

No. 1988-179

AN ACT

SB 1304

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, authorizing a lien on real property arising out of a judgment of the Pittsburgh Magistrates Court; providing for volunteer-in-public-service negligence standard in the conduct of certain public service programs or projects; and further providing for review by the Supreme Court of a sentence of death.

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

Section 1. Title 42 of the Pennsylvania Consolidated Statutes is amended by adding sections to read:

§ 1144. Lien of judgment.

A judgment of the Pittsburgh Magistrates Court shall not operate as a lien on real property until a transcript of the record showing a final judgment of the Pittsburgh Magistrates Court has been filed in the manner prescribed by general rules in the office of the prothonotary of Allegheny County. After entry of the judgment, the judgment shall, from the date of its entry, be a lien upon real property to the same extent that judgment recovered in the court of common pleas is a lien. No transcript of the record shall be filed until 30 days after the entry of final judgment by the Pittsburgh Magistrates Court. No execution against real estate shall be issued by the Pittsburgh Magistrates Court.

§ 8332.4. Volunteer-in-public-service negligence standard.

(a) General rule.—Except as provided otherwise in this section, no person who, without compensation and as a volunteer, renders public services for a nonprofit organization under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 (68A Stat. 3, 26 U.S.C. § 501(c)(3) or (4)) or for a Commonwealth or local government agency conducting or sponsoring a public service program or project shall be liable to any person for any civil damages as a result of any acts or omissions in rendering such services unless the conduct of such person falls substantially below the standards generally practiced and accepted in like circumstances by similar persons rendering such services and unless it is shown that such person did an act or omitted the doing of an act which such person was under a recognized duty to another to do, knowing or having reason to know that such act or omission created a substantial risk of actual harm to the person or property of another. It shall be insufficient to impose liability to establish only that the conduct of such person fell below ordinary standards of care.

(b) Exceptions.—

(1) Nothing in this section shall be construed as affecting or modifying the liability of such person for acts or omissions relating to the transportation of participants in a public service program or project or others to or from a public service program or project.

(2) *Nothing in this section shall be construed as affecting or modifying any existing legal basis for determining the liability, or any defense thereto, of any person not covered by the standard of negligence established by this section.*

(c) *Assumption of risk or contributory fault.—Nothing in this section shall be construed as affecting or modifying the doctrine of assumption of risk or contributory fault on the part of the participant.*

(d) *Construction.—The negligence standard created by this section shall not be deemed to abrogate or lessen any immunity or other protection against liability granted by statute or court decision.*

(e) *Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:*

“Compensation.” The term shall not include reimbursement for reasonable expenses actually incurred or to be incurred.

“Public service program or project.” An organized program, or other public service ordinarily conducted or rendered by volunteers.

Section 2. Section 9711(h) of Title 42 is amended to read:

§ 9711. Sentencing procedure for murder of the first degree.

* * *

(h) Review of death sentence.—

(1) A sentence of death shall be subject to automatic review by the Supreme Court of Pennsylvania pursuant to its rules.

(2) In addition to its authority to correct errors at trial, the Supreme Court shall either affirm the sentence of death or vacate the sentence of death and remand for **[the imposition of a life imprisonment sentence]** *further proceedings as provided in paragraph (4).*

(3) The Supreme Court shall affirm the sentence of death unless it determines that:

(i) the sentence of death was the product of passion, prejudice or any other arbitrary factor;

(ii) the evidence fails to support the finding of **[an] at least one** *aggravating circumstance specified in subsection (d); or*

(iii) the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the circumstances of the crime and the character and record of the defendant.

(4) If the Supreme Court determines that the death penalty must be vacated because none of the aggravating circumstances are supported by sufficient evidence or because the sentence of death is disproportionate to the penalty imposed in similar cases, then it shall remand for the imposition of a life imprisonment sentence. If the Supreme Court determines that the death penalty must be vacated for any other reason, it shall remand for a new sentencing hearing pursuant to subsections (a) through (g).

* * *

Section 3. This act shall apply as follows:

(1) Section 1 (section 1144) shall apply to final judgments entered by the Pittsburgh Magistrates Court on or after the effective date of this act.

(2) Section 2 (section 9711(h)) shall apply to all criminal offenses committed on or after the effective date of this act and to all criminal cases and appeals pending on the effective date of this act.

Section 4. This act shall take effect as follows:

- (1) Section 1 (sections 1144 and 8332.4) shall take effect in 60 days.
- (2) The remainder of this act shall take effect immediately.

APPROVED—The 21st day of December, A. D. 1988.

ROBERT P. CASEY