

No. 1980-142

A SUPPLEMENT

HB 1873

To the act of July 9, 1976 (P.L.586, No.142), entitled "An act amending Titles 42 (Judiciary and Judicial Procedure), 15 (Corporations and Unincorporated Associations), 18 (Crimes and Offenses) and 71 (State Government) of the Pennsylvania Consolidated Statutes, adding revised, codified and compiled provisions relating to judiciary and judicial procedure, including certain judicially enforceable rights, duties, immunities and liabilities and separately enacting certain related provisions of law," adding certain provisions of existing law to and making conforming, redesignation and editorial changes in certain provisions of the Pennsylvania Consolidated Statutes, making revisions, corrections and additions relating to judiciary and judicial procedure, including certain judicially enforceable rights, duties, immunities and liabilities, and repealing certain acts and parts of acts supplied by the act as heretofore supplemented and as supplemented hereby.

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

**ARTICLE I
PRELIMINARY PROVISIONS**

Section 101. Short title.—This act shall be known and may be cited as the “JARA Continuation Act of 1980.”

**ARTICLE II
CODIFICATION OF CERTAIN ACTS AND OTHER ACTION
OF THE 1977-80 GENERAL ASSEMBLIES
AND RELATED MATTERS**

Section 201. Codification of Act No. 1977-20.—(a) Chapter 53 of Title 42 is amended by adding a subchapter to read:

**SUBCHAPTER C
CHILD CUSTODY JURISDICTION**

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§ 5341. Short title of subchapter.

This subchapter shall be known and may be cited as the "Uniform Child Custody Jurisdiction Act."

§ 5342. Purposes and construction of subchapter.

(a) Purposes.—The general purposes of this subchapter are to:

(1) Avoid jurisdictional competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being.

(2) Promote cooperation with the courts of other states to the end that a custody decree is rendered in that state which can best decide the case in the interest of the child.

(3) Assure that litigation concerning the custody of a child takes place ordinarily in the state with which the child and his family have the closest connection and where significant evidence concerning his care, protection, training, and personal relationships is most readily available, and that courts of this Commonwealth decline the exercise of jurisdiction when the child and his family have a closer connection with another state.

(4) Discourage continuing controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child.

(5) Deter abductions and other unilateral removals of children undertaken to obtain custody awards.

(6) Avoid relitigation of custody decisions of other states in this Commonwealth insofar as feasible.

(7) Facilitate the enforcement of custody decrees of other states.

(8) Promote and expand the exchange of information and other forms of mutual assistance between the courts of this Commonwealth and those of other states concerned with the same child.

(b) Construction.—This subchapter shall be construed to promote the general purposes stated in this section.

§ 5343. Definitions.

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

"Contestant." An institution or an individual, including a parent, who claims a right to custody or visitation rights with respect to a child.

"Custody determination." A court decision and court orders and instructions providing for the custody of a child, including visitation rights; the term does not include a decision relating to child support or any other monetary obligation of any person.

“Custody proceeding.” Includes proceedings in which a custody determination is one of several issues, such as an action for divorce or separation, and includes child neglect and dependency proceedings.

“Decree” or **“custody decree.”** A custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree.

“Home state.” The state in which the child immediately preceding the time involved lived with his parents, a parent, or a person acting as parent, or in an institution, for at least six consecutive months, and in the case of a child less than six months old the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period.

“Initial decree.” The first custody decree concerning a particular child.

“Modification decree.” A custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court.

“Person acting as parent.” A person, including an institution other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody.

“Physical custody.” Actual possession and control of a child.

§ 5344. Jurisdiction.

(a) General rule.—A court of this Commonwealth which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if:

(1) this Commonwealth:

(i) is the home state of the child at the time of commencement of the proceeding; or

(ii) had been the home state of the child within six months before commencement of the proceeding and the child is absent from this Commonwealth because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as parent continues to live in this Commonwealth;

(2) it is in the best interest of the child that a court of this Commonwealth assume jurisdiction because:

(i) the child and his parents, or the child and at least one contestant, have a significant connection with this Commonwealth; and

(ii) there is available in this Commonwealth substantial evidence concerning the present or future care, protection, training, and personal relationships of the child;

(3) the child is physically present in this Commonwealth, and:

(i) the child has been abandoned; or

(ii) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent;

(4) (i) it appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraph (1), (2) or (3), or another state has declined to exercise jurisdiction on the ground that this Commonwealth is the more appropriate forum to determine the custody of the child; and

(ii) it is in the best interest of the child that the court assume jurisdiction; or

(5) the child welfare agencies of the counties wherein the contestants for the child live, have made an investigation of the home of the person to whom custody is awarded and have found it to be satisfactory for the welfare of the child.

(b) Physical presence insufficient.—Except under subsection (a)(3) and (4), physical presence in this Commonwealth of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this Commonwealth to make a child custody determination.

(c) Physical presence unnecessary.—Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

§ 5345. Notice and opportunity to be heard.

Before making a decree under this subchapter, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons is outside this Commonwealth, notice and opportunity to be heard shall be given pursuant to section 5346 (relating to notice to persons outside this Commonwealth; submission to jurisdiction).

§ 5346. Notice to persons outside this Commonwealth; submission to jurisdiction.

(a) General rule.—Notice required for the exercise of jurisdiction over a person outside this Commonwealth shall be given in a manner reasonably calculated to give actual notice, and may be:

(1) by personal delivery outside this Commonwealth in the manner prescribed for service of process within this Commonwealth;

(2) in the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction;

(3) by any form of mail addressed to the person to be served and requesting a receipt; or

(4) as directed by the court including publication, if other means of notification are ineffective.

(b) Duration.—Notice under this section shall be served, mailed, or delivered or last published at least 10 days before any hearing in this Commonwealth.

(c) Proof of service.—Proof of service outside this Commonwealth may be made by affidavit of the individual who made the service, or

in the manner prescribed by the law of this Commonwealth, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

(d) Submission to jurisdiction.—Notice is not required if a person submits to the jurisdiction of the court.

§ 5347. Simultaneous proceedings in other states.

(a) General rule.—A court of this Commonwealth shall not exercise its jurisdiction under this subchapter if at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this subchapter, unless the proceeding is stayed by the court of the other state because this Commonwealth is a more appropriate forum or for other reasons.

(b) Procedure.—Before hearing the petition in a custody proceeding the court shall examine the pleadings and other information supplied by the parties under section 5350 (relating to information under oath to be submitted to the court) and shall consult the child custody registry established under section 5357 (relating to registry of out-of-state custody decrees and proceedings) concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state it shall direct an inquiry to the state court administrator or other appropriate official of the other state.

(c) Stay; communication with other court.—If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with sections 5360 (relating to hearings and studies in another state; orders to appear) through 5363 (relating to request for court records of another state). If a court of this Commonwealth has made a custody decree before being informed of a pending proceeding in a court of another state it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum.

§ 5348. Inconvenient forum.

(a) General rule.—A court which has jurisdiction under this subchapter to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

(b) **Moving party.**—A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.

(c) **Factors to be considered.**—In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take into account the following factors, among others:

(1) If another state is or recently was the home state of the child.

(2) If another state has a closer connection with the child and his family or with the child and one or more of the contestants.

(3) If substantial evidence concerning the present or future care, protection, training, and personal relationships of the child is more readily available in another state.

(4) If the parties have agreed on another forum which is no less appropriate.

(5) If the exercise of jurisdiction by a court of this Commonwealth would contravene any of the purposes stated in section 5342 (relating to purposes and construction of subchapter).

(d) **Communication with other court.**—Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

(e) **Disposition.**—If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.

(f) **Effect on divorce or other proceeding.**—The court may decline to exercise its jurisdiction under this subchapter if a custody determination is incidental to an action for divorce or another proceeding while retaining jurisdiction over the divorce or other proceeding.

(g) **Costs and expenses.**—Subject to general rules:

(1) If it appears to the court that it is clearly an inappropriate forum it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this Commonwealth, necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses.

(2) Payment is to be made to the office of the clerk of the court of common pleas for remittance to the proper party.

(h) **Notice of disposition.**—Upon dismissal or stay of proceedings under this section the court shall inform the court found to be the more appropriate forum of this fact, or if the court which would have

jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official of the other state for forwarding to the appropriate court.

(i) Registry of out-of-state stay; notice of assumption of jurisdiction.—Any communication received from another state informing this Commonwealth of a finding of inconvenient forum because a court of this Commonwealth is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction the court of this Commonwealth shall inform the original court of this fact.

§ 5349. Jurisdiction declined by reason of conduct.

(a) General rule.—If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in conduct intending to benefit his position in a custody hearing, the court may decline to exercise jurisdiction if this is just and proper under the circumstances.

(b) Restriction on modification of foreign decree.—Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state the court may decline to exercise its jurisdiction unless the petitioner can show that conditions in the custodial household are physically or emotionally harmful to the child, the burden of proof being on the petitioner requesting the court to take jurisdiction.

(c) Costs and expenses.—Subject to general rules, in appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses.

§ 5350. Information under oath to be submitted to the court.

(a) General rule.—Every party in a custody proceeding in his first pleading or in an affidavit attached to that pleading shall give information under oath as to the present address of the child, the places where the child has lived within the last five years, and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit every party shall further declare under oath whether:

(1) he has participated (as a party, witness, or in any other capacity) in any other litigation concerning the custody of the same child in this or any other state;

(2) he has information of any custody proceeding concerning the child pending in a court of this or any other state; and

(3) he knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

(b) Additional information.—If the declaration as to any of the items set forth in subsection (a) is in the affirmative the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the jurisdiction of the court and the disposition of the case.

(c) Continuing duty.—Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this Commonwealth or any other state of which he obtained information during proceedings under this subchapter.

§ 5351. Additional parties.

If the court learns from information furnished by the parties pursuant to section 5350 (relating to information under oath to be submitted to the court) or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his joinder as a party. If the person joined as a party is outside this Commonwealth he shall be served with process or otherwise notified in accordance with section 5346 (relating to notice to persons outside this Commonwealth; submission to jurisdiction).

§ 5352. Appearance of parties and the child.

(a) General rule.—The court may order any party to the proceeding who is in this Commonwealth to appear personally before the court. If that party has physical custody of the child the court may order that he appear personally with the child.

(b) Out-of-state persons.—If a party to the proceeding whose presence is desired by the court is outside this Commonwealth with or without the child the court may order that the notice given under section 5346 (relating to notice to persons outside this Commonwealth; submission to jurisdiction) include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.

(c) Costs and expenses.—If a party to the proceeding who is outside this Commonwealth is directed to appear under subsection (b) or desires to appear personally before the court with or without the child, the court may require another party to pay travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances.

§ 5353. Binding force and res judicata effect of custody decree.

A custody decree rendered by a court of this Commonwealth which had jurisdiction under section 5344 (relating to jurisdiction) binds all parties who have been served in this Commonwealth or notified in accordance with section 5346 (relating to notice to persons outside this Commonwealth; submission to jurisdiction) or who have submitted to the jurisdiction of the court, and who have been given an opportunity

to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this subchapter.

§ 5354. Recognition of out-of-state custody decrees.

The courts of this Commonwealth shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with this subchapter or which was made under factual circumstances meeting the jurisdictional standards of this subchapter, so long as the decree has not been modified in accordance with jurisdictional standards substantially similar to those of this subchapter.

§ 5355. Modification of custody decree of another state.

(a) General rule.—If a court of another state has made a custody decree, a court of this Commonwealth shall not modify that decree unless:

(1) it appears to the court of this Commonwealth that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this subchapter or has declined to assume jurisdiction to modify the decree; and

(2) the court of this Commonwealth has jurisdiction.

(b) Consideration of out-of-state record.—If a court of this Commonwealth is authorized under subsection (a) and section 5349 (relating to jurisdiction declined by reason of conduct) to modify a custody decree of another state it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with section 5363 (relating to request for court records of another state).

§ 5356. Filing and enforcement of custody decree of another state.

(a) General rule.—A certified copy of a custody decree of another state whose decrees are recognized under section 5354 (relating to recognition of out-of-state custody decrees) may be filed in any office of the clerk of the court of common pleas of this Commonwealth. The clerk shall treat the decree in the same manner as a custody decree of a court of common pleas of this Commonwealth. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this Commonwealth.

(b) Costs and expenses.—A person violating a custody decree of another state which makes it necessary to enforce the decree in this Commonwealth may be required to pay necessary travel and other expenses, including attorneys' fees, incurred by the party entitled to the custody or his witnesses.

§ 5357. Registry of out-of-state custody decrees and proceedings.

Each office of the clerk of the court of common pleas shall maintain a registry in which it shall enter the following:

- (1) Certified copies of custody decrees of other states received for filing.
- (2) Communications as to the pendency of custody proceedings in other states.
- (3) Communications concerning a finding of inconvenient forum by a court of another state.
- (4) Other communications or documents concerning custody proceedings in another state which may affect the jurisdiction of a court of this Commonwealth or the disposition to be made by it in a custody proceeding.

§ 5358. Certified copies of custody decree.

The office of the clerk of the court of common pleas, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, shall certify and forward a copy of the decree to that court or person.

§ 5359. Taking testimony in another state.

In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses, including parties and the child, by deposition or otherwise, in another state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken.

§ 5360. Hearings and studies in another state; orders to appear.

(a) Hearings and studies.—A court of this Commonwealth may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this Commonwealth; and to forward to the court of this Commonwealth certified copies of the transcript of the record of the hearing, the evidence otherwise adduced, or any social studies prepared in compliance with the request. Subject to general rules, the cost of the services may be assessed against the parties or, if necessary, ordered paid by the county.

(b) Order to appear.—A court of this Commonwealth may request the appropriate court of another state to order a party to custody proceedings pending in the court of this Commonwealth to appear in the proceedings, and if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid.

§ 5361. Assistance to courts of other states.

(a) General rule.—Upon request of the court of another state the courts of this Commonwealth which are competent to hear custody matters may order a person in this Commonwealth to appear at a hearing to adduce evidence or to produce or give evidence under other procedures available in this Commonwealth or may order social studies to be made for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced, any psychological studies and any social studies prepared shall be forwarded to the requesting court.

(b) Voluntary testimony.—A person within this Commonwealth may voluntarily give his testimony or statement in this Commonwealth for use in a custody proceeding outside this Commonwealth.

(c) Appearance in other state.—Upon request of the court of another state a competent court of this Commonwealth may order a person in this Commonwealth to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed.

§ 5362. Preservation of documents for use in other states.

In any custody proceeding in this Commonwealth the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child reaches 18 years of age. Upon appropriate request of the court of another state the court shall forward to the other court certified copies of any or all of such documents.

§ 5363. Request for court records of another state.

If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this Commonwealth, the court of this Commonwealth upon taking jurisdiction of the case shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in section 5362 (relating to preservation of documents for use in other states).

§ 5365. International application.

The general policies of this subchapter extend to the international area. The provisions of this subchapter relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody institutions rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.

§ 5366. Priority.

Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under this subchapter the case shall be given calendar priority and handled expeditiously.

(b) The act of June 30, 1977 (P.L.29, No.20), entitled "An act providing for the custody of children," is repealed.

Section 202. Codification of Act No. 1977-38.—Section 8124(c) of Title 42, added April 28, 1978 (P.L.202, No.53), is amended by adding a paragraph to read:

§ 8124. Exemption of particular property.

* * *

(c) Insurance proceeds.—The following property or other rights of the judgment debtor shall be exempt from attachment or execution on a judgment:

* * *

(8) *Certain amounts paid, provided or rendered by a fraternal benefit society as provided by section 305 of the act of July 29, 1977 (P.L.105, No.38), known as the "Fraternal Benefit Society Code."*

Section 203. Codification of Act No. 1977-92.—(a) Section 761(a) of Title 42, amended April 28, 1978 (P.L.202, No.53) and September 28, 1978 (P.L.788, No.152), is amended to read:

§ 761. Original jurisdiction.

(a) General rule.—The Commonwealth Court shall have original jurisdiction of all civil actions or proceedings:

(1) Against the Commonwealth government, including any officer thereof, acting in his official capacity, except:

(i) actions or proceedings in the nature of applications for a writ of habeas corpus or post-conviction relief not ancillary to proceedings within the appellate jurisdiction of the court;

(ii) eminent domain proceedings; and

(iii) actions on claims in which sovereign immunity has been waived pursuant to section 5110 (relating to limited waiver of sovereign immunity) and pursuant to the act of May 20, 1937 (P.L.728, No.193), referred to as the Board of Arbitration of Claims Act.

(2) By the Commonwealth government, including any officer thereof, acting in his official capacity, except eminent domain proceedings.

(3) *Arising under Article V of the act of May 17, 1921 (P.L.789, No.285), known as "The Insurance Department Act of 1921."*

[(3)] (4) Original jurisdiction of which is vested in the Commonwealth Court by any statute hereafter enacted.

* * *

(b) Section 5322(a)(6) of Title 42, added July 9, 1976 (P.L.586, No.142), is amended to read:

§ 5322. Bases of personal jurisdiction over persons outside this Commonwealth.

(a) General rule.—A tribunal of this Commonwealth may exercise personal jurisdiction over a person (or the personal representative of a deceased individual who would be subject to jurisdiction under this

subsection if not deceased) who acts directly or by an agent, as to a cause of action or other matter arising from such person:

* * *

(6) (i) Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting[, or being].

(ii) *Being* a person who controls, or who is a director, officer, employee or agent of a person who controls, an insurance company incorporated in this Commonwealth *or an alien insurer domiciled in this Commonwealth.*

(iii) *Engaging in conduct described in section 504 of the act of May 17, 1921 (P.L.789, No.285), known as "The Insurance Department Act of 1921."*

* * *

Section 204. Codification of Act No. 1978-6.—(a) Section 561 of Title 42, added July 9, 1976 (P.L.586, No.142), is amended to read:

§ 561. Commonwealth Court.

The Commonwealth Court of Pennsylvania shall consist of [seven] *nine* judges.

(b) The act of March 14, 1978 (P.L.11, No.6), entitled "An act amending the act of January 6, 1970 (1969 P.L.434, No.185), entitled 'An act relating to the Commonwealth Court, implementing section 4 of Article V of the Constitution of the Commonwealth of Pennsylvania,' increasing the number of judges of the court and providing for their appointment," is repealed.

Section 205. (Reserved).

Section 206. Codification of Act No. 1978-38.—(a) Sections 5551 and 5552(a) of Title 42, added July 9, 1976 (P.L.586, No.142), and amended April 28, 1978 (P.L.202, No.53), are amended to read:

§ 5551. No limitation applicable to murder *or voluntary manslaughter.*

A prosecution for murder *or for voluntary manslaughter* may be commenced at any time.

§ 5552. Other offenses.

(a) General rule.—Except as otherwise provided in this subchapter, a prosecution for an offense other than murder *or voluntary manslaughter* must be commenced within two years after it is committed.

* * *

(b) The act of April 28, 1978 (P.L.83, No.38), entitled "An act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, changing the time for prosecuting the offense of voluntary manslaughter," is repealed.

Section 207. Codification of Act No. 1978-46.—(a) The definition of "duty of support" in section 6702 of Title 42, added April 28, 1978 (P.L.202, No.53), is amended and section 6704 of Title 42, added April 28, 1978 (P.L.202, No.53), is amended by adding subsections to read:

§ 6702. Definitions.

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

* * *

“Duty of support.” Includes any duty of support imposed or imposed by law or by any court order, whether interlocutory or final, whether incidental to a proceeding for divorce, legal separation, separate maintenance, prosecution for failure to support a child born out of lawful wedlock, *support of a child born out of lawful wedlock*, or otherwise.

* * *

§ 6704. Commencement of support actions.

* * *

(e) Limitation of actions.—All actions to establish the paternity of a child born out of wedlock brought under this section must be commenced within six years of the birth of the child, except where the reputed father shall have voluntarily contributed to the support of the child or shall have acknowledged in writing his paternity, in which case an action may be commenced at any time within two years of any such contribution or acknowledgement by the reputed father.

(f) Character of action.—An action brought under this subchapter shall be a civil action governed by general rules applicable to civil matters.

(g) Trial of paternity.—Where the paternity of a child born out of wedlock is disputed, the determination of paternity shall be made by the court without a jury unless either party demands trial by jury. The trial, whether or not a trial by jury is demanded, shall be a civil trial and there shall be no right to a criminal trial on the issue of paternity. The burden of proof shall be by a preponderance of the evidence.

(b) The act of April 28, 1978 (P.L.106, No.46), entitled “An act amending the act of July 13, 1953 (P.L.431, No.95), entitled ‘An act relating to support of dependents; providing a procedure for enforcement thereof, including attachment of property and earnings; conferring powers and imposing duties upon courts, district attorneys and probation officers,’ requiring support of a child born out of lawful wedlock, requiring the action to be brought within certain time limits, requiring trial by the court or by jury in a civil action and making repeals,” is repealed.

Section 208. Codification of Act No. 1978-47.—(a) Chapter 53 of Title 42, as amended by section 201 of this act, is amended by adding a section to read:

§ 5364. *Intrastate application.*

(a) General rule.—Except as otherwise provided in this section, the provisions of this subchapter allocating jurisdiction and functions between and among courts of different states shall also allocate jurisdiction and functions between and among the courts of common pleas of this Commonwealth.

(b) Home jurisdiction.—For the purposes of the definition of “home state” in section 5343 (relating to definitions) a period of temporary absence of the child from the physical custody of the parent, person acting as parent or institution shall not affect the six months or other period.

(c) Petitioner.—As used in this subchapter insofar as relates to the allocation of jurisdiction and functions between and among the courts of common pleas of this Commonwealth, the term “petitioner” means anyone seeking change in the status of custody of a child either by an affirmative action brought in a court or as a defense to a custody action brought by a person acting as parent who had previously been awarded custody of the child.

(d) Effect of agency investigation.—Section 5344(a)(5) (relating to jurisdiction) shall not be applicable for the purposes of this section.

(e) Period of notice.—Notice under section 5346 (relating to notice to persons outside this Commonwealth; submission to jurisdiction) shall be served, mailed, delivered or last published at least 20 days before any hearing.

(f) Jurisdiction declined by reason of conduct.—

(1) If it is just and proper under the circumstances, when the petitioner for an initial decree has wrongfully taken the child from another jurisdiction or has engaged in improper conduct intending to benefit his position in a custody proceeding, upon presentation of the petition, the court shall decline to exercise jurisdiction or shall exercise jurisdiction only to issue an order, pending a full hearing in the appropriate jurisdiction, returning the parties to the custodial status quo existing prior to the improper conduct or wrongful taking unless the petitioner can show that conditions in the former custodial household are physically or emotionally harmful to the child.

(2) Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another court if the petitioner, without consent of the person entitled to custody has:

(i) improperly removed the child from the physical custody of the person entitled to custody;

(ii) improperly retained the child after a visit or other temporary relinquishment of physical custody; or

(iii) removed the child from the jurisdiction of the court entering the decree without 20 days written notice to the court entering the decree and any party entitled to custody or visitation rights under the terms of the decree.

If the petitioner has violated any provision of a custody decree of another court, the court shall decline to exercise its jurisdiction unless the contestant can show that conditions in the custodial household are physically or emotionally harmful to the child. The burden of proof on this issue is on the contestant requesting the court to take jurisdiction.

(3) Subject to general rules, in appropriate cases a court dismissing a petition under this subsection may charge the petitioner with necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses.

(g) Statewide orders.—A court may under section 5352(a) (relating to appearance of parties and the child) issue orders to any party to the proceeding who is in any judicial district of this Commonwealth.

(h) Modification of custody decrees.—

(1) If another court has made a custody decree, a court before which a petition for modification is pending shall not modify the decree of the other court unless it appears to the court before which the petition is pending that the other court which rendered the decree does not have jurisdiction under jurisdictional prerequisites substantially in accordance with this subchapter or has declined to assume jurisdiction to modify its decree and the provisions of subsection (f)(2) will not be violated by an exercise of jurisdiction by the court before which the petition is pending.

(2) If a court of this Commonwealth is authorized under paragraph (1) to modify a custody decree of another court it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with section 5363 (relating to request for court records of another state).

(b) The act of April 28, 1978 (P.L.108, No.47) entitled "An act providing for the custody of children," is repealed.

Section 209. Codification of Referendum of May 16, 1978.—Sections 3131(b), 3132 and 3135 of Title 42, added July 9, 1976 (P.L.586, No.142), and section 3131(b) amended April 28, 1978 (P.L.202, No.53) and October 5, 1978 (P.L.1098, No.257) and section 3132(b) amended April 28, 1978 (P.L.202, No.53), are amended to read:

§ 3131. Selection of judicial officers for regular terms.

* * *

(b) Retention election after [initial term by] transfer or appointment.—Any of the following may file a declaration for candidacy for retention election with the Secretary of the Commonwealth on or before the first Monday of January of the year preceding the year in which his term of office expires:

(1) a person elected to the Philadelphia Municipal Court pursuant to this section, or corresponding provisions of prior law, who becomes a judge of the Community Court of Philadelphia County pursuant to section 3321(b)(1) (relating to establishment of community courts);

(2) a person elected to the Community Court of Philadelphia County pursuant to this section who becomes a judge of the Philadelphia Municipal Court pursuant to section 3322(b) (relating to discontinuance of community courts); or

(3) a person appointed to the Commonwealth Court who:

(i) shall have held office as an elected judge of a court of common pleas and shall not have been defeated for reelection or retention election;

(ii) shall hold an appointive term on the Commonwealth Court which when added to his other service as a judge of a court of common pleas and/or the Philadelphia Municipal Court (whether or not continuously or on the same court and whether by election or appointment) shall aggregate at least ten years as of the date of expiration of such appointive term on the Commonwealth Court; and

(iii) shall have been appointed to the Commonwealth Court pursuant to any executive order then in effect relating to the selection and screening of qualified nominees for appointment to the court.

If no declaration is filed, a vacancy shall exist upon the expiration of the term of office of such judge, to be filled by election under subsection (c). If a judge files a declaration, his name shall be submitted to the electors without party designation, as a separate judicial question or in a separate column or line on voting machines, at the municipal election immediately preceding the expiration of the term of office of the judge, to determine only the question whether he shall be retained in office. If a majority is against retention, a vacancy shall exist upon the expiration of his term of office, to be filled by appointment under section 3132(a) (relating to vacancies in office). If a majority favors retention, the judge shall serve for a regular term of office provided for in section 3152 (relating to tenure of judicial officers), unless sooner removed or retired. At the expiration of such regular term such judge shall be eligible for retention as provided in section 3153 (relating to retention elections after regular term), subject only to the retirement provisions of this part. Section 3133 (relating to Commonwealth Court judges) shall not be applicable to an election conducted pursuant to this subsection.

* * *

§ 3132. Vacancies in office.

(a) General rule.—Except as provided in subsection (b), a vacancy in the office of judge or district justice shall be filled by appointment by the Governor. The appointment shall be with the advice and consent of two-thirds of the members elected to the Senate, except in the case of district justices which shall be by a majority. The person so appointed shall serve for **[an initial]** a term ending on the first Monday of January following the next municipal election more than ten months after the vacancy occurs *or for the remainder of the unexpired term, whichever is less.*

(b) Pittsburgh Magistrates Court.—A vacancy in the office of judge of the Pittsburgh Magistrates Court shall be filled as provided in section 3131(d) (relating to Pittsburgh Magistrates Court).

(c) Retention vacancies.—The provisions of subsection (a) shall not apply [either in the case of] *to* a vacancy to be filled by retention election as provided in section 3131(b) (relating to retention election after [initial term by] transfer or appointment) or section 3153 (relating to retention elections after regular term) or [in case of] *to* a vacancy created by failure of a judge to file a declaration for retention election as provided in section 3131(b) or section 3153.

(d) Vacancies following [initial] *appointive* term.—[In case of a] *A* vacancy occurring at the expiration of an appointive term under subsection (a)[, the vacancy] shall be filled by election as provided in section 3131 (relating to selection of judicial officers for regular terms).

§ 3135. Increase in number of judges.

Whenever the number of judges of a court is increased by statute, unless otherwise expressly provided by statute, the additional judicial positions thereby created shall be deemed to be vacancies occurring on the effective date of the statute, and shall be filled in the manner and for the [initial] term provided in this chapter for other vacancies on such court.

Section 210. Codification of Act No. 1978-140.—(a) Section 8533 of Title 24, added October 2, 1975 (P.L.298, No.96), is reenacted and amended to read:

§ 8533. Taxation, attachment and assignment of funds.

(a) *General rule.*—[The] *Except as provided in subsection (b), the* right of a person to a member's annuity, a State annuity, or retirement allowance, to the return of contributions, any benefit or right accrued or accruing to any person under the provisions of this part, and the moneys in the fund are hereby exempt from any State or municipal tax, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable.

(b) *Forfeiture.*—*Rights under this part shall be subject to forfeiture as provided by the act of July 8, 1978 (P.L.752, No.140), known as the "Public Employee Pension Forfeiture Act."*

(b) Section 8124(b) of Title 42, added April 28, 1978 (P.L.202, No.53), is reenacted and amended to read:

§ 8124. Exemption of particular property.

* * *

(b) Retirement funds and accounts.—

(1) [The] *Except as provided in paragraph (2), the* following money or other property of the judgment debtor shall be exempt from attachment or execution on a judgment:

[(1)] (i) Certain amounts payable under the Public School Employees' Retirement Code as provided by 24 Pa.C.S. § 8533 (relating to taxation, attachment and assignment of funds).

[(2)] (ii) Certain amounts payable under the State Employees' Retirement Code as provided by 71 Pa.C.S. § 5953 (relating to taxation, attachment and assignment of funds).

[(3)] (iii) The retirement allowance provided for in the act of May 24, 1893 (P.L.129, No.82).

[(4)] (iv) Compensation or pension provided for in the act of May 20, 1915 (P.L.566, No.242).

[(5)] (v) Compensation or pension provided for in the act of May 28, 1915 (P.L.596, No.259).

[(6)] (vi) The retirement allowance, contributions and returned contributions under the act of February 1, 1974 (P.L.34, No.15), known as the "Pennsylvania Municipal Retirement Law."

[(7)] (vii) Any pension or annuity, whether by way of a gratuity or otherwise, granted or paid by any private corporation or employer to a retired employee under a plan or contract which provides that the pension or annuity shall not be assignable.

[(8)] (viii) Any retirement or annuity fund of any self-employed person (to the extent of payments thereto made while solvent, but not exceeding the amount actually excluded or deducted as retirement funding for Federal income tax purposes) and the appreciation thereon, the income therefrom and the benefits or annuity payable thereunder.

(2) *The exemptions provided by paragraph (1)(i) through (vi) shall be subject to any inconsistent provision of the act of July 8, 1978 (P.L.752, No.140), known as the "Public Employee Pension Forfeiture Act."*

* * *

(c) Section 5953(a) of Title 71, added March 1, 1974 (P.L.125, No.31), is reenacted and amended to read:

§ 5953. Taxation, attachment and assignment of funds.

(a) General rule.—

(1) [The] *Except as provided in paragraph (2), the right of a person to any benefit or right accrued or accruing under the provisions of this part and the moneys in the fund are hereby exempt from any State or municipal tax, levy and sale, garnishment, attachment, spouse's election, or any other process whatsoever except for a set-off by the Commonwealth in the case provided in [paragraph (1)] subparagraph (i), and shall be unassignable except:*

[(1)] (i) To the Commonwealth in the case of a member who is terminating State service and has been determined to be obligated to the Commonwealth for the repayment of money owed on account of his employment or to the fund on account of a loan from a credit union which has been satisfied by the board from the fund.

[(2)] (ii) To a credit union as security for a loan not to exceed \$750 and interest not to exceed 6% per annum discounted and/or fines thereon [provided that] *if the credit union is now or hereafter organized and incorporated under the laws of [the] this Commonwealth and the membership of such credit union is*

limited solely to officials and employees of the Commonwealth and **[provided further that]** *if* such credit union **[pay]** *has paid* to the fund \$3 for each such assignment.

(2) Rights under this part shall be subject to forfeiture as provided by the act of July 8, 1978 (P.L.752, No.140), known as the "Public Employee Pension Forfeiture Act."

* * *

(d) Notwithstanding 1 Pa.C.S. § 1957 (relating to ineffective provisions not revived by reenactment in amendatory statutes), it is hereby declared to be the intent of subsections (a) through (c) to restore such provisions to their status prior to the partial repeal effected by section 5 of the act of July 8, 1978 (P.L.752, No.140), known as the "Public Employee Pension Forfeiture Act," except as otherwise expressly provided by such provisions as reenacted and amended hereby.

(e) The provisions of this section shall be retroactive to the effective date of the "Public Employee Pension Forfeiture Act."

Section 211. Codification of Act No. 1978-149.—Sections 3521(a), 3522(a), 3523, 3525, 3526(a) and (b) and 3528 of Title 42, added July 9, 1976 (P.L.586, No.142) and section 3521(a) amended April 28, 1978 (P.L.202, No.53), are amended to read:

§ 3521. Development of budget information.

(a) General rule.—The Administrative Office shall annually obtain and prepare information for the preparation of a budget for the Judicial Department within such time as to comply with the requirements of section **[601]** *610* of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." The Administrative Office shall distribute to each budget respondent the proper blanks necessary for the preparation of the budget estimates, with a request that such blanks be returned with the information desired, not later than a date specified by the Administrative Office. Such blanks shall be in such form as shall be prescribed by the Administrative Office to procure, as to functions to be funded in whole or in part through appropriations through the budget of the Judicial Department, any or all information pertaining to the *purposes of all programs to be funded in the budget, the revenues [and], expenditures, program activities and accomplishments* for the preceding fiscal **[years, and]** *year*, for the current fiscal year *and for the budget year and for four succeeding years*, the **[previous]** appropriations made **[by the General Assembly]** *for the preceding fiscal year*, the expenditures therefrom, encumbrances thereon, the amount unencumbered and unexpended, an itemized estimate of the revenues and expenditures of the current fiscal year, **[and]** *for the budget year and succeeding [year] years*, and an estimate of the revenues and amounts needed *and program activity and accomplishment levels* for such functions. Such blanks shall also request the budget respondent to accompany them with a statement in writing, giving the facts, and an explanation of *the*

methods and reasons for *arriving at* the estimates of receipts and expenditures for the [succeeding year contained upon the blanks returned] *budget year and for four succeeding years.*

* * *

§ 3522. Preparation of tentative budget request.

(a) General rule.—The Administrative Office shall collate and examine all information received pursuant to section 3521(a) (relating to development of budget information), shall consult with the governing authority and the *Office of the Budget [Secretary]*, and shall prepare and submit to the governing authority for review and approval a tentative budget request for the Judicial Department covering all funds appropriated to the unified judicial system or through the budget of the Judicial Department to a political subdivision.

* * *

§ 3523. Adoption of final budget request.

(a) General rule.—The governing authority shall review the tentative budget request submitted by the Administrative Office pursuant to section 3522 (relating to preparation of tentative budget request). After giving opportunity for hearing to each budget respondent whose estimate submitted pursuant to section 3521(a) (relating to development of budget information) would be altered by the final budget request of the Judicial Department, the governing authority shall make such modifications in the tentative budget request of the Judicial Department as in its judgment are necessary or desirable, and shall adopt a final budget request of the Judicial Department for transmission to the *Office of the Budget [Secretary]*.

(b) Transmission to *Office of the Budget [Secretary]*.—Following adoption of a final budget request by the governing authority, the Administrative Office shall transmit such request to the *Office of the Budget [Secretary]* within the time and in the manner required by section [601] 610 of the act of April 9, 1929 (P.L.177, No.175), known as “The Administrative Code of 1929.”

§ 3525. List of employees to be furnished.

(a) General rule.—The Administrative Office shall, on [June] *July* 15 of each year, transmit to the Department of the Auditor General, the Treasury Department, and the *Office of the Budget [Secretary]* a complete list, *and to the Legislative Data Processing Center a computer tape of such list*, as of [June] *July* 1 preceding, of the names of all persons, except day-laborers, entitled to receive compensation directly from the Commonwealth from funds appropriated to the unified judicial system. Such list shall show the position occupied by each such person, the date of birth and voting residence of such person, the salary at which or other basis upon which such person is entitled to be paid, the date when such person entered the service of the Commonwealth, whether such person has been continuously employed by the Commonwealth since that date, and all periods of

service and positions held as an employee of the Commonwealth, or such part of such information as the Governor may prescribe.

(b) Interim changes.—Each month thereafter, the Administrative Office shall certify to the Department of the Auditor General, the Treasury Department, and the *Office of the Budget [Secretary]* any changes in the annual list of employees last transmitted to them which shall have occurred during the preceding month.

(c) Public information.—The information received by the Department of the Auditor General, the Treasury Department, and the *Office of the Budget [Secretary]* under this section shall be public information.

§ 3526. Release of funds.

(a) General rule.—Each recipient of funds appropriated to the unified judicial system shall, from time to time, as requested by the Administrative Office, prepare and submit to the Administrative Office, for approval or disapproval by the governing authority, an estimate of the amount of money required *and the levels of activity and accomplishment* for each [activity or function to be] *program* carried on by such recipient during the ensuing month, quarter, or such other period as the governing authority shall prescribe. *All available Federal funds and funds from other sources shall be characterized as such and shall be included in the estimated expenditures which must be submitted to the Administrative Office before any expenditures therefrom may be made.* If such estimate does not meet with the approval of the governing authority, it shall be revised in accordance with the directions of the governing authority and resubmitted for approval. *The governing authority may establish an authorized personnel complement level in conjunction with the approved expenditure estimate.*

(b) Observance of approved estimate.—After the approval of any such estimate, it shall be unlawful for the recipient of funds appropriated to the unified judicial system to expend any appropriation, *Federal funds or funds from other sources*, or part thereof, except in accordance with such estimate *and the authorized complement level*, unless the [estimate is] *same be* revised with the approval of the governing authority *and within the limits appropriated by the General Assembly.*

* * *

§ 3528. Fiscal period.

All books and accounts kept by the Administrative Office and other personnel of the system shall be kept as of the fiscal year or period established by section [608] 617 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

Section 212. Codification of Act No. 1978-165.—(a) Chapter 87 of Title 42, added July 9, 1976 (P.L.586, No.142), is amended by adding a subchapter heading and subchapter to read:

CHAPTER 87
GENERAL PROVISIONS

SUBCHAPTER A
IN GENERAL

* * *

SUBCHAPTER B
AVAILABILITY OF OTHERWISE
CONFIDENTIAL INFORMATION

Sec.

- 8721. Definitions.
- 8722. Petition for access to confidential information.
- 8723. Grounds for access.
- 8724. Disclosure of confidential information.
- 8725. Penalties for improper disclosure.

§ 8721. Definitions.

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

“Confidential information.” Any records, files, data or information, withheld as confidential, whether pursuant to statute or otherwise, by any Commonwealth agency from the Attorney General, a district attorney, the Pennsylvania Crime Commission or a committee or subcommittee of either House of the General Assembly having subpoena power to investigate criminal activity. The term shall not include personal income tax information or the investigative or intelligence files of the State Police, the Attorney General or the Pennsylvania Crime Commission.

“Crime Commission.” The Pennsylvania Crime Commission existing under the act of October 4, 1978 (P.L.876, No.169), known as the “Pennsylvania Crime Commission Act.”

§ 8722. Petition for access to confidential information.

The Attorney General, a district attorney, the Executive Director of the Crime Commission acting pursuant to a resolution of the Crime Commission or a committee or subcommittee of either House of the General Assembly having subpoena power to investigate criminal activity, may ex parte petition any judge of the Commonwealth Court for an order providing access to confidential information.

§ 8723. Grounds for access.

Any judge of the Commonwealth Court shall enter an order providing access to confidential information if, on the basis of a petition under section 8722 (relating to petition for access to confidential information), he finds that:

(1) the petitioner is engaged in an ongoing investigation of criminal activity; and

(2) a Commonwealth agency may have confidential information reasonably related to such an investigation.

§ 8724. Disclosure of confidential information.

(a) General rule.—Disclosure of confidential information shall be limited as follows:

(1) disclosure by the Commonwealth agency holding such information shall be limited to persons personally and directly engaged in the ongoing investigation by the petitioner under section 8723 (relating to grounds for access); and

(2) disclosure by the petitioner:

(i) in the case of the Attorney General or a district attorney, shall be limited to judicial or administrative proceedings;

(ii) in the case of the Crime Commission, shall be limited to official reports; and

(iii) in the case of a committee or subcommittee of either House of the General Assembly, shall be limited to regular meetings of the committee or subcommittee or debate on the floor.

(b) Contents of order.—Commonwealth Court orders entered under section 8723 shall specifically limit the disclosure of confidential information as provided in subsection (a).

§ 8725. Penalties for improper disclosure.

(a) Criminal penalties.—Any person who discloses any confidential information obtained under this subchapter other than as provided in section 8724 (relating to disclosure of confidential information) or otherwise authorized by law commits a felony of the third degree.

(b) Civil liability.—Any person who discloses any confidential information obtained under this subchapter other than as provided in section 8724 or otherwise authorized by law shall be liable to any person damaged thereby in an action for invasion of privacy for the following:

(1) Treble the actual damages proved.

(2) Reasonable attorney fees.

(c) Good faith reliance on a court order.—Good faith reliance on a court order entered under this subchapter shall be a complete defense to any criminal liability under subsection (a) or civil liability under subsection (b).

(b) The act of October 4, 1978 (P.L.849, No.165), entitled "An act providing for the availability of otherwise confidential information for investigative purposes," is repealed.

Section 213. Conforming amendment responsive to Act No. 1978-168.—(a) Section 911(g) of Title 18, amended April 28, 1978 (P.L.202, No.53), is amended to read:

§ 911. Corrupt organizations.

* * *

(g) Immunity.—Whenever any individual refuses, on the basis of his privilege against self-incrimination, to comply with a civil investigative demand issued pursuant to subsection (f) or to testify or produce other information in any proceeding under subsection (d), the Attorney General may invoke the provisions of 42 Pa.C.S. § 5947 (relating to [order to testify in cases involving organized crime or racketeering] by presenting a petition pursuant to 42 Pa.C.S. § 5947(b), except that the phrase “cause of action” in 42 Pa.C.S. § 5947(c) shall not refer to civil proceedings brought pursuant to the provisions of subsection (d) of this section] *immunity of witnesses*).

* * *

(b) Section 5947 of Title 42, amended October 4, 1978 (P.L.873, No.168), is amended to read:

§ 5947. Immunity of witnesses.

(a) [Definitions.—The following words and phrases when used in this section shall have, unless the context clearly indicates otherwise, the meanings given to them in this subsection:

“Designated court.”

(1) In the case of proceedings before courts, countywide grand juries, countywide investigating grand juries and district justices: the court of common pleas of the judicial district in which the proceeding is taking place.

(2) In the case of proceedings before multicounty investigating grand juries: the judge of the court of common pleas designated as supervising judge of that grand jury.

“Immunity order.” An order issued under this section by a designated court, directing a witness to testify or produce other information over a claim of privilege against self-incrimination.

(b) [Availability] *General rule*.—Immunity orders shall be available under this section in all proceedings before:

(1) Courts.

(2) Grand juries.

(3) Investigating grand juries.

(4) [District justices,] *The minor judiciary or coroners [or magistrates]*.

[(c)] (b) Request and issuance.—The Attorney General or a district attorney may request an immunity order from any judge of a designated court, and that judge shall issue such an order, when in the judgment of the Attorney General or district attorney:

(1) the testimony or other information from a witness may be necessary to the public interest; and

(2) a witness has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

[(d)] (c) Order to testify.—Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding specified in subsection [(b)] (a), and

the person presiding at such proceeding communicates to the witness an immunity order, that witness may not refuse to testify based on his privilege against self-incrimination.

[(e)] (d) Limitation on use.—No testimony or other information compelled under an immunity order, or any information directly or indirectly derived from such testimony or other information, may be used against a witness in any criminal case, except that such information may be used:

- (1) in a prosecution under 18 Pa.C.S. § 4902 (relating to perjury) or under 18 Pa.C.S. § 4903 (relating to false swearing);
- (2) in a contempt proceeding for failure to comply with an immunity order; or
- (3) as evidence, where otherwise admissible, in any proceeding where the witness is not a criminal defendant.

[(f)] (e) Civil contempt.—Any person who shall fail to comply with an immunity order may be adjudged in civil contempt and committed to the county jail until such time as he purges himself of contempt by complying with the order: **Provided, That** , *except that* with regard to proceedings before grand juries or investigating grand juries, if the grand jury before which a person has been ordered to testify has been dissolved, he may then purge himself of contempt by complying before the designated court which issued the order.

[(g)] (f) Criminal contempt.—In addition to civil contempt as provided in subsection **[(f)] (e)**, any person who shall fail to comply with an immunity order shall be guilty of criminal contempt, and upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 or to undergo imprisonment for a period of not more than one year, or both.

(g) Definitions.—*The following words and phrases when used in this section shall have, unless the context clearly indicates otherwise, the meanings given to them in this subsection:*

“Designated court.”

(1) In the case of proceedings before courts, countywide grand juries, countywide investigating grand juries, the minor judiciary or coroners: the court of common pleas of the judicial district in which the proceeding is taking place.

(2) In the case of proceedings before multicounty investigating grand juries: the judge of the court of common pleas designated as supervising judge of that grand jury.

“Immunity order.” An order issued under this section by a designated court, directing a witness to testify or produce other information over a claim of privilege against self-incrimination.

Section 214. Codification of Act No. 1978-255.—The definition of “independent agency” in section 102 of Title 42, added July 9, 1976 (P.L.586, No.142), 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:

* * *

“Independent agency.” Boards, commissions, authorities and other agencies and officers of the Commonwealth government which are not subject to the policy supervision and control of the Governor, but the term does not include any court or other officer or agency of the unified judicial system or the General Assembly and its officers and agencies. *For purposes of jurisdiction of courts the term includes the Pennsylvania Deposit Insurance Corporation existing under the act of October 5, 1978 (P.L.1088, No.255), known as the “Pennsylvania Deposit Insurance Corporation Act.”*

* * *

Section 215. (Reserved).

Section 216. Codification of Act Nos. 1978-271 and 1979-50.—

(a) (1) In printing the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes the Legislative Reference Bureau pursuant to 1 Pa.C.S. § 1105(d)(1) shall renumber Subchapters D and E of Chapter 45 and sections 4541 and 4542 of Title 42, as added by the act of June 26, 1980 (No.78), as Subchapters E and F and sections 4531 and 4532, respectively.

(2) Chapter 45 of Title 42 is amended by adding a subchapter to read:

SUBCHAPTER D
INVESTIGATING GRAND JURIES

Sec.

- 4541. Short title of subchapter.
- 4542. Definitions.
- 4543. Convening county investigating grand jury.
- 4544. Convening multicounty investigating grand jury.
- 4545. Composition of investigating grand jury.
- 4546. Term of investigating grand jury.
- 4547. Additional investigating grand juries.
- 4548. Powers of investigating grand jury.
- 4549. Investigating grand jury proceedings.
- 4550. Submission of investigations by attorney for the Commonwealth to investigating grand jury.
- 4551. Investigating grand jury presentments.
- 4552. Investigating grand jury reports.
- 4553. Expenses of investigating grand juries.

§ 4541. Short title of subchapter.

This subchapter shall be known and may be cited as the "Investigating Grand Jury Act."

§ 4542. Definitions.

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

"Attorney for the Commonwealth." The district attorney of the county in which a county investigating grand jury is summoned, or his designee, or the Attorney General or his designee if the Attorney General has superseded the district attorney; the Attorney General, or his designee, with respect to multicounty investigating grand juries.

"Investigating grand jury." The county investigating grand jury or the multicounty investigating grand jury or both.

"Investigating grand jury presentment." A written formal recommendation by an investigating grand jury that specific persons be charged with specific crimes.

"Investigating grand jury report." A report submitted by the investigating grand jury to the supervising judge regarding conditions relating to organized crime or public corruption or both; or proposing recommendations for legislative, executive, or administrative action in the public interest based upon stated findings.

"Investigative resources of the grand jury." The power to compel the attendance of investigating witnesses; the power to compel the testimony of investigating witnesses under oath; the power to take investigating testimony from witnesses who have been granted immunity; the power to require the production of documents, records and other evidence; the power to obtain the initiation of civil and criminal contempt proceedings; and every investigative power of any grand jury of the Commonwealth.

"Multicounty investigating grand jury." A Statewide or regional investigating grand jury convened by the Supreme Court upon the application of the Attorney General and having jurisdiction to inquire into organized crime or public corruption or both under circumstances wherein more than one county is named in the order convening said investigating grand jury.

"Organized crime." The unlawful activity of an association trafficking in illegal goods or services, including but not limited to gambling, prostitution, loan sharking, controlled substances, labor racketeering, or other unlawful activities; or any continuing criminal conspiracy or other unlawful practice which has as its objective:

(1) large economic gain through fraudulent or coercive practices;

or

(2) improper governmental influence.

"Public corruption." The unlawful activity under color of or in connection with any public office or employment of:

(1) any public official or public employee, or the agent of any public official or public employee under color of or in connection with any public office or employment; or

(2) any candidate for public office or the agent of any candidate for public office.

“Supervising judge.” The common pleas judge designated by the president judge to supervise the activities of the county investigating grand jury, or the common pleas judge designated by the Supreme Court to supervise the activities of the multicounty investigating grand jury.

“Supreme Court.” The Chief Justice of Pennsylvania or any other justice of the Supreme Court designated by or pursuant to general rule to act for the court under this subchapter.

§ 4543. Convening county investigating grand jury.

(a) General rule.—In addition to such other grand juries as are called from time to time, county investigating grand juries shall be summoned as provided in subsection (b).

(b) On the initiative of attorney for Commonwealth.—Application may be made to the president judge of the appropriate court of common pleas by the attorney for the Commonwealth for an order directing that a county investigating grand jury be summoned, stating in such application that the convening of a county investigating grand jury is necessary because of the existence of criminal activity within the county which can best be fully investigated using the investigative resources of the grand jury. Within ten days of receipt of such application, the president judge shall issue an order granting the request. The order shall specify which judge is to be the supervising judge of the county investigating grand jury. Refusal to grant an application under this subsection shall be appealable to the Supreme Court in the manner prescribed by general rule.

(c) On the initiative of the court.—In the absence of an order under subsection (b), the president judge of the court of common pleas upon his own motion may issue an order directing that a county investigating grand jury be summoned, except that the summoning of such grand jury may, in the discretion of the court, be stayed if the district attorney of the county and the Attorney General both certify to the court that, in their judgments, the summoning of such grand jury is not necessary at such time.

(d) Manner of impaneling.—The county investigating grand jury shall be impaneled in the manner provided or prescribed by law.

§ 4544. Convening multicounty investigating grand jury.

(a) General rule.—Application for a multicounty investigating grand jury may be made by the Attorney General to the Supreme Court. In such application the Attorney General shall state that, in his judgment, the convening of a multicounty investigating grand jury is necessary because of organized crime or public corruption or both involving more than one county of the Commonwealth and that, in

his judgment, the investigation cannot be adequately performed by an investigating grand jury available under section 4543 (relating to convening county investigating grand jury). The application shall specify for which counties the multicounty investigating grand jury is to be convened. Within ten days of receipt of such application, the court shall issue an order granting the same. Failure by an individual justice to grant such application shall be appealable to the entire Supreme Court.

(b) Contents of order.—An order issued under subsection (a) shall:

(1) convene a multicounty investigating grand jury having State-wide jurisdiction, or jurisdiction over all counties requested in the application by the Attorney General;

(2) designate a judge of a court of common pleas to be the supervising judge over such multicounty investigating grand jury and provide that such judge shall with respect to investigations, presentments, reports, and all other proper activities of said investigating multicounty grand jury, have jurisdiction over all counties in the jurisdiction of said multicounty investigating grand jury;

(3) designate the counties which shall supply jurors and in what ratios;

(4) designate a location or locations for the multicounty investigating grand jury proceeding; and

(5) provide for such other incidental arrangements as may be necessary including the Commonwealth's share of expenses.

All matters to be included in such order shall be determined by the justice issuing the order in any manner which he deems appropriate, except that the Supreme Court may adopt general rules, consistent with the provisions of this section, establishing standard procedures for the convening of multicounty investigating grand juries.

(c) Manner of impaneling.—The multicounty investigating grand jury shall be impaneled in the manner provided or prescribed by law.

(d) Effect on district attorneys.—The impaneling of a multicounty investigating grand jury shall in no way diminish the responsibility and the authority of the district attorneys within their jurisdictions to investigate and prosecute organized crime or public corruption or both.

§ 4545. Composition of investigating grand jury.

(a) General rule.—Each investigating grand jury shall be composed initially of 23 members and have seven alternates. Subsequent vacancies shall be filled by substituting alternates for the members who are excused or otherwise unable to continue their service.

(b) Quorum and manner of action.—Fifteen members shall constitute a quorum and may conduct business for the investigating grand jury. A majority of the full investigating grand jury shall be required to adopt a report or issue a presentment.

(c) Officers.—The supervising judge shall appoint a foreman from among the members of the investigating grand jury. The members of the investigating grand jury shall then elect a secretary.

§ 4546. Term of investigating grand jury.

(a) General rule.—An investigating grand jury shall not be limited in duration to any term of court. Each such investigating grand jury shall, except as provided in subsections (b) and (c), serve for a term of 18 months, unless an order for discharge shall be entered earlier by the court upon the determination of such investigating grand jury, by majority vote, that its business has been completed.

(b) Extension on initiative of grand jury.—If, at the end of its original term or any extension thereof, any investigating grand jury determines by majority vote that it has not completed its business, it may request the court to extend its term for an additional period of six months, except that no such investigating grand jury term shall exceed 24 months from the time it was originally summoned. The court shall issue an order granting a request for extension unless it determines that such request is clearly without basis. Failure to grant an extension of term under this subsection may be appealed by the attorney for the Commonwealth to the Supreme Court in the manner prescribed by general rule. If an appeal is taken, the grand jury, except as otherwise prescribed by general rule, shall continue to exercise its powers pending the disposition of the appeal.

(c) Discharge by court.—If, at any time within the original term of any investigating grand jury or any extension thereof, the court determines that the investigating grand jury is not conducting proper investigative activity, the court may order that such grand jury be discharged. An order of discharge under this subsection shall not become effective less than ten days after the date on which it is issued and actual notice given to the attorney for the Commonwealth and the foreman of the investigating grand jury, and may be appealed by the attorney for the Commonwealth to the Supreme Court in the manner prescribed by general rule. If an appeal is taken, the grand jury, except as otherwise prescribed by general rule, shall continue to exercise its powers pending the disposition of the appeal.

§ 4547. Additional investigating grand juries.

Whenever the attorney for the Commonwealth determines that the volume of work of an investigating grand jury exceeds the capacity of the investigating grand jury to discharge its obligations, he may make application to the court to impanel additional investigating grand juries under the provisions of section 4543 (relating to convening county investigating grand jury) and section 4544 (relating to convening multicounty investigating grand jury).

§ 4548. Powers of investigating grand jury.

(a) General rule.—The investigating grand jury shall have the power to inquire into offenses against the criminal laws of the Commonwealth alleged to have been committed within the county or counties in which it is summoned. Such power shall include the investigative resources of the grand jury which shall include but not be limited to the power of subpoena, the power to obtain the initiation of

civil and criminal contempt proceedings, and every investigative power of any grand jury of the Commonwealth. Such alleged offenses may be brought to the attention of such grand jury by the court or by the attorney for the Commonwealth, but in no case shall the investigating grand jury inquire into alleged offenses on its own motion.

(b) Presentments.—The investigating grand jury shall have the power to issue a presentment with regard to any person who appears to have committed within the county or counties in which such investigating grand jury is summoned an offense against the criminal laws of the Commonwealth.

(c) Other powers.—Except for the power to indict, the investigating grand jury shall have every power available to any other grand jury in the Commonwealth. The jurisdiction, powers and activities of an investigating grand jury shall not, if otherwise lawful, be limited in any way by the charge of the court.

§ 4549. Investigating grand jury proceedings.

(a) Documents and transcript.—Any document produced before an investigating grand jury may be copied or reproduced. Each statement, question, comment or response of the supervising judge, the attorney for the Commonwealth, any witness, any grand juror or any other person which is made in the presence of the investigating grand jury, except its deliberations and the vote of any juror, shall be stenographically recorded or transcribed or both.

(b) Disclosure of proceedings by participants other than witnesses.—Disclosure of matters occurring before the grand jury other than its deliberations and the vote of any juror may be made to the attorneys for the Commonwealth for use in the performance of their duties. The attorneys for the Commonwealth may with the approval of the supervising judge disclose matters occurring before the investigating grand jury including transcripts of testimony to local, State, other state or Federal law enforcement or investigating agencies to assist them in investigating crimes under their investigative jurisdiction. Otherwise a juror, attorney, interpreter, stenographer, operator of a recording device, or any typist who transcribes recorded testimony may disclose matters occurring before the grand jury only when so directed by the court. All such persons shall be sworn to secrecy, and shall be in contempt of court if they reveal any information which they are sworn to keep secret.

(c) Counsel for witnesses.—

(1) A witness subpoenaed to appear and testify before an investigating grand jury or to produce documents, records or other evidence before an investigating grand jury shall be entitled to the assistance of counsel, including assistance during such time as the witness is questioned in the presence of the investigating grand jury. In the event counsel of the witness' choice is not available, he shall be required to obtain other counsel within a reasonable time in order that the work of the grand jury may proceed.

(2) Such counsel may be retained by the witness or shall be appointed in the case of any person unable to procure sufficient funds to obtain legal representation.

(3) Such counsel shall be allowed to be present in the grand jury room during the questioning of the witness and shall be allowed to advise the witness but shall make no objections or arguments or otherwise address the grand jury or the attorney for the Commonwealth. The supervising judge shall have the same power to remove such counsel from the grand jury room as a judge has with respect to an attorney in any court proceeding. Violation of this paragraph shall be punishable as contempt by the supervising judge.

(4) An attorney, or attorneys who are associated in practice, shall not continue multiple representation of clients in a grand jury proceeding if the exercise of the independent professional judgment of an attorney on behalf of one of the clients will or is likely to be adversely affected by his representation of another client. If the supervising judge determines that the interest of an individual will or is likely to be adversely affected, he may order separate representation of witnesses, giving appropriate weight to the right of an individual to counsel of his own choosing.

(d) Disclosure of proceedings by witnesses.—No witness shall be prohibited from disclosing his testimony before the investigating grand jury except for cause shown in a hearing before the supervising judge. In no event may a witness be prevented from disclosing his testimony to his attorney.

§ 4550. Submission of investigations by attorney for the Commonwealth to investigating grand jury.

(a) General rule.—Before submitting an investigation to the investigating grand jury the attorney for the Commonwealth shall submit a notice to the supervising judge. This notice shall allege that the matter in question should be brought to the attention of the investigating grand jury because the investigative resources of the grand jury are necessary for proper investigation. The notice shall allege that one or more of the investigative resources of the grand jury are required in order to adequately investigate the matter.

(b) Effect of notice.—After the attorney for the Commonwealth has filed the notice submitting a matter to the investigating grand jury any or all of the investigative resources of the investigating grand jury may be used as regards the investigation.

§ 4551. Investigating grand jury presentments.

(a) General rule.—Should the investigating grand jury determine that upon the basis of evidence presented to it a presentment should be returned against an individual, the grand jury shall direct the attorney for the Commonwealth to prepare a presentment which shall be submitted to the investigating grand jury for a vote. Should a majority of the full grand jury vote approval for the presentment it shall then be submitted to the supervising judge. The supervising judge

shall examine the presentment, and if it is within the authority of the investigating grand jury and is otherwise in accordance with the provisions of this subchapter, the supervising judge shall issue an order accepting the presentment. Otherwise, the supervising judge shall refuse to accept the presentment and shall order that the investigating grand jury take further appropriate action.

(b) Sealed presentment.—The supervising judge to whom a presentment is submitted may, on his own motion or at the request of the Commonwealth, direct that the presentment be kept secret until the defendant is in custody or has been released pending trial. In directing that the presentment be kept secret, the supervising judge shall enter an order requiring that the presentment be sealed and that no person shall disclose a return of the presentment except when necessary for issuance and execution of process.

(c) Prosecution by Attorney General.—Whenever a multicounty investigating grand jury returns a presentment against any person the Attorney General or his designee shall, with respect to the alleged criminal activities, be authorized to prosecute the person on behalf of the Commonwealth by instituting criminal proceedings in the county of appropriate venue. The Attorney General or his designee shall take the oath of office required by law to be taken of district attorneys, and shall be clothed with all the powers and subject to all the liabilities imposed upon district attorneys by law.

(d) Venue.—In any case where a multicounty investigating grand jury returns a presentment the supervising judge shall select the county for conducting the trial from among those counties having jurisdiction.

(e) Procedure following presentment.—When the attorney for the Commonwealth proceeds on the basis of a presentment, a complaint shall be filed and the defendant shall be entitled to a preliminary hearing as in other criminal proceedings.

§ 4552. Investigating grand jury reports.

(a) General rule.—Any investigating grand jury, by an affirmative majority vote of the full investigating grand jury, may, at any time during its term submit to the supervising judge an investigating grand jury report.

(b) Examination by court.—The judge to whom such report is submitted shall examine it and the record of the investigating grand jury and, except as otherwise provided in this section, shall issue an order accepting and filing such report as a public record with the court of common pleas established for or embracing the county or counties which are the subject of such report only if the report is based upon facts received in the course of an investigation authorized by this subchapter and is supported by the preponderance of the evidence.

(c) Sealed report.—Upon the submission of a report pursuant to subsection (a), if the supervising judge finds that the filing of such

report as a public record may prejudice fair consideration of a pending criminal matter, he shall order such report sealed and such report shall not be subject to subpoena or public inspection during the pendency of such criminal matter except upon order of court.

(d) Appeal from refusal to file.—Failure of the supervising judge to accept and file as a public record a report submitted under this section may be appealed by the attorney for the Commonwealth to the Supreme Court in the manner prescribed by general rules.

(e) Authorization of response by nonindicted subject.—If the supervising judge finds that the report is critical of an individual not indicted for a criminal offense the supervising judge may in his sole discretion allow the named individual to submit a response to the allegations contained in the report. The supervising judge may then in his discretion allow the response to be attached to the report as part of the report before the report is made part of the public record pursuant to subsection (b).

§ 4553. Expenses of investigating grand juries.

(a) County.—The expenses of a county investigating grand jury shall be borne by the county in which it is impaneled.

(b) Multicounty.—The expenses of any multicounty investigating grand jury shall be borne by the Commonwealth.

(b) Chapter 45 of Title 42 is amended by adding a section to read:

§ 4563.1. *Protection of employment of grand jurors.*

(a) *General rule.*—*An employer shall not deprive an employee of his employment, seniority position or benefits, or threaten or otherwise coerce him with respect thereto, because the employee receives a summons, responds thereto, serves as an investigating grand juror or attends court for prospective investigating grand jury service. Nothing in this section shall be construed to require the employer to compensate the employee for employment time lost because of such grand jury service.*

(b) *Criminal penalty.*—*Any employer who violates subsection (a) commits a summary offense.*

(c) *Civil liability.*—*If any employer penalizes an employee in violation of subsection (a) the employee may bring a civil action for recovery of wages or benefits lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall not exceed wages and benefits actually lost. If he prevails, the employee shall be allowed a reasonable attorney's fee fixed by the court.*

(d) *Exception.*—*Subsection (a) shall not apply to any employer in any retail or service industry employing fewer than 15 persons or any employer in any manufacturing industry employing fewer than 40 persons.*

(e) *Right to excuse.*—*Any individual not entitled to reemployment under subsection (a) shall, upon request to the court, be excused from grand jury service.*

(c) Sections 722(5) and 8931(f) of Title 42, added July 9, 1976 (P.L.586, No.142), are amended to read:

§ 722. Direct appeals from courts of common pleas.

The Supreme Court shall have exclusive jurisdiction of appeals from final orders of the courts of common pleas in the following classes of cases:

* * *

(5) Supersession of a district attorney by an Attorney General or by a court *or where the matter relates to the convening, supervision, administration, operation or discharge of an investigating grand jury or otherwise directly affects such a grand jury or any investigation conducted by it.*

* * *

§ 8931. Indictment and information.

* * *

(f) Investigating grand juries unaffected.—No grand jury shall be impaneled in any judicial district where this section is applicable for the purpose of considering bills of indictment. ~~[except that this]~~ *This section shall not prohibit the impaneling [as heretofore of, or affect the functioning of, a grand jury for the purpose of investigating offenses against the criminal statutes of this Commonwealth] of grand juries under and with the powers provided in Subchapter D of Chapter 45 (relating to investigating grand juries) or for any other purpose as provided or prescribed by law.*

* * *

(d) The act of November 22, 1978 (P.L.1148, No.271), known as the "Investigating Grand Jury Act," amended July 20, 1979 (P.L.153, No.50), is repealed.

Section 217. Codification of Act No. 1978-296.—Section 3573(c) of Title 42, added April 28, 1978 (P.L.202, No.53), is amended to read:

§ 3573. Municipal corporation portion of fines, etc.

* * *

(c) Summary offenses.—Fines forfeited, recognizances and other forfeitures imposed, lost or forfeited under the following provisions of **[Title 18 (relating to crimes and offenses)] law** shall, when any such offense is committed in a municipal corporation, be payable to such municipal corporation:

(1) Under the following provisions of Title 18 (relating to crimes and offenses):

Section 2709 (relating to harassment).

Section 3304 (relating to criminal mischief).

Section 3503 (relating to criminal trespass).

Section 3929 (relating to retail theft).

Section 4105 (relating to bad checks).

Section 5503 (relating to disorderly conduct).

Section 5505 (relating to public drunkenness).

Section 5511(c), (d) and (f) (relating to cruelty to animals).

Section 6308 (relating to purchase, consumption, possession or transportation of intoxicating beverages).

Section 6501 (relating to scattering rubbish).

(2) Section 13, act of January 24, 1966 (1965 P.L.1535, No.537), known as the "Pennsylvania Sewage Facilities Act."

* * *

Section 218. Codification of Act No. 1978-319.—(a) Chapter 21 of Title 42 is amended by adding a subchapter to read:

**SUBCHAPTER F
PENNSYLVANIA COMMISSION ON SENTENCING**

Sec.

2151. Pennsylvania Commission on Sentencing.

2152. Composition of commission.

2153. Powers and duties.

2154. Adoption of guidelines for sentencing.

2155. Publication of guidelines for sentencing.

§ 2151. Pennsylvania Commission on Sentencing.

(a) General rule.—The Pennsylvania Commission on Sentencing shall consist of 11 persons selected as provided in this subchapter.

(b) Seal.—The Pennsylvania Commission on Sentencing shall have a seal engraved with its name and such other inscription as may be specified by regulation of the commission.

§ 2152. Composition of commission.

(a) General rule.—The Pennsylvania Commission on Sentencing shall consist of:

(1) Two members of the House of Representatives selected by the Speaker of the House of Representatives, no more than one of whom shall be of the same political party.

(2) Two members of the Senate of Pennsylvania selected by the President pro tempore of the Senate, no more than one of whom shall be of the same political party.

(3) Four judges of courts of record selected by the Chief Justice of Pennsylvania.

(4) Three persons appointed by the Governor, who shall be, respectively:

(i) A district attorney.

(ii) A defense attorney.

(iii) Either a professor of law or a criminologist.

(b) Terms of office.—The members of the commission shall serve for terms of two years and until a successor has been selected and qualified. A vacancy on the commission shall be filled for the balance of the term.

(c) Chairman and executive director.—The commission shall select a chairman from its members and an executive director. The chairman shall:

- (1) Preside at meetings of the commission.
- (2) Direct the preparation of requests for appropriations for the commission and the use of funds made available to the commission.
- (d) Meetings and quorum.—
 - (1) The commission shall meet not less frequently than quarterly to establish its general policies and rules.
 - (2) The commission shall be deemed an “agency” within the meaning of the act of July 19, 1974 (P.L.486, No.175), referred to as the Public Agency Open Meeting Law.
 - (3) Nine commissioners shall constitute a quorum.
 - (4) Minutes of meetings shall be kept by the executive director and filed at the executive office of the commission.
- (e) Records of action.—Except as otherwise provided by statute, the commission shall maintain and make available for public inspection a record of the final vote of each member on any action taken by it.
- (f) Expenses.—Each commissioner shall be entitled to reimbursement for his accountable expenses incurred while engaged in the business of the commission.

§ 2153. Powers and duties.

- (a) General rule.—The commission, pursuant to rules and regulations, shall have the power to:
 - (1) Establish general policies and promulgate such rules and regulations for the commission as are necessary to carry out the purposes of this subchapter and Chapter 97 (relating to sentencing).
 - (2) Utilize, with their consent, the services, equipment, personnel, information and facilities of Federal, State, local and private agencies and instrumentalities with or without reimbursement therefor.
 - (3) Enter into and perform such contracts, leases, cooperative agreements and other transactions as may be necessary in the conduct of the functions of the commission, with any public agency or with any person, firm, association, corporation, educational institution or nonprofit organization.
 - (4) Request such information, data and reports from any officer or agency of the Commonwealth government as the commission may from time to time require and as may be produced consistent with other law.
 - (5) Arrange with the head of any government unit for the performance by the government unit of any function of the commission, with or without reimbursement.
 - (6) Issue invitations requesting the attendance and testimony of witnesses and the production of any evidence that relates directly to a matter with respect to which the commission or any member thereof is empowered to make a determination under this subchapter.

(7) Establish a research and development program within the commission for the purpose of:

(i) Serving as a clearinghouse and information center for the collection, preparation and dissemination of information on Commonwealth sentencing practices.

(ii) Assisting and serving in a consulting capacity to State courts, departments and agencies in the development, maintenance and coordination of sound sentencing practices.

(8) Collect systematically the data obtained from studies, research and the empirical experience of public and private agencies concerning the sentencing processes.

(9) Publish data concerning the sentencing processes.

(10) Collect systematically and disseminate information concerning sentences actually imposed.

(11) Collect systematically and disseminate information regarding effectiveness of sentences imposed.

(12) Make recommendations to the General Assembly concerning modification or enactment of sentencing and correctional statutes which the commission finds to be necessary and advisable to carry out an effective, humane and rational sentencing policy.

(b) Annual reports.—The commission shall report annually to the General Assembly, the Administrative Office of Pennsylvania Courts and the Governor on the activities of the commission.

(c) Additional powers and duties.—The commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this subchapter or as may be provided under any other provision of law and may delegate to any commissioner or designated person such powers as may be appropriate other than the power to establish general policies, guidelines, rules and factors under subsection (a)(1).

§ 2154. Adoption of guidelines for sentencing.

The commission shall adopt guidelines for sentencing within the limits established by law which shall be considered by the sentencing court in determining the appropriate sentence for felonies and misdemeanors committed by a defendant. The guidelines shall:

(1) Specify the range of sentences applicable to crimes of a given degree of gravity.

(2) Specify a range of sentences of increased severity for defendants previously convicted of a felony or felonies or convicted of a crime involving the use of a deadly weapon.

(3) Prescribe variations from the range of sentences applicable on account of aggravating or mitigating circumstances.

§ 2155. Publication of guidelines for sentencing.

(a) General rule.—The commission shall:

(1) Prior to adoption, publish in the Pennsylvania Bulletin all proposed initial and subsequent sentencing guidelines and hold

public hearings not earlier than 30 days and not later than 60 days thereafter to afford an opportunity for the following persons and organizations to testify:

- (i) Pennsylvania District Attorneys Association.
- (ii) Chiefs of Police Associations.
- (iii) Fraternal Order of Police.
- (iv) Public Defenders Organization.
- (v) Law school faculty members.
- (vi) State Board of Probation and Parole.
- (vii) Bureau of Correction.
- (viii) Pennsylvania Bar Association.
- (ix) Pennsylvania Wardens Association.
- (x) Pennsylvania Association on Probation, Parole and Corrections.
- (xi) Pennsylvania Conference of State Trial Judges.
- (xii) Any other interested person or organization.

(2) Publish in the Pennsylvania Bulletin all initial and subsequent sentencing guidelines as adopted by the commission.

(b) Rejection by General Assembly.—The General Assembly may by concurrent resolution reject in their entirety any initial or subsequent guidelines adopted by the commission within 90 days of their publication in the Pennsylvania Bulletin pursuant to subsection (a)(2).

(c) Effective date.—Initial and any subsequent guidelines adopted by the commission shall become effective 90 days after publication in the Pennsylvania Bulletin pursuant to subsection (a)(2) unless rejected in their entirety by the General Assembly by a concurrent resolution.

(b) The Pennsylvania Commission on Sentencing shall adopt and publish in the Pennsylvania Bulletin pursuant to 42 Pa.C.S. § 2155(a)(2) (relating to publication of guidelines for sentencing) the initial sentencing guidelines within 18 months of the first meeting of the commission. The provisions of 18 Pa.C.S. § 1386 (redesignated by this act as 42 Pa.C.S. § 9781) (relating to appellate review of sentence) shall take effect upon the effective date of such initial sentencing guidelines pursuant to 42 Pa.C.S. § 2155(c) (relating to effective date).

(c) The provisions of subsection (a), 42 Pa.C.S. § 9781 (relating to appellate review of sentence), and section 6 of the act of November 26, 1978 (P.L.1316, No.319), entitled "An act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for sentencing and providing for alteration of identification marks on personal property," are not severable and if any provision thereof or the application thereof to any person or circumstance is held invalid, the remainder of subsection (a), 42 Pa.C.S. § 9781 and such section 6 shall be invalid.

(d) Subchapter G of Chapter 13 (relating to Pennsylvania Commission on Sentencing) of Title 18, and sections 7 and 8(a) and (b) of the act of November 26, 1978 (P.L.1316, No.319), entitled "An act

amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for sentencing and providing for alteration of identification marks on personal property," are repealed except as follows:

(1) Section 1386 is hereby expressly saved from repeal and shall be redesignated as provided by Article IV of this act.

(2) The original terms of members of the Pennsylvania Commission on Sentencing shall be staggered as provided by the former provisions of 18 Pa.C.S. § 1381(a) (relating to composition).

(e) Subchapter F of Chapter 21 (relating to Pennsylvania Commission on Sentencing) of Title 42 and subsection (c) of this section shall expire and be deemed null and void four years from the date on which initial guidelines are adopted pursuant to 42 Pa.C.S. § 2155 (relating to publication of guidelines for sentencing) unless this subsection is amended or repealed prior to such expiration date.

Section 219. Codification of Act No. 1978-324.—(a) Section 3101 of Title 42, amended April 28, 1978 (P.L.202, No.53), is amended to read:

§ 3101. Qualifications of judicial officers generally.

(a) *General rule.*—Judges and district justices shall be citizens of this Commonwealth. Judges, except judges of the Pittsburgh Magistrates Court and the Traffic Court of Philadelphia, shall be members of the bar of this Commonwealth. Judges of the Supreme, Superior and Commonwealth Courts, for a period of one year preceding their election or appointment and during their continuance in office, shall reside within this Commonwealth. Other judges and district justices, for a period of one year preceding their election or appointment and during their continuance in office, shall reside within their respective districts, except when temporarily assigned to another district pursuant to law.

(b) *Mental health review officers.*—*Mental health review officers shall be members of the bar of this Commonwealth without restriction as to county of residence and where possible should be familiar with the field of mental health. Judges of the Philadelphia Municipal Court may be appointed mental health review officers.*

(b) Second and third sentences of section 109(a), act of July 9, 1976 (P.L.817, No.143), known as the "Mental Health Procedures Act," are repealed.

Section 220. Codification of Act No. 1978-325.—Section 3571(e) of Title 42, added April 28, 1978 (P.L.202, No.53), is amended to read:

§ 3571. Commonwealth portion of fines, etc.

* * *

(e) [Sunday trading] *Other offenses.*—Fines forfeited, recognizances and other forfeitures imposed, lost or forfeited under [18 Pa.C.S. § 7361 (relating to worldly employment or business)] *the following provisions of law* shall be payable to the Commonwealth:

18 Pa.C.S. § 7361 (relating to worldly employment or business).

Act of November 26, 1978 (P.L.1375, No.325), known as the "Dam Safety and Encroachments Act."

Section 221. Codification of Act Nos. 1978-330, 1978-152 and 1980-43.—(a) Section 761(a)(1) of Title 42, amended by section 203 and affected by section 324 of this act, is amended to read:

§ 761. Original jurisdiction.

(a) General rule.—The Commonwealth Court shall have original jurisdiction of all civil actions or proceedings:

(1) Against the Commonwealth government, including any officer thereof, acting in his official capacity, except:

(i) actions or proceedings in the nature of applications for a writ of habeas corpus or post-conviction relief not ancillary to proceedings within the appellate jurisdiction of the court;

(ii) eminent domain proceedings; and

(iii) actions on claims in which [sovereign] immunity has been waived pursuant to [section 5110 (relating to limited waiver of sovereign immunity) and pursuant to] *Chapter 85 (relating to matters affecting government units)* or the act of May 20, 1937 (P.L.728, No.193), referred to as the Board of Claims Act.

* * *

(b) (1) Section 761(c) of Title 42, amended September 28, 1978 (P.L.788, No.152), is repealed.

(2) The subsection heading of section 761(d) of Title 42, added July 9, 1976 (P.L.586, No.142), is amended to read:

§ 761. Original jurisdiction.

* * *

[(d)] (c) Ancillary matters.—* * *

(c) Section 762(a)(1) and (7) of Title 42, amended September 28, 1978 (P.L.788, No.152), are amended or added to read:

§ 762. Appeals from courts of common pleas.

(a) General rule.—Except as provided in subsection (b), the Commonwealth Court shall have exclusive jurisdiction of appeals from final orders of the courts of common pleas in [any of] the following cases:

(1) Commonwealth civil cases.—All civil actions or proceedings to which the Commonwealth [or] *government, including* any officer or employee thereof, acting in his official capacity or within the scope of his duties, is a party, including actions or claims in which [sovereign] immunity has been waived pursuant to [section 5110 (relating to limited waiver of sovereign immunity)] *Subchapter B of Chapter 85 (relating to actions against Commonwealth parties)*, except actions or proceedings in the nature of applications for a writ of habeas corpus or post-conviction relief not ancillary to proceedings within the appellate jurisdiction of the court.

* * *

(7) Immunity waiver matters.—Matters in which immunity has been waived pursuant to Subchapter C of Chapter 85 (relating to actions against local parties).

* * *

(d) Section 931 of Title 42 is repealed.

(e) Title 42 is amended by adding a section to read:

§ 931. Original jurisdiction and venue.

(a) General rule.—Except where exclusive original jurisdiction of an action or proceeding is by statute or by general rule adopted pursuant to section 503 (relating to reassignment of matters) vested in another court of this Commonwealth, the courts of common pleas shall have unlimited original jurisdiction of all actions and proceedings, including all actions and proceedings heretofore cognizable by law or usage in the courts of common pleas.

(b) Concurrent and exclusive jurisdiction.—The jurisdiction of the courts of common pleas under this section shall be exclusive except with respect to actions and proceedings concurrent jurisdiction of which is by statute or by general rule adopted pursuant to section 503 vested in another court of this Commonwealth or in the district justices.

(c) Venue and process.—Except as provided by Subchapter B of Chapter 85 (relating to actions against Commonwealth parties), the venue of a court of common pleas concerning matters over which jurisdiction is conferred by this section shall be as prescribed by general rule. The process of the court shall extend beyond the territorial limits of the judicial district to the extent prescribed by general rule. Except as otherwise prescribed by general rule, in a proceeding to enforce an order of a government agency the process of the court shall extend throughout this Commonwealth.

(f) Section 5101 of Title 42, amended September 28, 1978 (P.L.788, No.152), is amended to read:

§ 5101. Remedy to exist for legal injury.

[(a) General rule.—]Every person for a legal injury done him in his lands, goods, person, or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

[(b) No waiver of sovereign immunity.—The provisions of subsection (a) shall not be construed as a waiver by the Commonwealth of immunity to suit except for actions pursuant to section 5110 (relating to limited waiver of sovereign immunity).]

(g) Sections 5110 and 5111 of Title 42, added September 28, 1978 (P.L.788, No.152), are repealed.

(h) Section 5522 of Title 42 is repealed.

(i) (1) Title 42 is amended by adding a section to read:

§ 5522. Six months limitation.

(a) Notice prerequisite to action against government unit.—

(1) Within six months from the date that any injury was sustained or any cause of action accrued, any person who is about to commence any civil action or proceeding within this Commonwealth or elsewhere against a government unit for damages on account of any injury to his person or property under Chapter 85 (relating to matters affecting government units) or otherwise shall file in the office of the government unit, and if the action is against a Commonwealth agency for damages, then also file in the office of the Attorney General, a statement in writing, signed by or in his behalf, setting forth:

(i) The name and residence address of the person to whom the cause of action has accrued.

(ii) The name and residence address of the person injured.

(iii) The date and hour of the accident.

(iv) The approximate location where the accident occurred.

(v) The name and residence or office address of any attending physician.

(2) If the statement provided for by this subsection is not filed, any civil action or proceeding commenced against the government unit more than six months after the date of injury shall be dismissed and the person to whom any such cause of action accrued for any personal injury shall be forever barred from proceeding further thereon within this Commonwealth or elsewhere. The court shall excuse noncompliance with this requirement upon a showing of reasonable excuse for failure to file such statement.

(3) In the case of a civil action or proceeding against a government unit other than the Commonwealth government:

(i) The time for giving such written notice does not include the time during which an individual injured is unable, due to incapacitation or disability from the injury, to give notice, not exceeding 90 days of incapacity.

(ii) If the injuries to an individual result in death, the time for giving notice shall commence with such death.

(iii) Failure to comply with this subsection shall not be a bar if the government unit had actual or constructive notice of the incident or condition giving rise to the claim of a person.

(b) Commencement of action required.—The following actions and proceedings must be commenced within six months:

(1) An action against any officer of any government unit for anything done in the execution of his office, except an action subject to another limitation specified in this subchapter.

(2) A petition for the establishment of a deficiency judgment following sale of the collateral of the debtor under the provisions of section 8103 (relating to deficiency judgments).

(3) Any action subject to 13 Pa.C.S. § 6111 (relating to limitation of actions and levies).

(4) An action under section 4563.1(c) (relating to civil liability).

(2) Notwithstanding 1 Pa.C.S. § 1957 (relating to ineffective provisions not revived by reenactment in amendatory statutes), it is hereby declared to be the intent of paragraph (1) to restore 42 Pa.C.S. § 5522 (relating to six months limitation) to its status prior to the repeal effected by section 802(b) of the act of November 26, 1978 (P.L.1399, No.330), known as the "Political Subdivision Tort Claims Act," except as otherwise expressly provided by such section as reenacted and amended hereby.

(j) References in the act of September 28, 1978 (P.L.788, No.152), to "this act" and to "42 Pa.C.S. § 5110" shall be deemed to be references to Subchapter B of Chapter 85 (relating to actions against Commonwealth parties) of Title 42.

(k) Chapter 85 of Title 42 is repealed.

(l) Title 42 is amended by adding a chapter to read:

**CHAPTER 85
MATTERS AFFECTING GOVERNMENT UNITS**

Subchapter

- A. General Provisions
- B. Actions Against Commonwealth Parties
- C. Actions Against Local Parties

**SUBCHAPTER A
GENERAL PROVISIONS**

Sec.

8501. Definitions.

8502. Enforcement proceedings.

§ 8501. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Act." Includes a failure to act.

"Commonwealth party." A Commonwealth agency and any employee thereof, but only with respect to an act within the scope of his office or employment.

"Employee." Any person who is acting or who has acted on behalf of a government unit whether on a permanent or temporary basis, whether compensated or not and whether within or without the territorial boundaries of the government unit, including any volunteer fireman and any elected or appointed officer, member of a governing body or other person designated to act for the government unit. Independent contractors under contract to the government unit and their employees and agents and persons performing tasks over which the government unit has no legal right of control are not employees of the government unit.

“Injury.” Includes death.

“Judicial determination.” Any determination by a court of competent jurisdiction including any settlement approved by such court.

“Local agency.” A government unit other than the Commonwealth government. The term includes an intermediate unit.

§ 8502. Enforcement proceedings.

(a) Venue.—Except as otherwise prescribed by general rules the venue of any action or proceeding by a Commonwealth agency to enforce any statute or regulation or order of a government unit may be laid in any court having jurisdiction of the subject matter.

(b) Bond.—Neither a Commonwealth agency nor a district attorney shall be required to give bond in connection with any application for equitable relief incident to the enforcement of any statute or regulation or order of a government unit.

SUBCHAPTER B ACTIONS AGAINST COMMONWEALTH PARTIES

Sec.

SOVEREIGN IMMUNITY

- 8521. Sovereign immunity generally.
- 8522. Exceptions to sovereign immunity.
- 8523. Venue and process.
- 8524. Defenses.
- 8525. Legal assistance.
- 8526. Counterclaim by the Commonwealth.

LIMITATIONS ON DAMAGES

- 8528. Limitations on damages.

SOVEREIGN IMMUNITY

§ 8521. Sovereign immunity generally.

(a) General rule.—Except as otherwise provided in this subchapter, no provision of this title shall constitute a waiver of sovereign immunity for the purpose of 1 Pa.C.S. § 2310 (relating to sovereign immunity reaffirmed; specific waiver) or otherwise.

(b) Federal courts.—Nothing contained in this subchapter shall be construed to waive the immunity of the Commonwealth from suit in Federal courts guaranteed by the Eleventh Amendment to the Constitution of the United States.

§ 8522. Exceptions to sovereign immunity.

(a) Liability imposed.—The General Assembly, pursuant to section 11 of Article I of the Constitution of Pennsylvania, does hereby waive, in the instances set forth in subsection (b) only and only to the extent set forth in this subchapter and within the limits set forth in section 8528 (relating to limitations on damages), sovereign immu-

nity as a bar to an action against Commonwealth parties, for damages arising out of a negligent act where the damages would be recoverable under the common law or a statute creating a cause of action if the injury were caused by a person not having available the defense of sovereign immunity.

(b) Acts which may impose liability.—The following acts by a Commonwealth party may result in the imposition of liability on the Commonwealth and the defense of sovereign immunity shall not be raised to claims for damages caused by:

(1) Vehicle liability.—The operation of any motor vehicle in the possession or control of a Commonwealth party. As used in this paragraph, “motor vehicle” means any vehicle which is self-propelled and any attachment thereto, including vehicles operated by rail, through water or in the air.

(2) Medical-professional liability.—Acts of health care employees of Commonwealth agency medical facilities or institutions or by a Commonwealth party who is a doctor, dentist, nurse or related health care personnel.

(3) Care, custody or control of personal property.—The care, custody or control of personal property in the possession or control of Commonwealth parties, including Commonwealth-owned personal property and property of persons held by a Commonwealth agency, except that the sovereign immunity of the Commonwealth is retained as a bar to actions on claims arising out of Commonwealth agency activities involving the use of nuclear and other radioactive equipment, devices and materials.

(4) Commonwealth real estate, highways and sidewalks.—A dangerous condition of Commonwealth agency real estate and sidewalks, including Commonwealth-owned real property, leaseholds in the possession of a Commonwealth agency and Commonwealth-owned real property leased by a Commonwealth agency to private persons, and highways under the jurisdiction of a Commonwealth agency, except conditions described in paragraph (5).

(5) Potholes and other dangerous conditions.—A dangerous condition of highways under the jurisdiction of a Commonwealth agency created by potholes or sinkholes or other similar conditions created by natural elements, except that the claimant to recover must establish that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred and that the Commonwealth agency had actual written notice of the dangerous condition of the highway a sufficient time prior to the event to have taken measures to protect against the dangerous condition. Property damages shall not be recoverable under this paragraph.

(6) Care, custody or control of animals.—The care, custody or control of animals in the possession or control of a Commonwealth party, including but not limited to police dogs and horses and

animals incarcerated in Commonwealth agency laboratories. Damages shall not be recoverable under this paragraph on account of any injury caused by wild animals, including but not limited to bears and deer, except as otherwise provided by statute.

(7) Liquor store sales.—The sale of liquor at Pennsylvania liquor stores by employees of the Pennsylvania Liquor Control Board created by and operating under the act of April 12, 1951 (P.L.90, No.21), known as the "Liquor Code," if such sale is made to any minor, or to any person visibly intoxicated, or to any insane person, or to any person known as an habitual drunkard, or of known intemperate habit.

(8) National Guard activities.—Acts of a member of the Pennsylvania military forces.

§ 8523. Venue and process.

(a) Venue.—Actions for claims against a Commonwealth party may be brought in and only in a county in which the principal or local office of the Commonwealth party is located or in which the cause of action arose or where a transaction or occurrence took place out of which the cause of action arose. If venue is obtained in the Twelfth Judicial District (Dauphin County) solely because the principal office of the Commonwealth party is located within it, any judge of the Court of Common Pleas of Dauphin County shall have the power to transfer the action to any appropriate county where venue would otherwise lie.

(b) Process.—Service of process in the case of an action against the Commonwealth shall be made at the principal or local office of the Commonwealth agency that is being sued and at the office of the Attorney General.

§ 8524. Defenses.

The following common law defenses are available:

(1) An official of a Commonwealth agency, or a member of the General Assembly or the judiciary may assert on his own behalf, or the Commonwealth may assert on his behalf, defenses which have heretofore been available to such officials.

(2) An employee of a Commonwealth agency, or a member of the General Assembly or of the judiciary may assert on his own behalf, or the Commonwealth may assert on his behalf, the defense that the employee was acting pursuant to a duty required by a statute or statutorily authorized regulation.

(3) An employee of a Commonwealth agency, or a member of the General Assembly or of the judiciary may assert on his own behalf, or the Commonwealth may assert on his behalf, the defense that the act was within the discretion granted to the employee by statute or statutorily authorized regulation.

§ 8525. Legal assistance.

When an action is brought under this subchapter against an employee of the Commonwealth government, and it is alleged that the

act of the employee which gave rise to the claim was within the scope of the office or duties of the employee, the Commonwealth through the Attorney General shall defend the action, unless the Attorney General determines that the act did not occur within the scope of the office or duties of the employee. In the latter case, if it is subsequently determined that the act occurred within the scope of the office or duties of the employee, the Commonwealth shall reimburse the employee for the expense of his legal defense in such amounts as shall be determined to be reasonable by the court. If an action is brought against a Commonwealth government employee for damages on account of injury to a person or property and it is not alleged that the act of the employee which gave rise to the claim was within the scope of his office or duties, and he successfully defends the action on the basis that the act was within the scope of his office or duties, and he has given prior notice to the Attorney General and the Attorney General has refused to defend the action, he shall likewise be entitled to the reasonable expenses of the defense.

§ 8526. Counterclaim by the Commonwealth.

In any action initiated under this subchapter, the Commonwealth may set forth any cause of action or set-off which it has against the plaintiff. A counterclaim need not diminish or defeat the relief demanded by the plaintiff. It may demand relief exceeding in amount or different in kind from that demanded by the plaintiff.

LIMITATIONS ON DAMAGES

§ 8528. Limitations on damages.

(a) General rule.—Actions for which damages are limited by reference to this subchapter shall be limited as set forth in this section.

(b) Amount recoverable.—Damages arising from the same cause of action or transaction or occurrence or series of causes of action or transactions or occurrences shall not exceed \$250,000 in favor of any plaintiff or \$1,000,000 in the aggregate.

(c) Types of damages recoverable.—Damages shall be recoverable only for:

(1) Past and future loss of earnings and earning capacity.

(2) Pain and suffering.

(3) Medical and dental expenses including the reasonable value of reasonable and necessary medical and dental services, prosthetic devices and necessary ambulance, hospital, professional nursing, and physical therapy expenses accrued and anticipated in the diagnosis, care and recovery of the claimant.

(4) Loss of consortium.

(5) Property losses, except that property losses shall not be recoverable in claims brought pursuant to section 8522(b)(5) (relating to potholes and other dangerous conditions).

SUBCHAPTER C
ACTIONS AGAINST LOCAL PARTIES

Sec.

GOVERNMENTAL IMMUNITY

- 8541. Governmental immunity generally.
- 8542. Exceptions to governmental immunity.

OFFICIAL IMMUNITY

- 8545. Official liability generally.
- 8546. Defense of official immunity.
- 8547. Legal assistance.
- 8548. Indemnity.
- 8549. Limitation on damages.
- 8550. Willful misconduct.

LIMITATIONS ON DAMAGES

- 8553. Limitations on damages.

JUDGMENTS

- 8557. Judgment as a bar.
- 8558. Judgments against insured local agency.
- 8559. Judgments against self-insured local agency and those not fully insured.

POWERS OF LOCAL AGENCIES

- 8563. General powers of local agencies.
- 8564. Liability insurance and self-insurance.

GOVERNMENTAL IMMUNITY

- § 8541. Governmental immunity generally.

Except as otherwise provided in this subchapter, no local agency shall be liable for any damages on account of any injury to a person or property caused by any act of the local agency or an employee thereof or any other person.

- § 8542. Exceptions to governmental immunity.

(a) Liability imposed.—A local agency shall be liable for damages on account of an injury to a person or property within the limits set forth in this subchapter if both of the following conditions are satisfied and the injury occurs as a result of one of the acts set forth in subsection (b):

- (1) The damages would be recoverable under common law or a statute creating a cause of action if the injury were caused by a person not having available a defense under section 8541 (relating to governmental immunity generally) or section 8546 (relating to defense of official immunity); and

(2) The injury was caused by the negligent acts of the local agency or an employee thereof acting within the scope of his office or duties with respect to one of the categories listed in subsection (b). As used in this paragraph, "negligent acts" shall not include acts or conduct which constitutes a crime, actual fraud, actual malice or willful misconduct.

(b) Acts which may impose liability.—The following acts by a local agency or any of its employees may result in the imposition of liability on a local agency:

(1) Vehicle liability.—The operation of any motor vehicle in the possession or control of the local agency. As used in this paragraph, "motor vehicle" means any vehicle which is self-propelled and any attachment thereto, including vehicles operated by rail, through water or in the air.

(2) Care, custody or control of personal property.—The care, custody or control of personal property of others in the possession or control of the local agency. The only losses for which damages shall be recoverable under this paragraph are those property losses suffered with respect to the personal property in the possession or control of the local agency.

(3) Real property.—The care, custody or control of real property in the possession of the local agency, except that the local agency shall not be liable for damages on account of any injury sustained by a person intentionally trespassing on real property in the possession of the local agency. As used in this paragraph, "real property" shall not include:

- (i) trees, traffic signs, lights and other traffic controls, street lights and street lighting systems;
- (ii) facilities of steam, sewer, water, gas and electric systems owned by the local agency and located within rights-of-way;
- (iii) streets; or
- (iv) sidewalks.

(4) Trees, traffic controls and street lighting.—A dangerous condition of trees, traffic signs, lights or other traffic controls, street lights or street lighting systems under the care, custody or control of the local agency, except that the claimant to recover must establish that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred and that the local agency had actual notice or could reasonably be charged with notice under the circumstances of the dangerous condition at a sufficient time prior to the event to have taken measures to protect against the dangerous condition.

(5) Utility service facilities.—A dangerous condition of the facilities of steam, sewer, water, gas or electric systems owned by the local agency and located within rights-of-way, except that the claimant to recover must establish that the dangerous condition created a reasonably foreseeable risk of the kind of injury which

was incurred and that the local agency had actual notice or could reasonably be charged with notice under the circumstances of the dangerous condition at a sufficient time prior to the event to have taken measures to protect against the dangerous condition.

(6) Streets.—A dangerous condition of streets owned by the local agency, except that the claimant to recover must establish that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred and that the local agency had actual notice or could reasonably be charged with notice under the circumstances of the dangerous condition at a sufficient time prior to the event to have taken measures to protect against the dangerous condition.

(7) Sidewalks.—A dangerous condition of sidewalks within the rights-of-way of streets owned by the local agency, except that the claimant to recover must establish that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred and that the local agency had actual notice or could reasonably be charged with notice under the circumstances of the dangerous condition at a sufficient time prior to the event to have taken measures to protect against the dangerous condition. When a local agency is liable for damages under this paragraph by reason of its power and authority to require installation and repair of sidewalks under the care, custody and control of other persons, the local agency shall be secondarily liable only and such other persons shall be primarily liable.

(8) Care, custody or control of animals.—The care, custody or control of animals in the possession or control of a local agency, including but not limited to police dogs and horses. Damages shall not be recoverable under this paragraph on account of any injury caused by wild animals, including but not limited to bears and deer, except as otherwise provided by statute.

(c) Limited definition.—As used in this section the amount of time reasonably required to take protective measures, including inspections required by law, shall be determined with reference to the actual equipment, personnel and facilities available to the local agency and the competing demands therefor.

OFFICIAL IMMUNITY

§ 8545. Official liability generally.

An employee of a local agency is liable for civil damages on account of any injury to a person or property caused by acts of the employee which are within the scope of his office or duties only to the same extent as his employing local agency and subject to the limitations imposed by this subchapter.

§ 8546. Defense of official immunity.

In any action brought against an employee of a local agency for damages on account of an injury to a person or property based upon

claims arising from, or reasonably related to, the office or the performance of the duties of the employee, the employee may assert on his own behalf, or the local agency may assert on his behalf:

(1) Defenses which are available at common law to the employee.

(2) The defense that the conduct of the employee which gave rise to the claim was authorized or required by law, or that he in good faith reasonably believed the conduct was authorized or required by law.

(3) The defense that the act of the employee which gave rise to the claim was within the policymaking discretion granted to the employee by law. For purposes of this subsection, all acts of members of the governing body of a local agency or of the chief executive officer thereof are deemed to be within the policymaking discretion granted to such person by law.

§ 8547. Legal assistance.

(a) Mandatory provision of legal assistance generally.—When an action is brought against an employee of a local agency for damages on account of an injury to a person or property, and it is alleged that the act of the employee which gave rise to the claim was within the scope of the office or duties of the employee, the local agency shall, upon the written request of the employee, defend the action, unless or until there is a judicial determination that such act was not within the scope of the office or duties of the employee.

(b) Optional provision of legal assistance generally.—When an action is brought against an employee of a local agency for damages on account of an injury to a person or property, and it is not alleged that the act of the employee which gave rise to the claim was within the scope of his office or duties, the local agency may, upon the written request of the employee, defend the action, and such undertaking to defend thereafter may be withdrawn only with the approval of the court. If the local agency has refused a written request to defend the action, and it is judicially determined that the act was, or that the employee in good faith reasonably believed that such act was, within the scope of the office or duties of the employee and did not constitute a crime, actual fraud, actual malice or willful misconduct, the local agency shall reimburse the employee for the expenses of his legal defense in such amounts as shall be determined to be reasonable by the court.

(c) Control of litigation.—When, pursuant to subsection (a) or subsection (b), the local agency defends an action against an employee thereof at the request of the employee, it may assume exclusive control of the defense of the employee, keeping him advised with respect thereto, and the employee shall cooperate fully with the defense, except that in situations where the legal counsel provided by the local agency determines that the interests of the employee and the local agency conflict, the local agency shall obtain the express written

consent of the employee for such interested representation or shall supply independent representation.

§ 8548. Indemnity.

(a) Indemnity by local agency generally.—When an action is brought against an employee of a local agency for damages on account of an injury to a person or property, and he has given timely prior written notice to the local agency, and it is judicially determined that an act of the employee caused the injury and such act was, or that the employee in good faith reasonably believed that such act was, within the scope of his office or duties, the local agency shall indemnify the employee for the payment of any judgment on the suit.

(b) Indemnity by employee generally.—No employee of a local agency shall be liable to the local agency for any surcharge, contribution, indemnity or reimbursement for any liability incurred by the local agency for damages on account of an injury to a person or property caused by an act of the employee which was within the scope of his office or duties or which he in good faith reasonably believed to be within the scope of his office or duties. No employee of a local agency shall be liable to the local agency for any surcharge, contribution, indemnity or reimbursement for any expenses or legal fees incurred by the local agency while defending the employee against a claim for damages on account of an injury to a person or property caused by an act of the employee.

(c) Cooperation.—In any action against a local agency or an employee thereof for damages on account of an injury caused by the act of the employee in which action the employee has not fully cooperated with the local agency in the defense of the action, the provisions of subsection (b) shall not apply.

§ 8549. Limitation on damages.

In any action brought against an employee of a local agency for damages on account of an injury to a person or property in which it is judicially determined that the act of the employee caused the injury and that such act was, or that the employee in good faith reasonably believed that such act was, within the scope of his office or duties, damages shall be recoverable only within the limits set forth in this subchapter.

§ 8550. Willful misconduct.

In any action against a local agency or employee thereof for damages on account of an injury caused by the act of the employee in which it is judicially determined that the act of the employee caused the injury and that such act constituted a crime, actual fraud, actual malice or willful misconduct, the provisions of sections 8545 (relating to official liability generally), 8546 (relating to defense of official immunity), 8548 (relating to indemnity) and 8549 (relating to limitation on damages) shall not apply.

LIMITATIONS ON DAMAGES

§ 8553. Limitations on damages.

(a) General rule.—Actions for which damages are limited by reference to this subchapter shall be limited as set forth in this section.

(b) Amounts recoverable.—Damages arising from the same cause of action or transaction or occurrence or series of causes of action or transactions or occurrences shall not exceed \$500,000 in the aggregate.

(c) Types of losses recognized.—Damages shall be recoverable only for:

(1) Past and future loss of earnings and earning capacity.

(2) Pain and suffering in the following instances:

(i) death; or

(ii) only in cases of permanent loss of a bodily function, permanent disfigurement or permanent dismemberment where the medical and dental expenses referred to in paragraph (3) are in excess of \$1,500.

(3) Medical and dental expenses including the reasonable value of reasonable and necessary medical and dental services, prosthetic devices and necessary ambulance, hospital, professional nursing, and physical therapy expenses accrued and anticipated in the diagnosis, care and recovery of the claimant.

(4) Loss of consortium.

(5) Loss of support.

(6) Property losses.

(d) Insurance benefits.—If a claimant receives or is entitled to receive benefits under a policy of insurance other than a life insurance policy as a result of losses for which damages are recoverable under subsection (c), the amount of such benefits shall be deducted from the amount of damages which would otherwise be recoverable by such claimant.

JUDGMENTS

§ 8557. Judgment as a bar.

The judgment in an action cognizable under section 8545 (relating to official liability generally) shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the local agency of which the defendant in such action is an employee. The judgment in an action under section 8542 (relating to exceptions to governmental immunity) shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee whose act gave rise to the claim.

§ 8558. Judgments against insured local agency.

If the judgment is obtained against a local agency that has procured a contract or policy of public liability insurance protection, the holder of the judgment may use the methods of collecting the judgment as are provided by the policy or contract and the laws of the Commonwealth to the extent of the limits of coverage provided.

§ 8559. Judgments against self-insured local agency and those not fully insured.

For the payment of any judgment obtained under the provisions of this subchapter against a local agency that is a self-insurer or not fully covered by liability insurance, the manner of paying a money judgment shall be based upon a proof of indebtedness or evidence of any estimated tax levy necessary for payment of the judgment and any other evidence or statements which the court of original jurisdiction may require. As an alternative to paying the money judgment in this manner, the court may provide for the judgment to be paid over a period of not less than one nor more than ten years. The interest rate on any judgment where payment is extended more than three years shall be at the rate prescribed by law for the first three years and at the rate of 6% for each remaining year.

POWERS OF LOCAL AGENCIES

§ 8563. General powers of local agencies.

(a) Rules and regulations.—A local agency may promulgate rules and regulations not inconsistent with this subchapter in order to implement the intent of this subchapter.

(b) Delegation of duties.—Any duties placed upon a local agency under the provisions of this subchapter may be delegated to an independent contractor by a written agreement.

§ 8564. Liability insurance and self-insurance.

(a) Purchase of liability insurance.—A local agency may purchase insurance on itself or its employees for any liability arising from the performance of their duties within the scope of their employment.

(b) Employment of risk manager.—A local agency may employ a professional risk manager whose responsibility it shall be to administer a public liability insurance program for the local agency and initiate any risk management program for the local agency and its employees.

(c) Joint action by local agency.—Any two or more local agencies may join together, enter into any agreements or jointly contract for the development of a group risk management program either through the provisions of the act of July 12, 1972 (P.L.762, No.180), referred to as the Intergovernmental Cooperation Law, or any other applicable statute. Any two or more local agencies may join together, enter into any agreements or jointly contract for the purchasing of public liability insurance. Any two or more local agencies may pool their public liability insurance risks through the provisions of the act of July 12, 1972 (P.L.762, No.180) or any other applicable statute.

(d) Insurance pooling and coinsurance.—The pooling of insurance risks, reserves, claims or losses shall not be construed to be transacting insurance nor otherwise subject local agencies to the provisions of statutes regulating insurance or insurance companies. Local agencies may be coinsured under a master policy and the total premium may be prorated among the local agencies. Any county may undertake a

group risk management program or public liability insurance program on behalf of itself and any other local agencies covered by this subchapter within the county that wish to voluntarily participate in the programs.

(e) Self-insurance.—Any local agency may self-insure which must be funded on an annual basis by appropriations to establish a reserve for self-insurance purposes.

Section 222. Codification of Act No. 1980-19.—(a) Section 7102 of Title 42 is amended by adding a subsection to read:
§ 7102. Comparative negligence.

* * *

(c) *Downhill skiing.*—

(1) *The General Assembly finds that the sport of downhill skiing is practiced by a large number of citizens of this Commonwealth and also attracts to this Commonwealth large numbers of nonresidents significantly contributing to the economy of this Commonwealth. It is recognized that as in some other sports, there are inherent risks in the sport of downhill skiing.*

(2) *The doctrine of voluntary assumption of risk as it applies to downhill skiing injuries and damages is not modified by subsections (a) and (b).*

(b) The act of March 27, 1980 (No.19), entitled “An act establishing the responsibilities and liabilities of ski area operators and skiers in the sport of skiing,” is repealed.

ARTICLE III REPEALS OF INCONSISTENT LEGISLATION

Section 301. Language affected by Act No. 1977-25.—Subsection (d) of section 13, act of September 2, 1965 (P.L.490, No.249), entitled “An act providing for the licensing and regulation of the business of transmitting money or credit for a fee or other consideration by the issuance of money orders, by the sale of checks or by other methods; conferring powers and duties upon the Department of Banking; and imposing penalties,” is repealed.

Section 302. Language added by Act No. 1977-30.—As much as reads as follows: “costs of the action, including” of the first sentence and second and third sentences of subsection (f) of section 9.1, act of July 14, 1961 (P.L.637, No.329), known as the “Wage Payment and Collection Law,” are repealed. The repeal of the third sentence of section 9.1(f) of the act shall take effect June 27, 1980.

Section 303. Language added by Act No. 1977-38.—Last sentence of subsection (f) of section 401, section 606, section 607 (except insofar as relates to injunctions with respect to any regulatory law administered by the Insurance Commissioner) and section 608, act of July 29, 1977 (P.L.105, No.38), known as the “Fraternal Benefit Society Code,” are repealed.

Section 304. Language affected by Act No. 1977-48.—Last sentence of subsection (a) of section 9, act of June 26, 1931 (P.L.1379, No.348), entitled, as amended, “An act creating in counties of the second A and third class a board for the assessment and revision of taxes; providing for the appointment of the members of such board by the county commissioners; providing for their salaries, payable by the county; abolishing existing boards; defining the powers and duties of such board; regulating the assessment of persons, property, and occupations for county, borough, town, township, school, and poor purposes; authorizing the appointment of subordinate assessors, a solicitor, engineers, and clerks; providing for their compensation, payable by such counties; abolishing the office of ward, borough, and township assessors, so far as the making of assessments and valuations for taxation is concerned; and providing for the acceptance of this act by cities,” which reads as follows: “From the decision of the court, an appeal may be taken as now provided by law and the taxable and/or taxing district having an interest therein who participated in the hearing before the court of common pleas shall be named as the appellees in any such appellate appeal,” is repealed. The repeal of the former first sentence of subsection (a) of section 9 of the act is hereby confirmed.

Section 305. Language added by Act No. 1978-3.—As much of section 5 as follows the words “Attorney General of Pennsylvania,” act of March 3, 1978 (P.L.6, No.3), known as the “Steel Products Procurement Act,” is repealed.

Section 306. Language affected by Act No. 1978-36.—As much as reads as follows: “within thirty days from the date of such decision, to the court of common pleas” of the fourth sentence of section 1724, act of February 1, 1966 (1965 P.L.1656, No.581), known as “The Borough Code,” is repealed.

Section 307. Language affected by Act No. 1978-45.—The repeal of the act of May 9, 1949 (P.L.927, No.261), as amended April 28, 1978 (P.L.99, No.45), referred to as the Sheriff Fee Law of 1949, is hereby confirmed. Section 24(a) of the act of July 9, 1976 (P.L.586, No.142), known as the “Judiciary Act of 1976,” shall be applicable to the repeal of the act.

Section 308. Language added and affected by Act No. 1978-52.—(a) As much of section 2(a) of the act of April 28, 1978 (P.L.202, No.53), known as the “Judiciary Act Repealer Act,” as relates to the act of July 12, 1972 (P.L.781, No.185), known as the “Local Government Unit Debt Act,” is repealed.

(b) As much as reads as follows: “of the county where the local government unit is located or, if the local government unit is located in two counties, of either county,” of the first sentence and last sentence of subsection (e) of section 202, as much as reads as follows: “Commonwealth” and “within thirty days from the date of the election and not thereafter,” of the first sentence, as much as reads as

follows: "within such period of thirty days from the date of election" of the second sentence, and as much as reads as follows: "to the Commonwealth Court" of the third sentence of section 304, as much as reads as follows: "of the county where the local government unit is located or, if located in two counties, of either county," of the first sentence of subsection (a) of section 510, as much as follows the word: "noteholders" of subsection (c) of section 807, as much as reads as follows: "Appellate Review by Commonwealth Court" of the article heading of Article IX, section 902, as much as reads as follows: "Commonwealth" of subsection (c) of section 1006, as much as reads as follows: "of the county in which such local government unit is located, or, if located in two counties, then of either county," of section 1201, as much as reads as follows: "in assumpsit" (two occasions) and "of the county in which such local government unit is located, or, if located in two counties, of either county" (two occasions) of section 1202, as much as reads as follows: "of the jurisdiction in which such local government unit is located shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders under this section, and" of the first sentence and second sentence of subsection (c) of section 1203 and section 1305, act of July 12, 1972 (P.L.781, No.185), reenacted and amended April 28, 1978 (P.L.124, No.52), known as the "Local Government Unit Debt Act," are repealed.

Section 309. Language affected by Act No. 1978-53.—(a) As much as reads as follows: "to which the Secretary of the Commonwealth may mail a copy of any process against it that may be served upon him" of section 1015A(7), act of May 5, 1933 (P.L.364, No.106), known as the "Business Corporation Law," is repealed.

(b) Section 8(b), act of June 22, 1935 (P.L.414, No.182), known as the "State Personal Property Tax Act," is repealed. Action by the Department of Revenue under section 8 of the act shall be reviewable in the same manner as other action by the department in tax matters is by law reviewable.

(c) Paragraph (6) and as much as reads as follows: "to which the Department of State may mail a copy of any process against the corporation that may be served upon the department" of paragraph (7) of section 8129(a) of Title 15, added November 15, 1972 (P.L.1063, No.271), is repealed

(d) Sections 9(a) and (c) and 24(f), act of July 9, 1976 (P.L.586, No.142), known as the "Judiciary Act of 1976," are repealed.

Section 310. Language added by Act No. 1978-71.—The act of June 22, 1978 (P.L.491, No.71), entitled "An act establishing the fees to be charged and collected by the clerk of courts in second, second class A, third, fourth, fifth, sixth, seventh and eighth class counties and home rule counties," is repealed. Section 24(a) of the act of July 9, 1976 (P.L.586, No.142), known as the "Judiciary Act of 1976," shall be applicable to the repeal of the act. Pending the fixing of fees

under 42 Pa.C.S. § 1725 (relating to establishment of fees and charges) fees may be fixed hereafter in the manner provided by the former provisions of Act No. 1978-71.

Section 311. Language affected by Act No. 1978-80.—As much as reads as follows: “Commonwealth” of the first sentence of subsection (b) of section 11 and as much as reads as follows: “in the court of common pleas of the county in which the offense occurred” (two occasions) of section 12, act of November 9, 1965 (P.L.657, No.323), known as the “Hazardous Substances Transportation Act,” are repealed. The repeal of the former second sentence of subsection (a) and second and third sentences of subsection (b) of section 11 of the act is hereby confirmed.

Section 312. Language added by Act No. 1978-93.—As much as follows the word “adjudication” of subsection (c) of section 305, as much as follows the word “judgment” of the last sentence of section 306, third sentence of section 307, and as much as reads as follows: “act of June 4, 1945 (P.L.1388, No.442), known as the” of the last sentence of section 503 and section 601 (two occasions) of the act of June 23, 1978 (P.L.537, No.93), known as the “Seasonal Farm Labor Act,” are repealed.

Section 313. Language affected by Act No. 1978-101.—The penultimate paragraph of section 1, act of June 25, 1947 (P.L.956, No.403), entitled “An act to ascertain and appoint the fees to be received by the clerks of the courts of oyer and terminer, and quarter sessions, of the Commonwealth in counties of the third, fourth, fifth, sixth, seventh and eighth classes,” is repealed. Section 24(a) of the act of July 9, 1976 (P.L.586, No.142), known as the “Judiciary Act of 1976,” shall be applicable to the repeal of the act.

Section 314. Language affected by Act No. 1978-102.—The repeal of the act of May 9, 1949 (P.L.919, No.257), entitled “An act designating certain clerks of courts agents of the Commonwealth in the collection and transmission of fines, forfeited recognizances and other forfeitures imposed, lost or forfeited into any court for the use of the Commonwealth; prescribing their powers and duties; fixing their compensation; and providing procedures for transmission and settlement of certain moneys,” is hereby confirmed, effective as provided by section 2(a) of the act of April 28, 1978 (P.L.202, No.53), known as the “Judiciary Act Repealer Act.”

Section 315. Language added by Act No. 1978-116.—66 Pa.C.S. § 902 (relating to costs on review) is repealed.

Section 316. Language added by Act No. 1978-140.—As much as reads as follows: “in the Commonwealth Court” of the last sentence of subsection (b) of section 4 and first paragraph of section 5, act of July 8, 1978 (P.L.752, No.140), known as the “Public Employee Pension Forfeiture Act,” are repealed.

Section 317. Language added by Act No. 1978-143.—As much as reads as follows: “the act of June 4, 1945 (P.L.1388, No.442), known

as" of section 5(c) of the act of September 22, 1978 (P.L.763, No.143), entitled "An act establishing certain procedures relating to the termination of insurance agency contracts or accounts and providing penalties," is repealed.

Section 318. Language added by Act No. 1978-166.—Section 503(a) of the act of October 4, 1978 (P.L.851, No.166), known as the "Flood Plain Management Act," is repealed.

Section 319. Language added by Act No. 1978-167.—As much as reads as follows: "act of June 4, 1945 (P.L.1388, No.442), known as the" of section 9(c), as much as reads as follows: "in the Commonwealth Court" of section 10 and second sentence of section 15(b), act of October 4, 1978 (P.L.864, No.167), known as the "Storm Water Management Act," are repealed.

Section 320. Language added by Act No. 1978-169.—As much as reads as follows: "Commonwealth" and "within ten days of his removal" of the fourth sentence, sixth sentence and as much as reads as follows: "Commonwealth" of the seventh sentence, of section 3(f), and as much as reads as follows: "with the Secretary of the Commonwealth" of section 4(10), act of October 4, 1978 (P.L.876, No.169), known as the "Pennsylvania Crime Commission Act," are repealed.

Section 321. Language added by Act No. 1978-192.—As much as reads as follows: "within ninety days after publication of the findings required in subsection (b)" and "Commonwealth" of the first sentence of section 2002(e), act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," added October 4, 1978 (P.L.972, No.192), is repealed. The time for appeal under section 2002(e) of the act shall run from the publication of the findings required in section 2002(b) of the act.

Section 322. Language added by Act No. 1978-248.—As much as reads as follows: "the Commonwealth Court or the" and "of common pleas of the county in which the violation occurred" of section 10(c), act of June 5, 1968 (P.L.140, No.78), entitled "An act regulating the writing, cancellation of or refusal to renew policies of automobile insurance; and imposing powers and duties on the Insurance Commissioner therefor," added October 5, 1978 (P.L.1060, No.248), is repealed.

Section 323. Language added by Act No. 1978-255.—As much as reads as follows of section 6(a) and first and second sentences of section 8(a) as reads as follows "Commonwealth" (three occasions), act of October 5, 1978 (P.L.1088, No.255), known as the "Pennsylvania Deposit Insurance Corporation Act," is repealed.

Section 324. Language affected by Act No. 1978-260.—(a) As much of section 761(a)(1)(iii) and (c) of Title 42, added September 28, 1978 (P.L.788, No.152), as reads as follows: "of Arbitration" (two occasions) is repealed.

(b) Paragraph (1) and as much as reads as follows: "of Arbitration" (two occasions) of paragraph (2) of section 2(h), act of April 28,

1978 (P.L.202, No.53), known as the "Judiciary Act Repealer Act," are repealed.

Section 325. Language added by Act No. 1978-274.—As much as reads as follows: "the Supreme Court of" of subsection (b)(2) and as much as reads as follows: "of the Supreme Court" of the first sentence of subsection (d) of section 2, and as much as reads as follows: "Commonwealth" of the first sentence of section 3(5), act of November 22, 1978 (P.L.1166, No.274), referred to as the Pennsylvania Commission on Crime and Delinquency Law, is repealed. The references to "State Court Administrator" and "justices of the peace" in sections 4(8) and 5 of the act shall be deemed references to the Court Administrator of Pennsylvania and district justices, respectively.

Section 326. Language added by Act No. 1978-280.—As much as reads as follows: "by the Commonwealth Court" of the first sentence of section 17, act of November 26, 1978 (P.L.1188, No.280), known as the "Life and Health Insurance Guaranty Association Act," is repealed.

Section 327. Language affected by Act No. 1978-296.—As much as reads as follows: "in a summary proceeding before any district justice, justice of the peace, alderman or magistrate in the county, city, borough, town or township in which the offense was committed" and "such costs to be paid to said county and the fine to be paid to the said city, borough, town or township in which the offense was committed" of the last sentence of section 13, act of January 24, 1966 (1965 P.L.1535, No.537), known as the "Pennsylvania Sewage Facilities Act," is repealed.

Section 328. Language added by Act No. 1978-299.—As much as reads as follows: "of common pleas or the Commonwealth Court" of the last sentence of section 3(a)(3), as much as follows the word "court" where it occurs the first time of the third sentence of section 13, second and third sentences of section 14, first sentence of section 15 and as much as reads as follows: ", filing fees and reasonable costs of suit" of the second sentence of section 18(a), act of November 26, 1978 (P.L.1255, No.299), known as the "Utility Service Tenants Rights Act," is repealed.

Section 329. Language added by Act No. 1978-314.—As much as reads as follows: "the act of June 4, 1945 (P.L.1388, No.442), known as" of the last sentence of section 6(b), act of November 26, 1978 (P.L.1300, No.314), known as the "Underground Storage Act," is repealed.

Section 330. Language added by Act No. 1978-319.—Subsection (g) of 18 Pa.C.S. § 1386 (redesignated as 42 Pa.C.S. § 9781 by section 401), added by the act of November 26, 1978 (P.L.1316, No.319), is repealed.

Section 331. Language added by Act No. 1978-324.—Section 110(d) and the first sentence of section 407(c), act of July 9,

1976 (P.L.817, No.143), known as the "Mental Health Procedures Act," are repealed. Section 24(a) of the act of July 9, 1976 (P.L.586, No.142), known as the "Judiciary Act of 1976," shall be applicable to the repeal of section 110. Except as otherwise prescribed by general rules, the venue of matters under section 407 of the act shall be in the judicial district in which the person is charged or was sentenced.

Section 332. Language added by Act No. 1978-325.—Section 16(c), as much as precedes the words "except in cases" of the second sentence of section 19(b), as much as reads as follows: "Commonwealth Court or the" and "of common pleas of the county where the unlawful conduct occurred or is occurring," of the second sentence of section 20(c), as much as reads as follows: "without requiring the payment of costs as a condition precedent to the entry thereof" of the last sentence of section 21(b) and first sentence of section 23, act of November 26, 1978 (P.L.1375, No.325), known as the "Dam Safety and Encroachments Act," amended October 23, 1979 (P.L.204, No.70), are repealed. Section 24(a) of the act of July 9, 1976 (P.L.586, No.142), known as the "Judiciary Act of 1976," shall be applicable to the repeal of section 21.

Section 333. Language added by Act No. 1978-330.—The act of November 26, 1978 (P.L.1399, No.330), known as the "Political Subdivision Tort Claims Act," is repealed. Actions under Subchapter C of Chapter 85 (relating to actions against local parties) of Title 42 of the Pennsylvania Consolidated Statutes for claims against a local agency may be brought in and only in a county in which the local agency is located or in which the cause of action arose or where a transaction or occurrence took place out of which the cause of action arose. No interest shall accrue in any such action prior to any entry of judgment. A local agency may intervene in any action brought against an employee thereof for damages on account of an injury to a person or property based on claims arising from, or reasonably related to, the office or the performance of the duties of the employee.

Section 334. Language added by Act No. 1978-334.—As much as reads as follows: "the act of September 26, 1951 (P.L.1458, No.357), known as" of the last sentence of section 525, act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," is repealed.

Section 335. Language added by Act No.1979-5.—As much as reads as follows: "Commonwealth" of subsection (a) of section 14, act of April 6, 1979 (P.L.17, No.5), entitled "An act establishing the Pennsylvania Savings Association Insurance Corporation and providing for its powers and duties," is repealed.

Section 336. Language added by Act No.1979-48.—As much as reads as follows: "to the Commonwealth Court on the record made before the hearing board" of section 507, as much as reads as follows: "of common pleas of the county in which the health care facility is located" of subsection (b) and as much as reads as follows: "in the

Commonwealth Court” of subsection (c) of section 603 and section 802, act of July 19, 1979 (P.L.130, No.48), known as the “Health Care Facilities Act,” is repealed.

Section 337. Language added by Act No. 1980-48.—The second sentence of section 13(b), act of May 13, 1980 (No.48), known as the “Bluff Recession and Setback Act,” is repealed.

ARTICLE IV

TRANSFER OF CHAPTER 13 OF TITLE 18 TO TITLE 42

Section 401. Transfer of Chapter 13 of Title 18 to Title 42.—
 (a) As much of the title heading of Title 18 as relates to Chapter 13, the chapter heading and section headings and sections 1311(d)(1) and (e)(5), 1321(b), 1323, 1324, 1333(2)(iii) and (iv), 1337 (last sentence), 1355(d), 1359(b)(2), 1360 (first sentence) and 1372 (last sentence), added or amended December 30, 1974 (P.L.1052, No.345), and amended September 13, 1978 (P.L.756, No.141) and November 26, 1978 (P.L.1316, No.319), are amended and section 9702 and a subchapter heading are added to read:

TITLE [18] 42

[CRIMES AND OFFENSES]

JUDICIARY AND JUDICIAL PROCEDURE

CHAPTER [13] 97

[AUTHORITY OF COURT IN]

SENTENCING

§ [1301] 9701. Short title of chapter.

* * *

§ 9702. *Definitions.*

As used in this chapter “court” and “judge” include (when exercising criminal or quasi-criminal jurisdiction pursuant to section 1515 (relating to jurisdiction and venue)) a district justice.

§ [1311] 9711. Sentencing procedure for murder of the first degree.

* * *

(d) Aggravating circumstances.—Aggravating circumstances shall be limited to the following:

(1) The victim was a fireman, peace officer or public servant concerned in official detention, as defined in [section 5121] 18 Pa.C.S. § 5121 (relating to escape), who was killed in the performance of his duties.

* * *

(e) Mitigating circumstances.—Mitigating circumstances shall include the following:

* * *

(5) The defendant acted under extreme duress, although not such duress as to constitute a defense to prosecution under [section 309] 18 Pa.C.S. § 309 (relating to duress), or acted under the substantial domination of another person.

* * *

§ [1312] 9712. All other cases.

* * *

§ [1321] 9721. Sentencing generally.

* * *

(b) General standards.—In selecting from the alternatives set forth in subsection (a) the court shall follow the general principle that the sentence imposed should call for confinement that is consistent with the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and on the community, and the rehabilitative needs of the defendant. The court shall also consider any guidelines for sentencing adopted by the Pennsylvania Commission on Sentencing and taking effect pursuant to section [1385] 2155 (relating to publication of guidelines for sentencing). In every case in which the court imposes a sentence for a felony or misdemeanor, the court shall make as a part of the record, and disclose in open court at the time of sentencing, a statement of the reason or reasons for the sentence imposed. In every case where the court imposes a sentence outside the sentencing guidelines adopted by the Pennsylvania Commission on Sentencing pursuant to section [1384] 2154 (relating to adoption of guidelines for sentencing) and made effective pursuant to section [1385] 2155, the court shall provide a contemporaneous written statement of the reason or reasons for the deviation from the guidelines. Failure to comply shall be grounds for vacating the sentence and resentencing the defendant.

* * *

§ [1322] 9722. Order of probation.

* * *

§ [1323] 9723. Determination of guilt without further penalty.

If in the light of all the circumstances, probation would be appropriate under section [1322 of this title] 9722 (relating to order of probation), but it appears that probation is unnecessary, the court may impose a sentence of guilty without further penalty.

§ [1324] 9724. Partial confinement.

If in the light of all the circumstances, and when facilities are available, probation would be inappropriate, but it further appears that a sentence of total confinement would not be required in accordance with the criteria established in section [1325 of this title] 9725 (relating to total confinement), the court may impose a sentence involving partial confinement.

§ [1325] 9725. Total confinement.

* * *

§ [1326] 9726. Fine.

* * *

§ [1331] 9731. Requirement for presentence investigation and report.

* * *

§ [1332] 9732. Contents of presentence report.

* * *

§ [1333] 9733. General principles of disclosure of presentence report.

The presentence report shall not be a public record. It shall be available only to the following persons or agencies under the conditions stated:

* * *

(2) The report shall be available on court order to persons or agencies having a legitimate professional interest in the information likely to be contained in the report, as, for example:

* * *

(iii) A correctional institution except that no court order is necessary under section [1359(c) of this title] 9759(c) (relating to documents transmitted to prison and parole authorities).

(iv) A department of probation or parole except that no court order is necessary under section [1359(c) of this title (relating to documents transmitted to prison and parole authorities)] 9759(c).

* * *

§ [1334] 9734. Disclosure of presentence report to the parties.

* * *

§ [1335] 9735. Objections to contents of presentence report.

* * *

§ [1336] 9736. Report of psychiatric evaluation.

* * *

§ [1337] 9737. Report of outstanding charges and sentences.

* * * The court shall also be informed if the defendant is then serving any term of imprisonment, or is on probation or parole with reference to any such charges, or is entitled to credit for any time in accordance with section [1360 of this title] 9760 (relating to credit for time served).

§ [1351] 9751. Sentencing judge.

* * *

§ [1352] 9752. Sentencing proceeding generally.

* * *

§ [1353] 9753. Determination of guilt without further penalty.

* * *

§ [1354] 9754. Order of probation.

* * *

§ [1355] 9755. Sentence of partial confinement.

* * *

(d) Conditions to release.—The court may in addition include in its order such of the conditions as are enumerated in section [1354 of this title] 9754 (relating to order of probation) as may be reasonably related to the sentence.

* * *

§ [1356] 9756. Sentence of total confinement.

* * *

§ [1357] 9757. Consecutive sentences of total confinement for multiple offenses.

* * *

§ [1358] 9758. Fine.

* * *

§ [1359] 9759. Record.

* * *

(b) Contents.—The record shall include:

* * *

(2) A copy of the presentence report and a copy of any other report or document available to the sentencing court as an aid in imposing sentence, subject to such limitations as the court may have imposed under section [1334(b) of this title] 9734(b) (relating to restrictions on disclosure).

* * *

§ [1360] 9760. Credit for time served.

After reviewing the information submitted under section [1337 of this title] 9737 (relating to report of outstanding charges and sentences) the court shall give credit as follows:

* * *

§ [1361] 9761. Computation and order of service of sentences.

* * *

§ [1362] 9762. Sentencing proceeding; place of confinement.

* * *

§ [1371] 9771. Modification or revocation of order of probation.

* * *

§ [1372] 9772. Failure to pay fine.

* * * If an alternative sentence has been imposed under section [1358(c) of this title] 9758(c) (relating to alternative sentence), the alternative sentence may not take effect until there has been a preliminary finding of non-indigency, and a willful failure to pay the fine.

SUBCHAPTER G *APPELLATE REVIEW OF SENTENCE*

§ [1386] 9781. Appellate review of sentence.

* * *

(b) In printing the Laws of Pennsylvania for the 1979-1980 Sessions of the General Assembly and the Pennsylvania Consolidated Statutes the Legislative Reference Bureau shall change any reference or citation to the Sentencing Code to conform to the change in title and chapter number effected by subsection (a).

Section 402. Conforming amendments to Titles 42 and 75.—
(a) Section 724(a) of Title 42, added July 9, 1976 (P.L.586, No.142), is amended to read:

§ 724. Allowance of appeals from Superior and Commonwealth Courts.

(a) General rule.—[Final] *Except as provided by section 9781(f) (relating to limitation on additional appellate review), final orders of the Superior Court and final orders of the Commonwealth Court not appealable under section 723 (relating to appeals from Commonwealth Court) may be reviewed by the Supreme Court upon allowance of appeal by any two justices of the Supreme Court upon petition of any party to the matter. If the petition shall be granted, the Supreme Court shall have jurisdiction to review the order in the manner provided by section 5105(d)(1) (relating to scope of appeal).*

* * *

(b) Section 6504(a) of Title 75, amended April 28, 1978 (P.L.202, No.53), is amended to read:

§ 6504. Inability to pay fine and costs.

(a) Order for installment payments.—Upon plea and proof that a person is unable to pay any fine and costs imposed under this title, a court may, in accordance with [18 Pa.C.S. § 1358] *42 Pa.C.S. § 9758 (relating to fine), order payment of the fine and costs in installments and shall fix the amounts, times and manner of payment.*

* * *

ARTICLE V MISCELLANEOUS AMENDMENTS TO TITLE 42

Section 501. Miscellaneous amendments to Title 42.—(a) The definitions of “senior judge” and “system and related personnel” in section 102, sections 2704, 3154(c), 3501, 4121(b), 4302, 4303, 4305, 5105(c) and (d), 5501(a), 5525(2), 5535(c), 5553, 5571(b), (c)(5) and (6) and (d), 5742(a), 5903(a), 5905 and 5919, the heading of section 5974, sections 6143 and 6504, the definition of “complaint” in section 6702, sections 6707(a) and 6710, Chapter 73 and sections 7341, 7538 and 8102 of Title 42 are amended or added 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:

* * *

“Senior judge.” A former or retired judge who *shall not have been defeated for reelection and shall have served as a judge (whether or not continuously or on the same court) by election or appointment for an aggregate of at least ten years and any duly elected judge having an aggregate of six years of service as a judge who is required to retire at age 70 and who*, with his consent, is assigned on temporary judicial service pursuant to section 4121(b) (relating to assignment of judges).

* * *

“System and related personnel.” Personnel of the system and related staff. The term includes district attorneys, public defenders, sheriffs and other officers serving process or enforcing orders, registers of wills, prothonotaries, clerks of the courts, clerks of the orphans’ court division, coroners, jury commissioners, [prison and correctional] *probation* officials, and the personnel of all of the foregoing.

* * *

§ 2704. Responsibility for entry, maintenance and certification of data *and certification of amicable judgments.*

The prothonotary, clerk of the courts and clerk of the orphans’ court division shall [be]:

(1) *Be* responsible for the accurate and timely creation, maintenance and certification of the record of matters pending before or determined by the courts of common pleas and the Philadelphia Municipal Court, including data and reports relating thereto.

(2) *Within 30 days after the entry of any money judgment, other than upon a verdict or after decision by a court, deliver to the authorities who assess for county tax purposes in the county where the judgment was entered a written report of the docket number where the judgment was entered, the date the judgment was entered, the amount of the judgment, the names of all parties to the proceeding in which the judgment was entered, the addresses of the persons in favor of whom the judgment was entered and the names and addresses of all assignees of the judgment. Failure to perform the duties imposed by this paragraph shall not impair the validity of any judgment or the lien thereof.*

§ 3154. Compensation of judicial officers.

* * *

(c) Senior judges.—The compensation of a senior judge assigned pursuant to section 4121 (relating to assignment of judges) shall be \$125 per day. In any calendar year the amount of compensation which a senior judge shall be permitted to earn as a senior judge shall not, when added to retirement income paid by the Commonwealth to such senior judge, exceed the compensation payable by the Commonwealth to a judge then in regular active service on the court from which such senior judge retired. *A senior judge who so elects may serve without being paid all or any portion of the compensation provided by this subsection.*

§ 3501. Definitions.

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

“Appropriated through the budget of the Judicial Department to a political subdivision.” An appropriation through the budget of the

Judicial Department direct from the General Fund to the treasury of a political subdivision under circumstances where[, **except as provided by section 3726 (relating to manner of expenditure of local funds),**] the manner of the expenditure of the appropriation is within the control of officers of the political subdivision [**and the judges of the courts established for or embracing such political subdivision**].

“Appropriated to the unified judicial system.” An appropriation to the Judicial Department other than one appropriated through the budget of the Judicial Department to a political subdivision.

“Budget respondent.” The courts, district justices, other agencies or units of the unified judicial system, the Director of Finance of the City of Philadelphia, the county controllers or county auditors of other counties of this Commonwealth, the Treasurer of the City of Pittsburgh, and any other government unit from which the Administrative Office is authorized to obtain information relating to the budget of the Judicial Department.

“Judicial and related functions.” All functions relating to the organization and operation of courts and district justices and all offices of system and related personnel. The term does not include any function relating to the detection of crime, the apprehension of persons suspected of criminal conduct (except in connection with the enforcement of bench warrants, injunctions or other judicial orders in specific matters), the maintenance of public peace or other police functions or penal and correctional functions.

§ 4121. Assignment of judges.

* * *

(b) Senior judges.—[(Reserved).] *A senior judge may, with his consent, be assigned on temporary judicial service pursuant to subsection (a).*

* * *

§ 4302. Effect of records as notice.

(a) Real property.—Except as otherwise provided by statute or prescribed by general rule adopted pursuant to section 1722(b) (relating to enforcement and effect of orders and process), every document affecting title to or any other interest in real property [**situated in any county**] which is filed *and indexed* in the office of the clerk of the court of common pleas of the county *where the real property is situated*, or in the office of the clerk of the branch of the court of common pleas embracing such county in the manner required by the laws, procedures or standards in effect at the date of such filing shall be constructive notice to all persons of the filing and full contents of such document.

(b) [Other documents] *Documents relating to pending matters.*—Documents relating to the pendency of a matter before any court filed in the office of the clerk of any court or other office within or related to and serving the unified judicial system shall be constructive notice to such persons, of such information and for such duration as may be

provided by statute or prescribed by general rule adopted pursuant to section 4301 (relating to establishment and maintenance of judicial records).

(c) Foreign language documents.—A writing not in the English language shall not constitute notice to any person unless there is attached to it and filed with it a translation into the English language verified to be correct.

§ 4303. Effect of [judgment as lien] *judgments and orders as liens*.

(a) [General rule] *Real property*.—Any judgment or other order of a court of common pleas for the payment of money shall be a lien upon real property [situated in a county] on the conditions, to the extent and with the priority provided [or prescribed] by statute or *prescribed* by general rule adopted pursuant to section 1722(b) (relating to enforcement and effect of orders and process) when it is entered of record *and indexed* in the office of the clerk of the court of common pleas of the county *where the real property is situated*, or in the office of the clerk of the branch of the court of common pleas embracing such county.

(b) *Order of court as lien*.—Any other order of a court of common pleas shall be a lien upon real and personal property situated within any county embraced within the judicial district on the conditions, to the extent and with the priority provided [or prescribed] by statute or *prescribed by* general rule adopted pursuant to section 1722(b).

[(b)] (c) Transfer of domestic judgments *and orders*.—An order of any court of this Commonwealth which is a lien on *real or personal* property situated within any county of this Commonwealth pursuant to subsection (a) *or* (b) shall be a lien upon *real or personal* property situated within any other county to the same extent as if resulting from an order of the court of common pleas of such other county upon compliance with such transfer and filing procedures as may be prescribed by general rule.

§ 4305. Federal judgments *as liens*.

(a) General rule.—Except as provided in subsection (b), every judgment of a United States court within this Commonwealth shall, as provided by 28 United States Code § 1962 (relating to lien) or otherwise, be a lien on property located within this Commonwealth in the same manner, to the same extent and under the same conditions as a judgment of a court of common pleas of this Commonwealth and shall cease to be a lien in the same manner and time.

(b) Filing requirement.—The certified transcript of the judgment of the United States court shall be filed in the office of the clerk of the court of common pleas *of the county where the property is located* unless the judgment was rendered by such United States court within the county where the property is located.

(c) Authorization for filing of Federal judgments entered in other counties.—Any judgment of a United States court within this

Commonwealth may be registered, recorded, filed, docketed, indexed or otherwise conformed to the rules and requirements relating to judgments of the courts of common pleas.

§ 5105. Right to appellate review.

* * *

(c) Interlocutory appeals.—There shall be a right of appeal from such interlocutory orders of tribunals and other government units as may be specified by law. The governing authority shall be responsible for a continuous review of the operation of section 702(b) (relating to interlocutory appeals by permission) and shall from time to time establish by general rule rights to appeal from such classes of interlocutory orders, if any, from which appeals are regularly [allowed] *permitted* pursuant to section 702(b).

(d) Scope of appeal.—

(1) Except as otherwise provided in this subsection an appeal under this section shall extend to the whole record, with like effect as upon an appeal from a judgment entered upon the verdict of a jury in an action at law and the scope of review of the order shall not be limited as on broad or narrow certiorari.

(2) An order which is appealable by reason of subsection (a)(2), but which would not be appealable under Chapter 7 of Title 2 or under any other corresponding provision of law, shall not be reversed or modified on appeal unless the appellant would be entitled to equivalent relief upon an action in the nature of equity, replevin, mandamus or quo warranto or [upon a petition] for declaratory judgment or for a writ of certiorari or prohibition or otherwise objecting to such order.

(3) Nothing in this subsection shall supersede any general rule or rule of court or any unsuspended statute authorizing or requiring an appellate court to receive additional evidence or to hear the appeal de novo.

(4) Except as otherwise prescribed by general rule, an appeal from a final order of the minor judiciary shall be de novo under procedures established by general rule.

* * *

§ 5501. Scope of chapter.

(a) General rule.—An action, proceeding or appeal must be commenced within the time specified in or pursuant to this chapter unless in the case of an action or proceeding a different time is [prescribed] *provided* by this title or another statute or, in the case of a civil action or proceeding, a shorter time which is not manifestly unreasonable is prescribed by written agreement.

* * *

§ 5525. Four year limitation.

The following actions and proceedings must be commenced within four years:

* * *

(2) Any action subject to [section 2-725] 13 Pa.C.S. section 2725 (relating to statute of limitations in contracts for sale) [of the act of April 6, 1953 (P.L.3, No.1), known as the "Uniform Commercial Code."].

* * *

§ 5535. Effect of other actions and proceedings.

* * *

(c) Arbitration.—Where it shall have been *finally* determined *by a court* that a party is not obligated to submit a claim to arbitration, the time which elapsed between the demand for arbitration and the final determination *by a court* that there is no obligation to arbitrate is not a part of the time within which a civil action or proceeding upon such claim must be commenced. The time within which the action or proceeding must be commenced shall not be extended by this subsection beyond one year after such final determination *by a court*.

§ 5553. Summary offenses involving vehicles.

(a) General rule.—Except as provided in subsection (b) or (c), proceedings for summary offenses under Title 75 (relating to vehicles) [shall] *must* be [instituted] *commenced* within 30 days after the commission of the alleged offense or within 30 days after the discovery of the commission of the offense or the identity of the offender, whichever is later, and not thereafter.

(b) Minor offenses.—Except as provided in subsection (c), proceedings for summary offenses under the following provisions of Title 75 [shall] *must* be [instituted] *commenced* within 15 days after the commission of the alleged offense or within 15 days after the discovery of the commission of the offense or the identity of the offender, whichever is later, and not thereafter:

Chapter 31 (relating to general provisions).

Chapter 33 (relating to rules of the road in general).

Chapter 35 (relating to special vehicles and pedestrians).

Subchapters A (relating to offenses in general) and C (relating to accidents and accident reports) of Chapter 37.

(c) Exception.—Where proceedings are timely [instituted] *commenced* against a person reasonably believed to have committed the offense charged and it subsequently appears that a person other than the person charged is the offender, proceedings may be [instituted] *commenced* against the other person within 30 or 15 days, whichever is applicable, after the identity of the person is discovered and not thereafter.

(d) Local ordinances on overtime parking.—Local ordinances pertaining to overtime parking shall be subject to the provisions of this section.

(e) Disposition of proceedings within two years.—No proceedings shall be held or action taken pursuant to a summary offense under Title 75 subsequent to two years after the commission of the offense.

§ 5571. Appeals generally.

* * *

(b) Other courts.—Except as otherwise provided in subsections (a) and (c), an appeal from a tribunal or other government unit to a court or from a court to an appellate court **[shall] must** be commenced within 30 days after the entry of the order from which the appeal is taken, in the case of an interlocutory or final order.

(c) Exceptions.—

* * *

(5) Ordinances, resolutions, maps, etc.—Questions relating to an alleged defect in the process of enactment or adoption of any ordinance, resolution, map or similar action *of a political subdivision* shall be raised by appeal commenced within 30 days after the effective date of the ordinance, resolution, map or similar action.

(6) Implied determinations.—When pursuant to law a determination is deemed to have been made by reason of the expiration of a specified period of time after submission of a matter to a tribunal or other government unit or after another prior event, any person affected may treat the expiration of such period as equivalent to the entry of an order for purposes of appeal and *any person affected* shall so treat the expiration of the period where the person has actual knowledge (other than knowledge of the mere lapse of time) that an implied determination has occurred.

(d) Interlocutory appeals.—A petition for permission to appeal from an interlocutory order **[shall] must** be filed within 30 days after its entry.

* * *

§ 5742. Registration and licensure required.

(a) General rule.—No professional bondsman shall become surety on any undertaking, and no person shall engage in or continue to engage in business as a professional bondsman, unless he has been registered and is currently licensed as a professional bondsman by the Insurance Department as provided in this subchapter and has filed a copy of his license in the office of the clerk in the manner **[provided] prescribed** by general rules.

* * *

§ 5903. Compensation and expenses of witnesses.

(a) Scope.—The provisions of this section apply to a witness **[subpoenaed] served with a subpoena** to testify before any government unit (except the minor judiciary) or before the Philadelphia Municipal Court, but do not affect:

(1) The right of a witness who gives expert testimony to receive additional per diem compensation therefor.

(2) The compensation of a witness from another jurisdiction who appears to testify in a criminal proceeding in this Commonwealth by virtue of process issued under the authority of such other jurisdiction.

* * *

§ 5905. Subpoenas.

Every court of record shall have power in any civil or criminal matter to issue subpoenas to testify, with or without a clause of duces tecum, into any county of this Commonwealth to witnesses to appear before the court or any appointive judicial officer. Subpoenas shall be in the form prescribed by general rules.

§ 5919. Depositions in criminal matters.

The testimony of witnesses taken in accordance with section 5325 (relating to when and how a deposition may be taken outside this Commonwealth) may be read in evidence upon the trial of any criminal matter unless it shall appear at the trial that the witness whose deposition has been taken is in attendance, or has been or can be [subpoenaed] *served with a subpoena to testify*, or his attendance otherwise procured, in which case the deposition shall not be admissible.

§ 5974. Summoning [witness] prisoner in this Commonwealth to testify in another state.

* * *

§ 6143. Registration number as evidence of operation of vehicle.

(a) General rule.—In any proceeding for the recovery of a civil penalty for an infraction of the provisions of any law relating to the ownership or operation of any conveyance by air, land or water or any game or fish law or any local ordinance, rule or regulation relating thereto, the registration number displayed on a conveyance shall sustain an inference that the owner of the conveyance was then operating the conveyance.

(b) Inference overcome by testimony of owner.—If at any proceeding *under subsection (a)* the owner testifies that the owner was not operating the conveyance at the time of the alleged infraction and submits to an examination as to who at the time was operating the conveyance and reveals the name and residence address of the person, if known, then the inference arising from the registration number shall be overcome [and removed].

(c) Inference overcome by verified statement of [the] owner.—If the [matter] *proceeding under subsection (a)* is commenced in a county other than that of the residence of the owner and a verified written statement setting forth the facts set forth in subsection (b) is forwarded by the owner to the tribunal, the inference arising from the registration number shall be overcome.

§ 6504. Return on writ.

The writ, or the order to show cause why the writ should not issue, shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding 20 days, is allowed. The person to whom the writ or the order is directed shall make a return certifying the true cause of the detention and, except as otherwise [provided] *prescribed* by general rules or by rule or order of court, shall produce at the hearing the body of the person detained.

§ 6702. Definitions.

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

“Complaint.” Includes any petition, information, affidavit or any other legal document for the [institution] *commencement* of support proceedings.

* * *

§ 6707. Surety for attendance or performance.

(a) General rule.—At any stage of the proceedings under this subchapter, upon affidavit that the defendant is about to leave the [jurisdiction] *Commonwealth*, appropriate process may be issued directing that the defendant be brought before the court at such time as the court may direct, at which time the court may direct that the defendant give security, by one or more sureties, to appear when directed by the court or to comply with any order of the court.

* * *

§ 6710. [Jurisdiction] *Continuing jurisdiction over support orders.*

The court making the order shall at all times maintain jurisdiction of the cause for the purpose of enforcement of the order and for the purpose of increasing, decreasing, modifying or rescinding such order, without limiting the right of a complainant to [institute] *commence* additional proceedings for support in any county wherein the defendant resides or where his property is situated. *The court may modify registered foreign support orders when the foreign court declines, surrenders or determines that it is an inappropriate forum to modify the decree. The court may at any time remit, correct or reduce the amount of any arrearages. This section shall apply to all support orders whether entered pursuant to this chapter or any other provision of law.*

CHAPTER 73
ARBITRATION

SUBCHAPTER A
STATUTORY ARBITRATION
[(Reserved)]

Sec.

- 7301. Short title of subchapter.
- 7302. Scope of subchapter.
- 7303. Validity of agreement to arbitrate.
- 7304. Court proceedings to compel or stay arbitration.
- 7305. Appointment of arbitrators by court.
- 7306. Action by arbitrators.
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- 7308. Representation by attorney.
- 7309. Witnesses, subpoenas, oaths and depositions.
- 7310. Award of arbitrators.

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- 7313. Confirmation of award by court.
- 7314. Vacating award by court.
- 7315. Modification or correction of award by court.
- 7316. Judgment or decree on award.
- 7317. Form and service of applications to court.
- 7318. Court and jurisdiction.
- 7319. Venue of court proceedings.
- 7320. Appeals from court orders.

§ 7301. Short title of subchapter.

This subchapter shall be known and may be cited as the "Uniform Arbitration Act."

§ 7302. Scope of subchapter.

(a) General rule.—An agreement to arbitrate a controversy on a nonjudicial basis shall be conclusively presumed to be an agreement to arbitrate pursuant to Subchapter B (relating to common law arbitration) unless the agreement to arbitrate is in writing and expressly provides for arbitration pursuant to this subchapter or any other similar statute, in which case the arbitration shall be governed by this subchapter.

(b) Collective bargaining agreements.—This subchapter shall apply to a collective bargaining agreement to arbitrate controversies between employers and employees or their respective representatives only where the arbitration pursuant to this subchapter is consistent with any statute regulating labor and management relations.

(c) Government contracts.—This subchapter shall apply to any written contract to which a government unit of this Commonwealth is a party to the same extent as if the government unit were a private person, except that where a contract to which the Commonwealth government is a party provides for arbitration of controversies but does not provide for arbitration pursuant to any specified statutory provision, the arbitration shall be governed by this subchapter.

(d) Special application.—

(1) Paragraph (2) shall be applicable where:

(i) The Commonwealth government submits a controversy to arbitration.

(ii) A political subdivision submits a controversy with an employee or a representative of employees to arbitration.

(iii) Any person has been required by law to submit or to agree to submit a controversy to arbitration pursuant to this subchapter.

(2) Where this paragraph is applicable a court in reviewing an arbitration award pursuant to this subchapter shall, notwithstanding any other provision of this subchapter, modify or correct the award where the award is contrary to law and is such that had it been a verdict of a jury the court would have entered a different judgment or a judgment notwithstanding the verdict.

§ 7303. Validity of agreement to arbitrate.

A written agreement to subject any existing controversy to arbitration or a provision in a written agreement to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity relating to the validity, enforceability or revocation of any contract.

§ 7304. Court proceedings to compel or stay arbitration.

(a) Compelling arbitration.—On application to a court to compel arbitration made by a party showing an agreement described in section 7303 (relating to validity of agreement to arbitrate) and a showing that an opposing party refused to arbitrate, the court shall order the parties to proceed with arbitration. If the opposing party denies the existence of an agreement to arbitrate, the court shall proceed summarily to determine the issue so raised and shall order the parties to proceed with arbitration if it finds for the moving party. Otherwise, the application shall be denied.

(b) Stay of arbitration.—On application of a party to a court to stay an arbitration proceeding threatened or commenced the court may stay an arbitration on a showing that there is no agreement to arbitrate. When in substantial and bona fide dispute, such an issue shall be forthwith and summarily tried and determined and a stay of the arbitration proceedings shall be ordered if the court finds for the moving party. If the court finds for the opposing party, the court shall order the parties to proceed with arbitration.

(c) Venue.—If a controversy alleged to be or not to be referable to arbitration under the agreement is also involved in an action or proceeding pending in a court having jurisdiction to hear applications to compel or stay arbitration, the application shall be made to that court. Otherwise, subject to section 7319 (relating to venue of court proceedings), the application may be made in any court of competent jurisdiction.

(d) Stay of judicial proceedings.—An action or proceeding, allegedly involving an issue subject to arbitration, shall be stayed if a court order to proceed with arbitration has been made or an application for such an order has been made under this section. If the issue allegedly subject to arbitration is severable, the stay of the court action or proceeding may be made with respect to the severable issue only. If the application for an order to proceed with arbitration is made in such action or proceeding and is granted, the court order to proceed with arbitration shall include a stay of the action or proceeding.

(e) No examination of merits.—An application for a court order to proceed with arbitration shall not be refused, nor shall an application to stay arbitration be granted, by the court on the ground that the controversy lacks merit or bona fides or on the ground that no fault or basis for the controversy sought to be arbitrated has been shown.

§ 7305. Appointment of arbitrators by court.

If the agreement to arbitrate prescribes a method of appointment of arbitrators, the prescribed method shall be followed. In the absence of a prescribed method or if the prescribed method fails or for any reason cannot be followed, or when an arbitrator appointed fails to act or is unable to act and his successor has not been appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of an arbitrator specifically named in the agreement.

§ 7306. Action by arbitrators.

The powers of the arbitrators shall be exercised by a majority unless otherwise prescribed by the agreement or provided by this subchapter.

§ 7307. Hearing before arbitrators.

(a) General rule.—Unless otherwise prescribed by the agreement:

(1) The arbitrators shall appoint a time and place for the arbitration hearing and cause written notice thereof to be served personally or by registered or certified mail on all parties not less than ten days before the hearing. Appearance at the hearing constitutes a waiver of such notice.

(2) The arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause, or upon their own motion, may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date.

(3) The arbitrators may hear and determine the controversy upon the evidence produced at the arbitration hearing notwithstanding the failure of a duly notified party to appear. On application by a party the court may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

(4) The parties and their attorneys have the right to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

(5) The hearing shall be conducted by all the arbitrators but a majority may determine any issue and render a final award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals may continue with the hearing and determine the controversy.

(b) Record.—On request of a party who shall pay the fees therefor all testimony shall be taken stenographically and a transcript thereof made a part of the record.

§ 7308. Representation by attorney.

A party has the right to be represented by an attorney at any proceeding or hearing under this subchapter. A waiver thereof prior to the proceeding or hearing is ineffective.

§ 7309. Witnesses, subpoenas, oaths and depositions.

(a) General rule.—The arbitrators may issue subpoenas in the form prescribed by general rules for the attendance of witnesses and for the production of books, records, documents and other evidence. Subpoenas so issued shall be served and, upon application to the court by a party or by the arbitrators, shall be enforced in the manner provided or prescribed by law for the service and enforcement of subpoenas in a civil action.

(b) Depositions.—On application of a party and for use as evidence the arbitrators, in the manner and upon the terms designated by them, may permit a deposition to be taken of a witness who cannot be served with a subpoena or who is unable to attend the hearing.

(c) Compulsory testimony.—The arbitrators shall have power to administer oaths. All provisions of law compelling a person under subpoena to testify are applicable.

(d) Fees.—Fees and expenses for attendance as a witness shall be governed by the provisions of section 5903 (relating to compensation and expenses of witnesses).

§ 7310. Award of arbitrators.

(a) General rule.—The award of the arbitrators shall be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy of the award to each party personally or by registered or certified mail, or as prescribed in the agreement to arbitrate.

(b) Time limitation.—The award shall be made within the time fixed by the agreement or, if not fixed by the agreement, within such time as is ordered by the court on application of a party. The parties by written stipulation may extend the time either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless he notifies the arbitrators of his objection prior to delivery of the award to him.

§ 7311. Change of award by arbitrators.

(a) General rule.—On application of a party to the arbitrators, or on submission to the arbitrators by the court under such conditions as the court may order if an application to the court is pending under section 7313 (relating to confirmation of award by court), section 7314 (relating to vacating award by court) or section 7315 (relating to modification or correction of award by court), the arbitrators may modify or correct the award upon the grounds stated in section 7315(a)(1) and (2), or for the purpose of clarifying the award.

(b) Time limitation.—An application to the arbitrators under subsection (a) shall be made within ten days after delivery of the award to the applicant. Written notice of presentation of the application shall be given forthwith by the applicant to all other parties stating that they must serve objections thereto within ten days from the date of the notice. The award as modified or corrected is subject to the provisions of sections 7313, 7314 and 7315.

§ 7312. Fees and expenses of arbitration.

Unless otherwise prescribed in the agreement to arbitrate, the expenses and fees of the arbitrators and other expenses (but not including counsel fees) incurred in the conduct of the arbitration shall be paid as prescribed in the award.

§ 7313. Confirmation of award by court.

On application of a party, the court shall confirm an award, unless within the time limits imposed by this subchapter, grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in section 7314 (relating to vacating award by court) or section 7315 (relating to modification or correction of award by court).

§ 7314. Vacating award by court.

(a) General rule.—

(1) On application of a party, the court shall vacate an award where:

(i) the court would vacate the award under section 7341 (relating to common law arbitration) if this subchapter were not applicable;

(ii) there was evident partiality by an arbitrator appointed as a neutral or corruption or misconduct in any of the arbitrators prejudicing the rights of any party;

(iii) the arbitrators exceeded their powers;

(iv) the arbitrators refused to postpone the hearing upon good cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of section 7307 (relating to hearing before arbitrators), as to prejudice substantially the rights of a party; or

(v) there was no agreement to arbitrate and the issue of the existence of an agreement to arbitrate was not adversely determined in proceedings under section 7304 (relating to court proceedings to compel or stay arbitration) and the applicant-party raised the issue of the existence of an agreement to arbitrate at the hearing.

(2) The fact that the relief awarded by the arbitrators was such that it could not or would not be granted by a court of law or equity is not a ground for vacating or refusing to confirm the award.

(b) Time limitation.—An application under this section shall be made within 30 days after delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud, misconduct or other improper means, it shall be made within 30 days after such grounds are known or should have been known to the applicant.

(c) Further hearing.—If the court vacates the award on grounds other than stated in subsection (a)(1)(v), the court may order a

rehearing before new arbitrators chosen as prescribed in the agreement to arbitrate. Absent a method prescribed in the agreement to arbitrate, the court shall choose new arbitrators in accordance with section 7305 (relating to appointment of arbitrators by court). If the award is vacated on grounds not affecting the competency of the arbitrators under subsection (a)(1)(i) through (iv), the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with section 7305. The time period within which the agreement requires the original award to be made is applicable to the rehearing and commences from the date of the court order directing a rehearing.

(d) Confirmation of award.—If an application to vacate the award is denied and no application to modify or correct the award is pending, the court shall confirm the award.

§ 7315. Modification or correction of award by court.

(a) General rule.—On application to the court made within 30 days after delivery of a copy of the award to the applicant, the court shall modify or correct the award where:

(1) there was an evident miscalculation of figures or an evident mistake in the description of any person, thing or property referred to in the award;

(2) the arbitrators awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

(3) the award is deficient in a matter of form, not affecting the merits of the controversy.

(b) Confirmation of award.—If an application to modify or correct the award is granted, the court shall modify and correct the award so as to effect its intent and shall confirm the award as so modified and corrected. Otherwise, the court shall confirm the award as made by the arbitrators.

(c) Alternative applications.—An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

§ 7316. Judgment or decree on award.

Upon the granting of an order of court confirming, modifying or correcting an award, a judgment or decree shall be entered in conformity with the order. The judgment or decree may be enforced as any other judgment or decree. Subject to general rules, costs of any application to the court and of the proceedings subsequent thereto, and disbursements may be imposed by the court.

§ 7317. Form and service of applications to court.

Except as otherwise prescribed by general rules, an application to the court under this subchapter shall be by petition and shall be heard in the manner and upon the notice provided or prescribed by law for the making and hearing of petitions in civil matters. Unless the parties otherwise agree, notice of an initial application for an order of court

shall be served in the manner provided or prescribed by law for the service of a writ of summons in a civil action.

§ 7318. Court and jurisdiction.

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

“Court.” As used in this subchapter means any court of competent jurisdiction of this Commonwealth.

“Jurisdiction.” The making of an agreement described in section 7303 (relating to validity of agreement to arbitrate) providing for arbitration in this Commonwealth confers jurisdiction on the courts of this Commonwealth to enforce the agreement under this subchapter and to enter judgment on an award made thereunder.

§ 7319. Venue of court proceedings.

Except as otherwise prescribed by general rules:

(1) An initial application to a court under this subchapter shall be made to the court of the county in which the agreement prescribes that the arbitration hearing shall be held or, if the hearing has been held, in the county in which the hearing was held.

(2) If an application to a court cannot be made under paragraph (1) the application shall be made to the court in the county where the adverse party resides or has a place of business or, if he has no residence or place of business in this Commonwealth, to the court of any county.

(3) All subsequent applications to a court shall be made to the court hearing the initial application unless that court otherwise directs.

§ 7320. Appeals from court orders.

(a) General rule.—An appeal may be taken from:

(1) A court order denying an application to compel arbitration made under section 7304 (relating to proceedings to compel or stay arbitration).

(2) A court order granting an application to stay arbitration made under section 7304(b).

(3) A court order confirming or denying confirmation of an award.

(4) A court order modifying or correcting an award.

(5) A court order vacating an award without directing a rehearing.

(6) A final judgment or decree of a court entered pursuant to the provisions of this subchapter.

(b) Procedure.—The appeal shall be taken in the manner, within the time and to the same extent as an appeal from a final order of court in a civil action.

§ 7341. Common law arbitration.

The award of an arbitrator in a nonjudicial arbitration which is not subject to [the act of April 25, 1927 (P.L.381, No.248)] *Subchapter A*

(relating to statutory arbitration) or a similar statute regulating nonjudicial arbitration proceedings is binding and may not be vacated or modified unless it is clearly shown that a party was denied a hearing or that fraud, misconduct, corruption or other irregularity caused the rendition of an unjust, inequitable or unconscionable award.

§ 7538. **[Supplemental] Applications for relief.**

[Further relief.] (a) General rule.—Judicial relief based on a declaratory judgment or decree[,] may be granted whenever necessary or proper, *subject to Chapter 55 (relating to limitation of time).* **[Except as otherwise prescribed by general rules, the application therefor shall be by petition to a court having jurisdiction to grant the relief.]** If **[the] an application for supplemental relief** is deemed sufficient the court shall, on reasonable notice, require any adverse party[,] whose rights have been adjudicated by **[the] a previously entered declaratory judgment or decree[,]** to show cause why further relief should not be granted **[forthwith].**

(b) Form of application.—An application for relief or supplemental relief under this subchapter shall be in the form prescribed by general rules.

§ 8102. Contribution among joint judgment debtors.

Whenever the property of several persons **[shall be]** *is* subject to the lien of any judgment to *the discharge of* which **[they]** *such persons* should by law or equity contribute, or to which one *of such persons* should have subrogation against another, the court may require the judgment creditor to levy upon and make sale of the property liable to execution for the payment of the judgment in the proportion or in the succession in which the properties of the several **[owners shall]** *persons are* in law or equity **[be]** liable to contribute towards the discharge of the common incumbrance. **[, and the]** *The* court may direct to what uses the judgment shall be assigned, and when assigned may direct all executions thereon, so as to subserve the rights and equities of all **[parties]** *persons* whose property **[shall be liable thereto]** *is liable to execution.*

(b) The provisions of 42 Pa.C.S. § 7302(d)(2) (relating to special application) shall be applicable to any nonjudicial arbitration pursuant to:

(1) An agreement made prior to the effective date of this act which expressly provides that it shall be interpreted pursuant to the law of this Commonwealth and which expressly provides for statutory arbitration.

(2) An agreement heretofore or hereafter made which expressly provides for arbitration pursuant to the former provisions of the act of April 25, 1927 (P.L.381, No.248), relating to statutory arbitration.

(c) The act of April 25, 1927 (P.L.381, No.248), entitled "An act concerning arbitration, and to make valid and enforceable written

provisions and agreements for the arbitration of disputes in certain contracts, including contracts to which the State or any municipal subdivision thereof may be a party; regulating the procedure under such provisions and agreements; and conferring certain powers and imposing certain duties upon the courts with reference thereto," is repealed.

(d) 20 Pa.C.S. § 773 (relating to subpoenas) is repealed.

ARTICLE VI MISCELLANEOUS PROVISIONS

Section 601. Applicability of Statutory Construction Act.—This act is intended to integrate into Title 42 of the Pennsylvania Consolidated Statutes all relevant legislation of the 1977-1980 General Assemblies through Act No.1980-53. The provisions of 1 Pa.C.S. § 1952 (relating to effect of separate amendments on code provisions enacted by same General Assembly) and 1 Pa.C.S. § 1974 (relating to effect of separate repeals on code provisions by same General Assembly) shall not be applicable to any act of the 1977-1980 General Assemblies insofar as relates to Title 42 of the Pennsylvania Consolidated Statutes. Section 41 of the act of April 28, 1978 (P.L.202, No.53), known as the "Judiciary Act Repealer Act," is repealed.

Section 602. Effect of Article III.—Article III of this act shall be deemed a part of section 2(a) of the act of April 28, 1978 (P.L.202, No.53), known as the "Judiciary Act Repealer Act" for purposes of section 3 of that act.

Section 603. Effective date.—Except as otherwise provided in this act, this act shall take effect in 60 days.

APPROVED—The 5th day of October, A. D. 1980.

DICK THORNBURGH