

No. 1979-52

AN ACT

HB 82

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the operation of district justices and fixing the jurisdiction costs, educational requirements and transfer procedures for district justices.

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

Section 1. The definition of "senior district justice" in section 102 of Title 42, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, added April 28, 1978 (P.L.202, No.53), is amended to read:

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

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"Senior district justice." A former or retired district justice who retires or otherwise vacates office after January 1, **[1976] 1970, who has served at least one complete six year elected term as a district justice**, and who, with his consent, is assigned on temporary magisterial service pursuant to section 4122(b) (relating to assignment of senior district justices).

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Section 2. Sections 1515(a) and 1722(a)(2) of Title 42, section 1515(a) amended April 28, 1978 (P.L.202, No.53), are amended to read:

§ 1515. Jurisdiction and venue.

(a) Jurisdiction.—Except as otherwise prescribed by general rule adopted pursuant to section 503 (relating to reassignment of matters), district justices shall, under procedures prescribed by general rule, have jurisdiction of all of the following matters:

- (1) Summary offenses, except those within the jurisdiction of an established and open traffic court.
- (2) Matters arising under the act of April 6, 1951 (P.L.69, No.20), known as "The Landlord and Tenant Act of 1951," which are stated therein to be within the jurisdiction of a district justice.
- (3) Civil claims wherein the sum demanded does not exceed \$2,000, exclusive of interest and costs, in the following classes of actions:
 - (i) In assumpsit, except cases of real contract where the title to real estate may be in question.

(ii) In trespass, including all forms of trespass and trespass on the case.

(iii) For fines and penalties by any government agency.

A plaintiff may waive a portion of his claim of more than \$2,000 so as to bring the matter within the jurisdiction of a district justice. Such waiver shall remain effective except upon appeal by either party or when the judgment is set aside upon certiorari.

(4) As commissioners to preside at arraignments, fix and accept bail, issue warrants and perform duties of a similar nature, including the jurisdiction of a committing magistrate in all criminal proceedings.

(5) Offenses under 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance), if the following criteria are met:

(i) The offense is the first offense by the defendant under such provision in this Commonwealth.

(ii) No personal injury **[or property damage]** (other than to the defendant or the immediate family of the defendant) resulted from the offense.

(iii) The defendant pleads guilty.

(iv) *No property damage in excess of \$500 other than to the defendant's property resulted from the violation.*

(v) *The defendant is not subject to the provisions of Chapter 63 (relating to juvenile matters).*

(vi) *The arresting authority shall cause to be transmitted a copy of the charge of any violation of 75 Pa.C.S. § 3731 to the county clerk of courts within five days after the preliminary arraignment.*

In determining that the above criteria are met the district justice shall rely on the certification of the arresting authority. Certification that the criteria are met need not be in writing. Within ten days after the disposition, the district justice shall certify the disposition to the county clerk of courts in writing.

(6) (i) Offenses under Title 18 (crimes and offenses) which are classified as misdemeanors of the third degree, if the following criteria are met:

(A) The misdemeanor is not the result of a reduced charge.

(B) Any personal injury or property damage is less than **[\$100] \$500.**

(C) The defendant pleads guilty.

(D) *The defendant is not subject to the provisions of Chapter 63.*

(ii) Subparagraph (i) shall not apply to any offense under the following provisions of Title 18:

Section 4303 (relating to concealing death of bastard child).

Section 4321 (relating to willful separation or nonsupport).

Section 5103 (relating to unlawfully listening into deliberations of jury).

(7) Matters jurisdiction of which is vested in district justices by any statute.

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§ 1722. Adoption of administrative and procedural rules.

(a) General rule.—The governing authority shall have the power to prescribe and modify general rules governing:

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(2) The prescription of canons of ethics applicable to judges and *district justices* and the prescription of rules or canons applicable to the activities of all other personnel of the system.

* * *

Section 3. Title 42 is amended by adding sections to read:

§ 1725.1. Costs.

(a) *Civil cases.*—The costs to be charged by the minor judiciary in every civil case, except as otherwise provided in this section, shall be as follows:

- (1) *Assumpsit or trespass involving \$100 or less* \$10.00
- (2) *Assumpsit or trespass involving more than \$100 but not more than \$300* \$15.00
- (3) *Assumpsit or trespass involving more than \$300 but not more than \$500* \$20.00
- (4) *Assumpsit or trespass involving more than \$500* \$25.00
- (5) *Landlord and tenant proceeding* \$25.00
- (6) *Order of execution* \$15.00
- (7) *Objection to levy* \$ 5.00
- (8) *Reinstatement of complaint* No Charge

Such costs shall include all charges including, when called for, the costs relating to postage and registered mail, except the costs of a district justice's transcript of every proceeding on appeal or certiorari (including affidavit, bail and certificate) which shall be \$2.50 per transcript.

(b) *Criminal cases.*—The costs to be charged by the minor judiciary or by the court of common pleas where appropriate in every criminal case, except as otherwise provided in this section, shall be as follows:

- (1) *Summary conviction, except motor vehicle cases* \$16.00
- (2) *Summary conviction, motor vehicles cases, other than paragraph (3)* \$10.00
- (3) *Summary conviction, motor vehicle cases, hearing demanded* \$15.00
- (4) *Misdemeanor* \$20.00
- (5) *Felony* \$25.00

Such costs shall include all charges including the costs of postage and registered mail and the costs of giving a district justice's transcript to the prosecutor or defendant, or both, if requested.

(c) *Unclassified costs or charges.*—The costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

<i>(1) Entering transcript of judgment from another member of the minor judiciary</i>	\$ 3.00
<i>(2) Marrying each couple, making record thereof, and certificate to the parties</i>	\$10.00
<i>(3) Granting emergency relief pursuant to the act of October 7, 1976 (P.L.1090, No.218), known as the "Protection From Abuse Act"</i>	\$10.00
<i>(4) Issuing a search warrant (except as provided in subsection (d))</i>	\$10.00
<i>(5) Any other issuance not otherwise provided for in this subsection</i>	\$10.00

(d) Search warrants.—In every case where a search warrant is requested by a police officer, constable or other peace officer engaged as such in the employ or service of the Commonwealth or any of its political subdivisions, no cost or charge shall be assessed against such officer, the Commonwealth or political subdivision for the issuance of such search warrant.

§ 1725.2. Assumption of summary conviction costs by county.

(a) Division of costs.—In every case of summary conviction in which the evidence is not sufficient to convict and the defendant is dismissed, there shall be no costs imposed if the prosecutor is a police officer engaged as such in the employ of this Commonwealth or of any of its political subdivisions. In all other cases, the costs may be imposed on the prosecutor or by the defendant if so permitted by law.

(b) Costs where default occurs.—In every case of summary conviction in which the defendant is convicted and sentenced to jail in default of the payment of the fine and costs imposed, the costs of prosecution shall be borne by the county.

(c) County of the second class.—In any case before a salaried magistrate where costs are borne by a county of the second class, the costs chargeable to the county shall be one-half of the costs set forth in section 1725.1(b) (relating to costs).

Section 4. Sections 3113(b), 3118, 3302 and 3571(c) of Title 42, added or amended April 28, 1978 (P.L.202, No.53), are amended to read:

§ 3113. Content of course of instruction and examination.

* * *

*(b) Content of course.—The course of training and instruction shall not exceed four weeks in duration and shall consist of a minimum of 40 hours of class instruction in civil and criminal law, including evidence and procedure, **summary proceedings, motor vehicles and courses in judicial ethics**, in the case of all such officials except judges of the Traffic Court of Philadelphia, in which case it shall consist of a minimum of 20 hours of class instruction in summary proceedings and laws relating to motor vehicles.*

§ 3118. Continuing education requirement.

Every district justice shall complete a continuing education program each year equivalent to not less than 32 hours per year in such courses or programs as are approved by the board. *If a district justice fails to meet these continuing education requirements, such justice shall be subject to suspension by the Supreme Court until such time as evidence of compliance with such requirements is submitted by the board, but in no event longer than six months at which time the failure to meet the continuing education requirements shall be grounds for the Supreme Court, after a hearing, to declare a vacancy in that district.*

§ 3302. Additional restrictions.

Judges shall not engage in any activity prohibited by this subchapter or any other provision of law and shall not violate any canon of ethics prescribed by general rule. *A district justice shall devote the time necessary for the prompt and proper disposition of the business of his office, which shall be given priority over any other occupation, business, profession, pursuit or activity. He shall not use or permit the use of the premises established for the disposition of his magisterial business for any other occupation, business, profession or gainful pursuit.* A district justice shall not hold any other elected or appointed public office in this Commonwealth. District justices and appointive judicial officers shall be governed by rules or canons prescribed by general rule. **[District justices shall also be subject to canons of ethics applied to judges of the courts of common pleas insofar as such canons apply to salaries, full-time duties and conflicts of interest.]**

§ 3571. Commonwealth portion of fines, etc.

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(c) Costs in district justice proceedings.—**[Costs collected by a district justice shall be payable to the Commonwealth in the following amounts:**

- (1) Summary conviction \$ 5.00
- (2) Misdemeanor \$ 7.00
- (3) Felony \$ 8.00
- (4) Assumpsit or trespass involving:
 - (i) \$100 or less \$ 2.50
 - (ii) More than \$100 but not more than \$300 \$ 5.00
 - (iii) More than \$300 but not more than \$500 \$ 7.50
 - (iv) More than \$500 \$10.00
- (5) Landlord-tenant proceeding \$10.00
- (6) Order of execution \$10.00
- (7) Issuing a search warrant \$ 7.00]

(1) Costs collected by a district justice shall be transmitted monthly to the Commonwealth in amounts as prescribed in subsection (b) and the balance shall be transmitted monthly to the county in which the magisterial district is located. Costs transmitted to the Commonwealth shall be credited to the General Fund. Costs transmitted to the county shall be retained by the county for its use.

(2) Amounts payable to the Commonwealth:

(i) Summary conviction, except motor vehicle cases . . .	\$ 5.00
(ii) Summary conviction, motor vehicle cases other than subparagraph (iii)	\$ 5.00
(iii) Summary conviction, motor vehicle cases, hearing demanded	\$ 5.00
(iv) Misdemeanor	\$ 7.00
(v) Felony	\$ 8.00
(vi) Assumpsit or trespass involving:	
(A) \$100 or less	\$ 2.50
(B) More than \$100 but not more than \$300	\$5.00
(C) More than \$300 but not more than \$500	\$7.50
(D) More than \$500	\$10.00
(vii) Landlord-tenant proceeding	\$10.00
(viii) Objection to levy	\$ 5.00
(ix) Order of execution	\$10.00
(x) Issuing a search warrant (except as provided in section 1725.1(d) (relating to costs))	\$ 7.00
(3) In all cases where costs are borne by the county pursuant to section 1725.2 (relating to assumption of summary conviction costs by county), no share of such costs shall be payable to the Commonwealth.	

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Section 5. Section 4102 of Title 42 is repealed.

Section 6. Sections 4122 and 4123 of Title 42, section 4122 amended April 28, 1978 (P.L.202, No.53), are amended to read:

§ 4122. Assignment of district justices.

(a) General rule.—Subject to general rules any district justice may be temporarily assigned to any other magisterial district or the Pittsburgh Magistrates Court or the Traffic Court of Philadelphia, and may there hear and determine any matter with like effect as if duly commissioned to sit in such other district or in such court.

(b) Senior district justices.—A senior district justice who shall not have been defeated for reelection or been suspended or removed from office may, with his consent, be assigned on temporary magisterial service pursuant to subsection (a). ***A senior district justice shall be paid a per diem salary at the same annual rate as is applicable in the district where he is temporarily assigned and shall receive expenses at the same per diem rate as other justices temporarily assigned.***

§ 4123. Assignment procedure.

The procedure for effecting temporary assignments of judges and district justices, the kind, amount and method of payment for travel, lodgings and subsistence, and all other matters related to such temporary assignments, shall be governed by general rules ***established by the Supreme Court except as otherwise specifically provided.***

Section 7. (a) The increase in salary provided for district justices pursuant to section 206 of the act of July 15, 1976 (P.L.1014, No.204), known as the "Magisterial District Reform Act" shall be effective and payable from September 13, 1976 regardless of the date on which such salary is actually paid.

(b) This section shall take effect immediately and shall be retroactive to September 13, 1976.

Section 8. The provisions of this amendatory act shall not affect any act done, liability or cost incurred or right accrued or vested or affect any suit or prosecution pending or to be instituted to enforce any right or penalty or punish any offense under the authority of any statutory provisions amended by this act.

Section 9. Except as otherwise provided in this act, this act shall take effect in 60 days.

APPROVED—The 20th day of July, A. D. 1979.

DICK THORNBURGH