO HOMICIDE BY VEHICLE
29 WHILE DRIVING UNDER INFLUENCE) OR A VIOLATION OF THE CONTROLLED
30 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT SHALL, IN ADDITION TO

1 ANY FINES, PENALTIES OR COSTS, IN EVERY CASE WHERE LABORATORY
2 SERVICES WERE REQUIRED TO PROSECUTE THE CRIME OR VIOLATION, BE
3 SENTENCED TO PAY A CRIMINAL LABORATORY USER FEE WHICH SHALL
4 INCLUDE, BUT NOT BE LIMITED TO, THE COST OF SENDING A LABORATORY
5 TECHNICIAN TO COURT PROCEEDINGS.

6 (B) AMOUNT OF USER FEE.--

7 (1) WHERE THE PROSECUTION IS CONDUCTED IN A COUNTY OF
8 THE FIRST CLASS OR A COUNTY OF THE SECOND CLASS AND THE
9 COUNTY OPERATES A COUNTY LABORATORY THAT HAS PROVIDED
10 SERVICES IN THE PROSECUTION, THE DIRECTOR OR SIMILAR OFFICER
11 OF THE COUNTY LABORATORY SHALL DETERMINE THE ACTUAL COST OF
12 THE LABORATORY SERVICES PROVIDED IN THE PROSECUTION AND
13 TRANSMIT A STATEMENT FOR SERVICES RENDERED TO THE COURT. IF A
14 COUNTY OF THE FIRST CLASS OR A COUNTY OF THE SECOND CLASS
15 DOES NOT OPERATE A COUNTY LABORATORY AND LABORATORY SERVICES
16 IN THE PROSECUTION WERE PROVIDED BY THE PENNSYLVANIA STATE
17 POLICE, THE FEE SHALL BE DETERMINED UNDER PARAGRAPH (2).

18 (2) WHERE THE PROSECUTION IS CONDUCTED IN A COUNTY OTHER
19 THAN A COUNTY OF THE FIRST CLASS OR A COUNTY OF THE SECOND
20 CLASS AND A PENNSYLVANIA STATE POLICE LABORATORY HAS PROVIDED
21 SERVICES IN THE PROSECUTION, THE DIRECTOR OR SIMILAR OFFICER
22 OF THE PENNSYLVANIA STATE POLICE LABORATORY SHALL DETERMINE
23 THE ACTUAL COST OF THE LABORATORY SERVICES PROVIDED IN THE
24 PROSECUTION AND TRANSMIT A STATEMENT FOR SERVICES RENDERED TO
25 THE COURT.

26 (C) DISPOSITION OF FEES.--

27 (1) IN A COUNTY OF THE FIRST CLASS OR A COUNTY OF THE
28 SECOND CLASS THAT OPERATES A COUNTY LABORATORY, THE CRIMINAL
29 LABORATORY USER FEE SHALL BE PAID TO THE COUNTY AND SHALL BE
30 USED SOLELY FOR OPERATION AND MAINTENANCE OF THE COUNTY

1 LABORATORY. IF A COUNTY OF THE FIRST CLASS OR A COUNTY OF THE
2 SECOND CLASS DOES NOT OPERATE A COUNTY LABORATORY, THE
3 CRIMINAL LABORATORY USER FEE SHALL BE PAID INTO THE CRIMINAL
4 LABORATORY USER FEE FUND CREATED UNDER PARAGRAPH (2).

5 (2) IN A COUNTY OTHER THAN A COUNTY OF THE FIRST CLASS
6 OR A COUNTY OF THE SECOND CLASS OR WHERE A COUNTY OF THE
7 FIRST CLASS OR A COUNTY OF THE SECOND CLASS DOES NOT OPERATE
8 A COUNTY LABORATORY, THE CRIMINAL LABORATORY USER FEE SHALL
9 BE PAID INTO A SPECIAL NONLAPSING FUND OF THE STATE TREASURY,
10 WHICH IS HEREBY ESTABLISHED AND SHALL BE KNOWN AS THE
11 CRIMINAL LABORATORY USER FEE FUND. MONEY IN THE CRIMINAL
12 LABORATORY USER FEE FUND IS HEREBY APPROPRIATED TO THE
13 PENNSYLVANIA STATE POLICE AND SHALL BE USED SOLELY FOR
14 OPERATION AND MAINTENANCE OF PENNSYLVANIA STATE POLICE
15 CRIMINAL LABORATORIES.]

16 (A) IMPOSITION.--A LABORATORY USER FEE SHALL BE PAYABLE IN
17 EVERY CASE WHERE FORENSIC LABORATORY SERVICES ARE PERFORMED FOR
18 THE INVESTIGATION OF ANY FEDERAL, STATE OR MUNICIPAL CRIME, OR
19 ANY CIVIL ACTION RESULTING FROM SUCH AN INVESTIGATION. THE COURT
20 WITH PROPER JURISDICTION SHALL SENTENCE ANY PERSON WHO IS FOUND
21 GUILTY, ADJUDICATED DELINQUENT, PLEAD GUILTY, PLEAD NOLO
22 CONTENDERE OR WHO RECEIVED ACCELERATED REHABILITATIVE
23 DISPOSITION TO PAY THE LABORATORY USER FEE. THE LABORATORY USER
24 FEE SHALL INCLUDE THE COST OF SENDING A LABORATORY TECHNICIAN TO
25 COURT PROCEEDINGS.

26 (B) AMOUNT OF USER FEE.--

27 (1) WHERE THE PERFORMED LABORATORY SERVICE IS CONDUCTED
28 IN A LABORATORY OPERATED BY A COUNTY OF THE FIRST CLASS OR
29 SECOND CLASS, THE DIRECTOR OR SIMILAR OFFICER OF THE COUNTY
30 FORENSIC LABORATORY SHALL DETERMINE THE ACTUAL COST OF THE

1 LABORATORY SERVICES PROVIDED AND TRANSMIT A STATEMENT FOR
2 SERVICES RENDERED TO THE COURT.

3 (2) WHERE THE PERFORMED LABORATORY SERVICE IS CONDUCTED
4 IN A LABORATORY OPERATED BY THE PENNSYLVANIA STATE POLICE,
5 THE DIRECTOR OR SIMILAR OFFICER OF THE PENNSYLVANIA STATE
6 POLICE FORENSIC LABORATORY SHALL DETERMINE THE ACTUAL COST OF
7 THE LABORATORY SERVICES PROVIDED AND TRANSMIT A STATEMENT FOR
8 SERVICES RENDERED TO THE COURT.

9 (C) DEPOSITION OF FEES.--

10 (1) IN A COUNTY OF THE FIRST CLASS OR SECOND CLASS THAT
11 OPERATES A COUNTY FORENSIC LABORATORY, AND WHERE THE
12 REQUESTED SERVICE IS PERFORMED, THE CRIMINAL LABORATORY USER
13 FEE SHALL BE PAID TO THE COUNTY AND SHALL BE USED SOLELY FOR
14 OPERATION AND MAINTENANCE OF THE COUNTY LABORATORY. IF A
15 COUNTY OF THE FIRST CLASS OR COUNTY OF THE SECOND CLASS DOES
16 NOT OPERATE A COUNTY FORENSIC LABORATORY, OR IF THE REQUESTED
17 SERVICE IS PERFORMED BY A PENNSYLVANIA STATE POLICE
18 LABORATORY, THE LABORATORY USER FEE SHALL BE PAID INTO THE
19 CRIMINAL LABORATORY USER FEE FUND ESTABLISHED UNDER PARAGRAPH
20 (2).

21 (2) WHERE THE LABORATORY SERVICES WHERE PROVIDED BY A
22 PENNSYLVANIA STATE POLICE LABORATORY, THE CRIMINAL LABORATORY
23 USER FEE SHALL BE PAID INTO A SPECIAL NONLAPSING FUND OF THE
24 STATE TREASURY, WHICH IS ALREADY ESTABLISHED AND SHALL
25 CONTINUE TO BE KNOWN AS THE CRIMINAL LABORATORY USER FEE
26 FUND. MONEY IN THE CRIMINAL LABORATORY USER FEE FUND SHALL
27 CONTINUE TO BE APPROPRIATED TO THE PENNSYLVANIA STATE POLICE
28 AND SHALL BE USED SOLELY FOR OPERATION AND MAINTENANCE OF
29 PENNSYLVANIA STATE POLICE CRIMINAL LABORATORIES.

30 (D) OTHER LAWS.--THE CRIMINAL LABORATORY USER FEE SHALL BE

1 IMPOSED NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
2 CONTRARY.

3 SECTION 2. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:

4 § 8332.6. Antidrug and town-watch volunteer civil immunity.

5 (a) General rule.--An antidrug or town-watch volunteer who
6 acts in good faith and within the scope of the volunteer's role
7 with an antidrug or crime prevention volunteer organization or
8 governmental entity shall be immune from civil liability for
9 damage caused by acts or omissions unless all of the following
10 apply:

11 (1) The conduct of the volunteer falls substantially
12 below the standards generally practiced and accepted in like
13 circumstances by similar persons rendering such services.

14 (2) It is shown that the volunteer performed an act or
15 failed to perform an act which the volunteer was under a
16 recognized duty to another to perform, knowing or having
17 reason to know that such act or omission created a
18 substantial risk or actual harm to the person or property of
19 another. It is insufficient to impose liability under this
20 paragraph to establish only that the conduct of the volunteer
21 fell below ordinary standards of care.

22 (b) Definitions.--As used in this section, the following
23 words and phrases shall have the meanings given to them in this
24 subsection:

25 "Antidrug or town-watch volunteer." A person performing
26 services for an antidrug or town-watch volunteer organization or
27 governmental organization without compensation other than
28 reimbursement for actual expenses incurred. The term includes a
29 volunteer serving as a director, officer, trustee or direct
30 service volunteer.

1 "Antidrug or town-watch volunteer organization." A nonprofit
2 organization, corporate volunteer program, medical facility or
3 substance abuse treatment program that uses volunteers to reduce
4 crime and drug use in the community.

5 "Corporate volunteer program." A program administered by an
6 entity other than a nonprofit organization or governmental
7 entity that enlists primarily its own employees, retirees,
8 partners or professional affiliates in a volunteer capacity to
9 achieve objectives that would qualify as charitable under
10 section 501(c) of the Internal Revenue Code of 1986 (Public Law
11 99-514, 26 U.S.C. § 501(c)).

12 "Governmental entity." A county, municipality, township,
13 school district, chartered unit or subdivision, governmental
14 unit, other special district, similar entity or any association,
15 authority, board, commission, division office, officer, task
16 force or other agency of a state, county or municipality.

17 "Nonprofit organization." An organization which is described
18 in section 501(c) of the Internal Revenue Code of 1986 (Public
19 Law 99-514, 26 U.S.C. § 501(c)), whether or not it has been
20 certified by the Internal Revenue Service.

21 SECTION 3. THE AMENDMENT OF 42 PA.C.S. § 1725.3 SHALL APPLY <—
22 TO SENTENCES IMPOSED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT.

23 Section ~~2~~ 4. This act shall take effect in 60 days. <—