

No. 1978-190

AN ACT

HB 2239

Amending the act of August 9, 1955 (P.L.323, No.130), entitled "An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto," providing for equal rights between men and women.

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

Section 1. Subsection (b) of section 402, subdivision (b) of Article XIX and subsection (a) of section 1916, act of August 9, 1955 (P.L.323, No.130), known as "The County Code," are amended to read:

Section 402. Incompatible Offices.—* * *

(b) No member of Congress from this State, nor any person holding or exercising any office or appointment of trust or profit under the United States, shall, at the same time, hold or exercise any county office in this State to which a salary, fee or perquisites are attached. This section shall not apply to United States Reserve Officers or enlisted **[men]personnel** not called into active duty.

ARTICLE XIX
SPECIAL POWERS AND DUTIES OF COUNTIES

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(b) Burial of Deceased Service Persons and **[Widows]**
Surviving Spouses

Section 1916. Proof of Service, Et Cetera.—(a) In each case, where application is made for a contribution toward the funeral expenses of a deceased service person, or the **[widow] surviving spouse** of a deceased service person, or for a headstone or concrete base or lettering or bronze memorial tablet, the county commissioners shall, before expending any money therefor, require proof of the following facts:

(1) The service of the deceased service person which entitles him or his **[widow] surviving spouse** to the benefits of this subdivision. Such proof shall be by the production of an honorable discharge or other official record showing service during any war in which the United States is or was engaged, or by the records of the Department of Defense of the Federal Government, or by copies thereof filed in the Department of Military Affairs showing the existence of a campaign or state or condition of war, the participation of the United States therein, and the service of the

deceased service person in a zone where such campaign or state or condition of war existed.

(2) The death of the deceased service person.

(3) In the case of the burial of the **[widow] surviving spouse** of a deceased service person, the death of such **[widow] surviving spouse**, and the fact that **[she] the spouse** was married to the deceased service person at the time of his death, and that **[she] the spouse** has not since remarried. The proof required by clauses one and two of this subsection shall also be required in such cases.

(4) Except in cases where persons not having a legal residence within this Commonwealth are entitled to any of the benefits of this subdivision, the legal residence within the county of the deceased service person, or of the **[widow] surviving spouse** of a deceased service person, as the case may be.

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Section 2. Subsection (a) of section 1921 of the act, amended December 16, 1975 (P.L.488, No.145), is amended to read:

Section 1921. Appropriations to Veterans' Organizations for Expenses of Memorial Day; Veterans' Day and Independence Day.—(a) The board of commissioners may appropriate, annually, to each camp of the United Spanish War Veterans, and to each post of the American Legion, and to each post of the Veterans of Foreign Wars, and to each post of the Veterans of World War I of the U. S. A., Inc., and to each post of the American War Veterans of World War II (AMVETS), and to each post of the Society of the Twenty-eighth Division, AEF, Incorporated, and to each post of the Italian American War Veterans of the United States, Incorporated, and to each detachment of the Marine Corps League, and to each Naval Association, and to each post of the Grand Army of the Republic, and to each post of the Disabled American Veterans of the World War, and to each organization of American Gold Star Mothers, and to each organization of ex-service **[men] persons** incorporated under the act of April twenty-nine, one thousand eight hundred seventy-four (Pamphlet Laws 73), and the supplements thereto, in the county, any sum budgeted to aid in defraying the expenses of Memorial Day, Veterans' Day and Independence Day.

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Section 3. Clause (1) of subsection (g) of section 1923 of the act is amended to read:

Section 1923. Compilation of War Records; Director of Veterans' Affairs.—* * *

(g) It shall also be the duty of the director of veterans affairs to:

(1) Assist the county commissioners in administering the provisions of this subdivision which relate to the burial of deceased service persons and their **[widows] surviving spouses** and to furnishing markers and placing headstones on their graves.

* * *

Section 4. Section 2175 of the act, added September 19, 1961 (P.L.1495, No.638) and clauses (6) and (7) amended June 16, 1972 (P.L.468, No.149), is amended to read:

Section 2175. Settlement.—For the purposes of this subdivision:

(1) A [legitimate] person is first settled in the county of birth [unless the father shall have a known settlement elsewhere, in which case the first settlement of such person is in the county where the father was then settled.] *unless the child's parents or the custodial parent if the parents do not live together or other legal guardian if neither parent has custody of the child has an established settlement elsewhere, in which case the first settlement of such person is in the county of his or her custodian. If the child resides with both parents and they have different settlements the settlement of the child shall be the same as that of the parent whose settlement coincides with the family residence. If neither parent's settlement coincides with the family residence, the child's settlement shall be in the place of the child's birth.*

(2) An illegitimate person is first settled in the county of birth unless the mother shall then have a known settlement elsewhere, in which case the first settlement of such person is in the county where the mother was then settled.]

(3) The settlement of a person in a county continues until a new one is acquired in this Commonwealth or elsewhere. A settlement is lost only by acquiring a new one, except that a person who has settlement in this Commonwealth, and who is residing in another state, shall be deemed to have lost settlement in this Commonwealth if a person from such other state, in like circumstances, could have acquired settlement in this Commonwealth by residence in this Commonwealth, as hereinafter provided; and except that a person having settlement in this Commonwealth, who has been absent therefrom and who has been residing in another state, shall be deemed to have lost settlement in this Commonwealth if a resident of such other state, who is residing in this Commonwealth, would lose settlement in such other state as a result of absence therefrom for a period of equal duration or for a period of lesser duration.

(4) Except as hereinafter otherwise provided, every adult and every emancipated minor, whether married or single, [legitimate or illegitimate,] may acquire a new settlement in any county of this Commonwealth or in the Commonwealth by coming bona fide to establish a permanent abode therein and continuing to reside therein for one whole year, if such person or minor is of sufficient mental ability to make a bargain, and is not or does not become a public charge during such year.

(5) The settlement of a married woman during coverture follows that of her husband and continues after his death in the county or place where he was last settled, but she may thereafter acquire a new settlement for herself. If the husband has no known settlement, then she is settled, whether he is living or dead, in the county or place where she was last

settled. The settlement of a woman after divorce absolute or from bed and board, or desertion by the husband, or withdrawal by the wife from cohabitation with the husband on account of his cruelty, inebriety or lack of support, continues in the county or place where the husband was last settled, but she may acquire a new settlement for herself.]

(6) A minor[, whether legitimate or illegitimate,] cannot be emancipated before age sixteen, and becomes emancipated absolutely at age eighteen, if then of sufficient mental ability to make a bargain. After age sixteen and before age eighteen, a minor of sufficient mental ability to make a bargain may become emancipated by his own acts or the acts of the parent, stepfather or stepmother having had the custody. When a person is emancipated, he or she is capable of establishing a new settlement.

(7) A minor[, whether legitimate or illegitimate,] who is so mentally deficient as to be unable to make a bargain cannot be emancipated after age sixteen, and such a person does not become emancipated at age eighteen and so long thereafter, as the mental condition continues. The settlement of such a person shall at all times during mental disability be ascertained as provided in clauses (8) and (9) of this section for the settlement of minors not emancipated.

(8) Before emancipation, the settlement of a [legitimate] minor is and remains that of the [father, unless—

(i) The father is dead and the mother acquired a new settlement, in which case it follows that of the mother; or

(ii) The father deserts his family, in which case it follows that of the mother; or

(iii) The mother withdraws from cohabitation with the husband on account of his cruelty, inebriety or lack of support, in which case it follows that of the parent having the custody; or

(iv) The parents are divorced, either absolutely or from bed and board, in which case it follows that of the parent having the exclusive custody, but where custody is divided between the parents the settlement remains that of the father; or

(v) Both parents are dead and the minor is in the custody of a stepfather or stepmother, in which case it follows that of the stepfather or stepmother having the custody.] *natural parents or custodial parent, should the natural parents not live together, or of any other legal guardian, or if the parents live together and have different settlements, that of the natural parent whose settlement coincides with the family residence, except that if the parents live together with the child and have different settlements neither of which coincides with the family residence, the settlement of a minor before emancipation shall be and remain in the place of the child's birth.*

(9) Before emancipation, the settlement of an illegitimate minor at all times follows that of the mother, and in case of her death before emancipation of such minor, continues in the custody or place in which she

was last settled, until such person establishes a new settlement after emancipation.]

(10) If a person has no known settlement in this Commonwealth and cannot for any reason whatever be removed into the state or country where settled, he shall have a quasi-settlement in the county where he or she becomes a public charge, which county shall, if he be a dependent, be liable for his or her support, otherwise such liability shall be upon the Commonwealth.

(11) If a person becomes a public charge in a county other than the one in which settled, such county, if he be a dependent, otherwise the Commonwealth, shall be liable for support until the county, state or country of settlement is discovered, and removal to such county, state or country takes place. Any county of settlement shall be liable to the county in which the person became a dependent for the cost of care advanced and the expenses of removal.

Section 5. This act shall take effect in 60 days.

APPROVED—The 4th day of October, A. D. 1978.

MILTON J. SHAPP