

No. 1982-141

AN ACT

SB 942

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for summary offenses involving vehicles, further providing for limited Statewide police powers for municipal police officers, retaining certain immunities and benefits, providing for certain expenses and further providing for sentencing for certain offenders.

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

Section 1. Section 3532 of Title 42, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, added April 5, 1982 (P.L.226, No.72), is amended to read:

§ 3532. Expenses.

The Office of *the* Pennsylvania Supreme Court Administrator shall pay the annual registration fee *up to \$100* to the Special Court Judges of Pennsylvania Association for each district justice, *Philadelphia Municipal Court Judge and Philadelphia Traffic Court Judge* position authorized as of January 31 of each year. [and] *Payment shall be made on the first day of a new fiscal year including July 1, 1982. In addition the Office of the Pennsylvania Supreme Court Administrator shall pay up to \$10,000 for the publishing of a monthly journal containing the update and revision of laws and State Supreme Court rule changes. Funding shall come from the annual appropriation made to the district justices.*

Section 2. Subsections (b) and (c) of section 5553 of Title 42 are amended to read:

§ 5553. Summary offenses involving vehicles.

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(b) *Minor offenses.*—Except as provided in subsection (c), proceedings for summary offenses under the following provisions of Title 75 must be commenced within [15] *30* days after the commission of the alleged offense or within [15] *30* 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 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 commenced against the other person within 30 [or 15] days [, whichever is applicable,] after the identity of the person is discovered and not thereafter.

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Section 3. Section 8901 of Title 42 is repealed.

Section 4. Title 42 is amended by adding a subchapter to read:

**SUBCHAPTER D
MUNICIPAL POLICE JURISDICTION**

Sec.

8951. Definitions.

8952. Primary municipal police jurisdiction.

8953. Statewide municipal police jurisdiction.

8954. Noncompliance with mandatory certification requirements.

§ 8951. 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:

“Chief law enforcement officer.” The head of a duly constituted municipal law enforcement agency which regularly provides primary police services to a political subdivision or, in the absence of any such municipal law enforcement agency, the commanding officer of the Pennsylvania State Police installation which regularly provides primary police services to the political subdivision.

“Municipal police officer.” Any natural person who is properly employed by a municipality, including a home rule municipality, as a regular full-time or part-time police officer.

“Primary jurisdiction.” The geographical area within the territorial limits of a municipality or any lawful combination of municipalities which employs a municipal police officer.

“Training law.” The act of June 18, 1974 (P.L.359, No.120), referred to as the Municipal Police Education and Training Law.

§ 8952. Primary municipal police jurisdiction.

Any duly employed municipal police officer shall have the power and authority to enforce the laws of this Commonwealth or otherwise perform the functions of that office anywhere within his primary jurisdiction as to:

(1) Any offense which the officer views or otherwise has probable cause to believe was committed within his jurisdiction.

(2) Any other event that occurs within his primary jurisdiction and which reasonably requires action on the part of the police in order to preserve, protect or defend persons or property or to otherwise maintain the peace and dignity of this Commonwealth.

§ 8953. Statewide municipal police jurisdiction.

(a) General rule.—Any duly employed municipal police officer who is within this Commonwealth, but beyond the territorial limits of his

primary jurisdiction, shall have the power and authority to enforce the laws of this Commonwealth or otherwise perform the functions of that office as if enforcing those laws or performing those functions within the territorial limits of his primary jurisdiction in the following cases:

(1) Where the officer is acting pursuant to an order issued by a court of record or an order issued by a district magistrate whose magisterial district is located within the judicial district wherein the officer's primary jurisdiction is situated, or where the officer is otherwise acting pursuant to the requirements of the Pennsylvania Rules of Criminal Procedure, except that the service of an arrest or search warrant shall require the consent of the chief law enforcement officer, or a person authorized by him to give consent, of the organized law enforcement agency which regularly provides primary police services in the municipality wherein the warrant is to be served.

(2) Where the officer is in hot pursuit of any person for any offense which was committed, or which he has probable cause to believe was committed, within his primary jurisdiction and for which offense the officer continues in fresh pursuit of the person after the commission of the offense.

(3) Where the officer has been requested to aid or assist any local, State or Federal law enforcement officer or otherwise has probable cause to believe that the other officer is in need of aid or assistance.

(4) Where the officer has obtained the prior consent of the chief law enforcement officer, or a person authorized by him to give consent, of the organized law enforcement agency which provides primary police services to a political subdivision which is beyond that officer's primary jurisdiction to enter the other jurisdiction for the purpose of conducting official duties which arise from official matters within his primary jurisdiction.

(5) Where the officer is on official business and views an offense, or has probable cause to believe that an offense has been committed, and makes a reasonable effort to identify himself as a police officer and which offense is a felony, misdemeanor, breach of the peace or other act which presents an immediate clear and present danger to persons or property.

(6) Where the officer views an offense which is a felony, or has probable cause to believe that an offense which is a felony has been committed, and makes a reasonable effort to identify himself as a police officer.

(b) Limitation.—Nothing contained in subsection (a) shall be deemed to extend or otherwise enlarge a municipal police officer's power and authority to arrest any person for an offense unless specifically authorized by law.

(c) Relinquishing authority.—Whenever a municipal police officer exercises any power or authority over any person or event pursuant to the provisions of subsection (a)(3), (4), (5) or (6), the officer shall relinquish authority and control over any such person or event upon the request of

the chief law enforcement officer, or a person authorized by him to make the request, of the organized law enforcement agency which regularly provides primary police services in the municipality.

(d) Immunities and benefits preserved.—Any municipal police officer who exercises any power or authority granted under this section, and the employing municipality of the police officer, shall have the same immunities from liability as would be applicable if the actions were performed within the territorial boundaries of the officer's primary jurisdiction and the police officer shall be entitled to the same benefits of employment as the officer would possess if acting solely within his primary jurisdiction. Nothing in this section shall be construed to restrict the authority of any municipality to limit the exercise of any power or authority conferred on its police by this section.

(e) Existing and future municipal police service agreements preserved.—Nothing in this section shall be construed to restrict the authority of any municipality to maintain current or to enter into new cooperative police service agreements with another municipality or municipalities for purposes including, but not limited to, describing conditions of mutual aid, assigning liability and determining appropriate costs of these cooperative efforts.

§ 8954. Noncompliance with mandatory certification requirements.

Any person employed as a municipal police officer who is subject to the mandatory certification requirements of the training law and fails to obtain the required certification from the Commissioner of the Pennsylvania State Police within the time limits provided by law shall cease to be empowered or authorized to function as a municipal police officer for any purpose whatsoever.

Section 5. Subsections (b) and (c) of section 9714 and subsection (b) of section 9715 of Title 42, added March 8, 1982 (P.L.169, No.54), are amended to read:

§ 9714. Sentences for second and subsequent offenses.

* * *

(b) Prior convictions for crimes of violence.—For the purposes of subsection (a), an offender shall be deemed to have prior convictions for crimes of violence if both of the following conditions hold:

(1) The offender was previously convicted in this Commonwealth or any other state or the District of Columbia or in any Federal court of murder, voluntary manslaughter, rape, involuntary deviate sexual intercourse, robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii), arson as defined in 18 Pa.C.S. § 3301(a), kidnapping or aggravated assault in which the offender intentionally, knowingly or recklessly causes serious bodily injury to another under circumstances manifesting extreme indifference to the value of human life, *an equivalent crime under the laws of the Commonwealth in effect prior to the effective date of Title 18 (relating to crimes and offenses)* or an equivalent crime in **[other jurisdictions] another jurisdiction**. The previous conviction need not be for the same crime as the instant offense for this section to be applicable.

(2) The previous conviction occurred within seven years of the date of the commission of the instant offense, except that any time during which the offender was incarcerated in any penitentiary, prison or other place of detention shall not be considered in computing the relevant seven-year period. Convictions for other offenses arising from the same criminal episode as the instant offense shall not be considered previous convictions for the purpose of this section. A previous conviction shall include any conviction, whether or not litigation is pending concerning that conviction.

(c) Proof at sentencing.—Provisions of this section shall not be an element of the crime and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The sentencing court, prior to imposing sentence on an offender under subsection (a), shall have a complete record of the previous convictions of the offender, copies of which shall be furnished to the offender. If the offender or the attorney for the Commonwealth contests the accuracy of the record, the court shall schedule a hearing and direct the offender and the attorney for the Commonwealth to submit evidence regarding the previous convictions of the offender. The court shall then determine, *by a preponderance of the evidence*, the previous convictions of the offender and, if this section is applicable, shall impose sentence in accordance with this section. Should a previous conviction be vacated and an acquittal or final discharge entered subsequent to imposition of sentence under this section, the offender shall have the right to petition the sentencing court for reconsideration of sentence if this section would not have been applicable except for the conviction which was vacated.

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§ 9715. Life imprisonment for homicide.

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(b) Proof at sentencing.—Provisions of this section shall not be an element of the crime and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The sentencing court, prior to imposing sentence on an offender under subsection (a), shall have a complete record of the previous convictions of the offender, copies of which shall be furnished to the offender. If the offender or the attorney for the Commonwealth contests the accuracy of the record, the court shall schedule a hearing and direct the offender and the attorney for the Commonwealth to submit evidence regarding the previous convictions of the offender. The court shall then determine, *by a preponderance of the evidence*, the previous convictions of the offender and, if this section is applicable, shall impose sentence in accordance with this section. Should a previous

conviction be vacated and an acquittal or final discharge entered subsequent to imposition of sentence under this section, the offender shall have the right to petition the sentencing court for reconsideration of sentence if this section would not have been applicable except for the conviction which was vacated.

* * *

Section 6. All acts or parts of acts are repealed insofar as they are inconsistent with this act.

Section 7. Except for section 5 which shall take effect immediately or on the date of the act of March 8, 1982 (P.L.169, No.54), entitled "An act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the imposition of certain mandatory sentences," takes effect, whichever is later, this act shall take effect in 60 days.

APPROVED—The 15th day of June, A. D. 1982.

DICK THORNBURGH