

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 148 Session of
2007

INTRODUCED BY BAKER, PICKETT, CAUSER, BELFANTI, BEYER, BOYD,
CALTAGIRONE, CAPPELLI, CLYMER, DeLUCA, DENLINGER, GEIST,
GINGRICH, HENNESSEY, MELIO, MURT, NICKOL, PETRONE, RAPP,
REICHLEY, ROHRER, RUBLEY, SCAVELLO, SONNEY, WALKO, WATSON AND
WHEATLEY, JANUARY 31, 2007

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 31, 2007

A JOINT RESOLUTION

1 Proposing integrated amendments to the Constitution of the
2 Commonwealth of Pennsylvania, providing for hearing and
3 deciding cases involving dissolution of marriage, custody,
4 child support, spousal support, alimony, equitable division
5 of marital property and related family law matters.

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

8 Section 1. The following integrated amendments to the
9 Constitution of Pennsylvania are proposed as a unified ballot
10 question in accordance with Article XI:

11 That sections 5, 10(c) and 18(a)(7), (8) and (9), (b)(5),
12 (c)(1), (3) and (4) and (d) introductory paragraph and (1), (2)
13 and (3) of Article V be amended to read:

14 § 5. Courts of common pleas.

15 There shall be one court of common pleas for each judicial
16 district (a) having such divisions and consisting of such number
17 of judges as shall be provided by law, one of whom shall be the

1 president judge; and

2 (b) having unlimited original jurisdiction in all cases
3 except as may otherwise be provided by law[.]; and

4 (c) having a procedure for the disposition of cases
5 involving dissolution of marriage, custody, child support,
6 spousal support, alimony, alimony pendente lite, equitable
7 division of marital property and related family law matters as
8 provided by statute; and

9 (d) having a family resource center as provided by statute;
10 and

11 (e) having educational requirements for judges and family
12 law masters and mediators as provided by statute.

13 § 10. Judicial administration.

14 * * *

15 (c) The Supreme Court shall have the power to prescribe
16 general rules governing practice, procedure and the conduct of
17 all courts, justices of the peace and all officers serving
18 process or enforcing orders, judgments or decrees of any court
19 or justice of the peace, including the power to provide for
20 assignment and reassignment of classes of actions or classes of
21 appeals among the several courts as the needs of justice shall
22 require, and for admission to the bar and to practice law, and
23 the administration of all courts and supervision of all officers
24 of the Judicial Branch, if such rules are consistent with this
25 Constitution and neither abridge, enlarge nor modify the
26 substantive rights of any litigant, nor affect the right of the
27 General Assembly to determine the jurisdiction of any court or
28 justice of the peace, nor suspend nor alter any statute of
29 limitation or repose. [All] Except for statutes enacted pursuant
30 to section 5 of this article, all laws shall be suspended to the

1 extent that they are inconsistent with rules prescribed under
2 these provisions. Notwithstanding the provisions of this
3 section, the General Assembly may by statute provide for the
4 manner of testimony of child victims or child material witnesses
5 in criminal proceedings, including the use of videotaped
6 depositions or testimony by closed-circuit television.

7 * * *

8 § 18. Suspension, removal, discipline and other sanctions.

9 (a) There shall be an independent board within the Judicial
10 Branch, known as the Judicial Conduct Board, the composition,
11 powers and duties of which shall be as follows:

12 * * *

13 (7) The board shall receive and investigate complaints
14 regarding judicial conduct filed by individuals or initiated by
15 the board against a justice, judge, justice of the peace or
16 family law master; issue subpoenas to compel testimony under
17 oath of witnesses, including the subject of the investigation,
18 and to compel the production of documents, books, accounts and
19 other records relevant to the investigation; determine whether
20 there is probable cause to file formal charges against a
21 justice, judge [or], justice of the peace or family law master
22 for conduct proscribed by this section; and present the case in
23 support of the charges before the Court of Judicial Discipline.

24 (8) Complaints filed with the board or initiated by the
25 board shall not be public information. Statements, testimony,
26 documents, records or other information or evidence acquired by
27 the board in the conduct of an investigation shall not be public
28 information. A justice, judge [or], justice of the peace or
29 family law master who is the subject of a complaint filed with
30 the board or initiated by the board or of an investigation

1 conducted by the board shall be apprised of the nature and
2 content of the complaint and afforded an opportunity to respond
3 fully to the complaint prior to any probable cause determination
4 by the board. All proceedings of the board shall be confidential
5 except when the subject of the investigation waives
6 confidentiality. If, independent of any action by the board, the
7 fact that an investigation by the board is in progress becomes a
8 matter of public record, the board may, at the direction of the
9 subject of the investigation, issue a statement to confirm that
10 the investigation is in progress, to clarify the procedural
11 aspects of the proceedings, to explain the rights of the subject
12 of the investigation to a fair hearing without prejudgment or to
13 provide the response of the subject of the investigation to the
14 complaint. In acting to dismiss a complaint for lack of probable
15 cause to file formal charges, the board may, at its discretion,
16 issue a statement or report to the complainant or to the subject
17 of the complaint, which may contain the identity of the
18 complainant, the identity of the subject of the complaint, the
19 contents and nature of the complaint, the actions taken in the
20 conduct of the investigation and the results and conclusions of
21 the investigation. The board may include with a report a copy of
22 information or evidence acquired in the course of the
23 investigation.

24 (9) If the board finds probable cause to file formal charges
25 concerning mental or physical disability against a justice,
26 judge [or], justice of the peace or family law master, the board
27 shall so notify the subject of the charges and provide the
28 subject with an opportunity to resign from [judicial] his office
29 or, when appropriate, to enter a rehabilitation program prior to
30 the filing of the formal charges with the Court of Judicial

1 Discipline.

2 * * *

3 (b) There shall be a Court of Judicial Discipline, the
4 composition, powers and duties of which shall be as follows:

5 * * *

6 (5) Upon the filing of formal charges with the court by the
7 board, the court shall promptly schedule a hearing or hearings
8 to determine whether a sanction should be imposed against a
9 justice, judge [or], justice of the peace or family law master
10 pursuant to the provisions of this section. The court shall be a
11 court of record, with all the attendant duties and powers
12 appropriate to its function. Formal charges filed with the court
13 shall be a matter of public record. All hearings conducted by
14 the court shall be public proceedings conducted pursuant to the
15 rules adopted by the court and in accordance with the principles
16 of due process and the law of evidence. Parties appearing before
17 the court shall have a right to discovery pursuant to the rules
18 adopted by the court and shall have the right to subpoena
19 witnesses and to compel the production of documents, books,
20 accounts and other records as relevant. The subject of the
21 charges shall be presumed innocent in any proceeding before the
22 court, and the board shall have the burden of proving the
23 charges by clear and convincing evidence. All decisions of the
24 court shall be in writing and shall contain findings of fact and
25 conclusions of law. A decision of the court may order removal
26 from office, suspension, censure or other discipline as
27 authorized by this section and as warranted by the record.

28 * * *

29 (c) Decisions of the court shall be subject to review as
30 follows:

1 (1) A justice, judge [or], justice of the peace or family
2 law master shall have the right to appeal a final adverse order
3 of discipline of the court. A judge [or], justice of the peace
4 or family law master shall have the right to appeal to the
5 Supreme Court in a manner consistent with rules adopted by the
6 Supreme Court; a justice shall have the right to appeal to a
7 special tribunal composed of seven judges, other than senior
8 judges, chosen by lot from the judges of the Superior Court and
9 Commonwealth Court who do not sit on the Court of Judicial
10 Discipline or the board, in a manner consistent with rules
11 adopted by the Supreme Court. The special tribunal shall hear
12 and decide the appeal in the same manner in which the Supreme
13 Court would hear and decide an appeal from an order of the
14 court.

15 * * *

16 (3) An order of the court which dismisses a complaint
17 against a judge [or], justice of the peace or family law master
18 may be appealed by the board to the Supreme Court, but the
19 appeal shall be limited to questions of law. An order of the
20 court which dismisses a complaint against a justice of the
21 Supreme Court may be appealed by the board to a special tribunal
22 in accordance with paragraph (1), but the appeal shall be
23 limited to questions of law.

24 (4) No justice, judge [or], justice of the peace or family
25 law master may participate as a member of the board, the court,
26 a special tribunal or the Supreme Court in any proceeding in
27 which the justice, judge or justice of the peace is a
28 complainant, the subject of a complaint, a party or a witness.

29 (d) A justice, judge [or], justice of the peace or family
30 law master shall be subject to disciplinary action pursuant to

1 this section as follows:

2 (1) A justice, judge [or], justice of the peace or family
3 law master may be suspended, removed from office or otherwise
4 disciplined for conviction of a felony; [violation of section 17
5 of this article;] misconduct in office; neglect or failure to
6 perform the duties of office or conduct which prejudices the
7 proper administration of justice or brings the judicial office
8 into disrepute, whether or not the conduct occurred while acting
9 in a judicial capacity or is prohibited by law; or conduct in
10 violation of a canon or rule prescribed by the Supreme Court. A
11 justice, judge or justice of the peace may be suspended, removed
12 from office or otherwise disciplined for a violation of section
13 17 of this article. A judge or family law master may be
14 suspended or removed from office for failure to complete
15 judicial education requirements as provided by statute. In the
16 case of a mentally or physically disabled justice, judge [or],
17 justice of the peace or family law master, the court may enter
18 an order of removal from office, retirement, suspension or other
19 limitations on the activities of the justice, judge [or],
20 justice of the peace or family law master as warranted by the
21 record. Upon a final order of the court for suspension without
22 pay or removal, prior to any appeal, the justice, judge [or],
23 justice of the peace or family law master shall be suspended or
24 removed from office; and the salary of the justice, judge [or],
25 justice of the peace or family law master shall cease from the
26 date of the order.

27 (2) Prior to a hearing, the court may issue an interim order
28 directing the suspension, with or without pay, of any justice,
29 judge [or], justice of the peace or family law master against
30 whom formal charges have been filed with the court by the board

1 or against whom has been filed an indictment or information
2 charging a felony. An interim order under this paragraph shall
3 not be considered a final order from which an appeal may be
4 taken.

5 (3) A justice, judge [or], justice of the peace or family
6 law master convicted of misbehavior in office by a court,
7 disbarred as a member of the bar of the Supreme Court or removed
8 under this section shall forfeit automatically his judicial
9 office and thereafter be ineligible for judicial office.

10 * * *

11 Section 2. (a) Upon the first passage by the General
12 Assembly of these proposed constitutional amendments, the
13 Secretary of the Commonwealth shall proceed immediately to
14 comply with the advertising requirements of section 1 of Article
15 XI of the Constitution of Pennsylvania and shall transmit the
16 required advertisements to two newspapers in every county in
17 which such newspapers are published in sufficient time after
18 passage of these proposed constitutional amendments.

19 (b) Upon the second passage by the General Assembly of these
20 proposed constitutional amendments, the Secretary of the
21 Commonwealth shall proceed immediately to comply with the
22 advertising requirements of section 1 of Article XI of the
23 Constitution of Pennsylvania and shall transmit the required
24 advertisements to two newspapers in every county in which such
25 newspapers are published in sufficient time after passage of
26 these proposed constitutional amendments. The Secretary of the
27 Commonwealth shall submit the proposed constitutional amendments
28 under section 1 to the qualified electors of this Commonwealth
29 as a single ballot question at the first primary, general or
30 municipal election which meets the requirements of and is in

1 conformance with section 1 of Article XI of the Constitution of
2 Pennsylvania and which occurs at least three months after the
3 proposed constitutional amendments are passed by the General
4 Assembly.