

No. 2008-98

AN ACT

HB 301

Amending Titles 23 (Domestic Relations) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further defining "hearing officer"; replacing the title "bail commissioner" with "arraignment court magistrate"; further providing for the number of judges in the courts of common pleas, for the Minor Judiciary Education Board, for the course of instruction and examination for certain minor judiciary and for subpoena; and, in registration of sexual offenders, further providing for registration.

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

Section 1. The definition of "hearing officer" in section 6102(a) of Title 23 of the Pennsylvania Consolidated Statutes is amended to read:

§ 6102. Definitions.

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

* * *

"Hearing officer." A magisterial district judge, judge of the Philadelphia Municipal Court, [**bail commissioner**] *arraignment court magistrate* appointed under 42 Pa.C.S. § 1123 (relating to jurisdiction and venue), master appointed under 42 Pa.C.S. § 1126 (relating to masters) and master for emergency relief.

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Section 2. Sections 911(a), 1123(a)(5) and (5.1) and 1125 of Title 42 are amended to read:

§ 911. Courts of common pleas.

(a) General rule.—There shall be one court of common pleas for each judicial district of this Commonwealth consisting of the following number of judges:

Judicial District	Number of Judges
First	93
Second	15
Third	[8] 9
Fourth	1
Fifth	43
Sixth	9
Seventh	13
Eighth	3
Ninth	[5] 6

Tenth	11
Eleventh	10
Twelfth	[8] 10
Thirteenth	2
Fourteenth	5
Fifteenth	14
Sixteenth	3
Seventeenth	2
Eighteenth	1
Nineteenth	[14] 15
Twentieth	1
Twenty-first	6
Twenty-second	1
Twenty-third	13
Twenty-fourth	5
Twenty-fifth	2
Twenty-sixth	2
Twenty-seventh	6
Twenty-eighth	2
Twenty-ninth	5
Thirtieth	3
Thirty-first	10
Thirty-second	[19] 20
Thirty-third	2
Thirty-fourth	1
Thirty-fifth	4
Thirty-sixth	7
Thirty-seventh	2
Thirty-eighth	[21] 23
Thirty-ninth	[4] 5
Fortieth	3
Forty-first	2
Forty-second	2
Forty-third	6
Forty-fourth	1
Forty-fifth	[8] 9
Forty-sixth	2
Forty-seventh	5
Forty-eighth	2
Forty-ninth	4
Fiftieth	6
Fifty-first	[3] 4
Fifty-second	4
Fifty-third	4
Fifty-fourth	1

Fifty-fifth	1
Fifty-sixth	[2] 3
Fifty-seventh	2
Fifty-eighth	2
Fifty-ninth	1
Sixtieth	2

§ 1123. Jurisdiction and venue.

(a) General rule.—Except as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), the Philadelphia Municipal Court shall have jurisdiction of the following matters:

(5) As commissioners to preside at arraignments, fix and accept bail, issue warrants and perform duties of a similar nature, including the jurisdiction of a committing magistrate in all criminal proceedings. In addition to the exercise of the powers by the judges set forth in this paragraph, the Philadelphia Municipal Court, through the president judge and a majority of the judges of the court, shall have the power to appoint for four-year terms six **[bail commissioners] arraignment court magistrates**, to administer oaths and affirmations, preside at preliminary arraignments, assign counsel in certain cases, issue criminal complaints, fix bail and issue arrest warrants and search and seizure warrants. The **[bail commissioners] arraignment court magistrates** shall be employees of the Commonwealth and they shall receive an annual salary equal to the salary of an associate judge of the Traffic Court of Philadelphia. The method of selection and appointment and removal of **[bail commissioners] arraignment court magistrates** and establishing standards of conduct and the rights, responsibilities and authority of the **[bail commissioners] arraignment court magistrates** and the procedures for appealing from the decisions of the **[bail commissioners] arraignment court magistrates** shall be provided by local rules adopted by the municipal court.

(5.1) In addition to the exercise of the powers by the judges set forth in this section, the President Judge of the Philadelphia Municipal Court may appoint **[bail commissioners] arraignment court magistrates**, persons who complete a training program as shall be provided by local rules adopted by the President Judge of the Philadelphia Municipal Court, or attorneys who are in good standing and are admitted to the Pennsylvania Bar as judges pro tempore to accept guilty pleas and impose sentences in accordance with pleas for summary offenses. A judge pro tempore must be an independent contractor hired by the Philadelphia Municipal Court and shall receive such compensation and shall serve at such hours as agreed to between the judge pro tempore and the President Judge of the Philadelphia Municipal Court. The methods of selection, appointment and removal of judges pro tempore and of establishing

standards of conduct and the rights, responsibilities and authority of the judges pro tempore and the procedures for appealing decisions of the judges pro tempore shall be provided by local rules adopted by the President Judge of the Philadelphia Municipal Court.

* * *

§ 1125. Substitute **[bail commissioners] arraignment court magistrates.**

The President Judge of the Philadelphia Municipal Court may appoint qualified attorneys who are court employees to act as substitute **[bail commissioners] arraignment court magistrates** during an emergency upon a written finding by the president judge that an emergency exists.

Section 3. Section 2131 of Title 42, amended November 29, 1990 (P.L.574, No.147), amendment declared unconstitutional 598 A.2d 985 (Pa. 1992), and amendment repealed July 9, 1992 (P.L.689, No.102), is reenacted and amended to read:

§ 2131. Minor Judiciary Education Board.

(a) General rule.—The Minor Judiciary Education Board shall consist of *such* members **[selected]** as provided in this subchapter.

(b) Seal.—The Minor Judiciary Education Board shall have a seal engraved with its name and such other inscription as may be specified by general rule. A facsimile or preprinted seal may be used for all purposes in lieu of the original seal.

Section 4. Section 2132 of Title 42, amended November 29, 1990 (P.L.574, No.147), amendment declared unconstitutional 598 A.2d 985 (Pa. 1992), amendment repealed July 9, 1992 (P.L.689, No.102), and amended November 30, 2004 (P.L.1618, No.207), is reenacted and amended to read:

§ 2132. Composition of board.

(a) General rule.—The Minor Judiciary Education Board shall consist of the following appointed by the **[Governor. Appointments made after the effective date of this amendatory act shall require the consent of a majority of the members elected to the Senate] Supreme Court.**

(1) Three persons who shall be judges of **[the Pittsburgh Magistrates Court or]** the Traffic Court of Philadelphia or magisterial district judges.

(2) Three members of the bar of this Commonwealth.

(3) One lay elector.

(b) Terms of office.—The members of the board shall serve for terms of **[five] three** years and until a successor has been appointed **[and qualified]**. A vacancy on the board shall be filled for the balance of the term.

(c) Compensation.—Members of the board shall receive such fees **[or salary]** as shall be fixed by the **[governing authority in the manner provided by section 503(b) (relating to procedures)] Supreme Court.**

Section 5. Sections 2133 and 2134 of Title 42 are amended to read:

§ 2133. Organization.

[Annually the Minor Judiciary Education Board shall elect] The Supreme Court shall appoint a chairman and other officers of the board,

who shall hold office at the pleasure of the [board] *Supreme Court*. The board shall act only with the concurrence of a majority of its members.

§ 2134. Staff.

[The Administrative Office shall provide such staff assistance as the Minor Judiciary Education Board may require.]

Subject to the approval of the Supreme Court, the Minor Judiciary Education Board shall appoint a director and shall authorize such other staff positions as may be necessary.

Section 6. The definitions of “bail commissioner” and “judge” in section 3111 of Title 42 are amended to read:

§ 3111. 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:

“Bail commissioner.” [A bail commissioner] *An arraignment court magistrate* of the Philadelphia Municipal Court.

* * *

“Judge.” A judge of the [Pittsburgh Magistrates Court or the] Traffic Court of Philadelphia.

Section 7. Sections 3113, 3114, 3115, 3116, 3118, 3119, 6333 and 9795.1(a) and (b) of Title 42 are amended to read:

§ 3113. Content of course of instruction and examination.

(a) General rule.—[The] *Subject to the approval of the Supreme Court, the board shall prescribe and approve the subject matter and the examination for the course of training and instruction required by this subchapter. The [Administrative Office] staff authorized by Subchapter D of Chapter 21 (relating to minor judiciary education board) shall, subject to the direction of the board, administer the course of training and instruction and conduct the examination. The [Administrative Office] staff shall conduct the course of training and examination at such times, at such places and in such manner as the regulations of the board may prescribe. The board shall make the course of training and instruction available at such times so as to insure that any magisterial district judge, [bail commissioner] arraignment court magistrate or judge elected or appointed may qualify to assume office as soon as possible.*

(b) Content of course.—The course of training and instruction shall not exceed four weeks in duration and shall consist of a minimum of 40 hours of class instruction in civil and criminal law, including evidence and procedure, summary proceedings, motor vehicles and courses in judicial ethics, in the case of all such officials except [bail commissioners] *arraignment court magistrates*, in which case [it] *the course of training* shall consist of a minimum of 30 hours of class instruction in criminal law, search and seizure, arrest and bail practices and procedures, and except judges of the Traffic Court of Philadelphia, in which case [it] *the course of training* shall consist

of a minimum of 20 hours of class instruction in summary proceedings and laws relating to motor vehicles.

§ 3114. Admission of interested persons.

In addition to those required by this subchapter to complete the course of training and instruction and successfully pass an examination prior to assuming office, any interested person may apply to the **[Administrative Office] board** to be enrolled in the course of *training and* instruction and take the examination. Any such interested person who successfully completes the course of *training* and passes the examination, and who subsequently is elected or appointed to the office of magisterial district judge, **[bail commissioner] arraignment court magistrate** or judge may secure a certificate from the Administrative Office as provided in section 3115 (relating to certification of successful completion of course of *training*) without again taking the course of training and instruction and passing the examination required by this subchapter *prior to assuming such office*.

§ 3115. Certification of successful completion of course of *training*.

Upon the successful completion of the course of training and instruction and examination, the Administrative Office shall issue to a person elected or appointed as a magisterial district judge, **[bail commissioner] arraignment court magistrate** or judge a certificate in the form prescribed by the board, certifying that such person is qualified to perform his duties as required by the Constitution of Pennsylvania. Such certificate shall be filed in the office of the clerk of the court of common pleas of the judicial district embracing the district to be served by the magisterial district judge, **[bail commissioner] arraignment court magistrate** or judge.

§ 3116. Effect of failure to obtain certificate.

In the event that any magisterial district judge or judge fails to file the certificate provided for by section 3115 (relating to certification of successful completion of course of *training*) in the manner therein provided within nine months after the magisterial district judge's or judge's election or appointment, that office shall become vacant, and such vacancy shall be filled as provided in this chapter.

§ 3118. Continuing education requirement.

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

(b) **[Bail commissioners.—Every bail commissioner] Arraignment court magistrates.—Every arraignment court magistrate** shall complete a

continuing education program each year equivalent to not less than 20 hours per year in such courses or programs as are approved by the board.

§ 3119. Rules and regulations.

The [Administrative Office] *board* shall have the power to promulgate, with the approval of the [board] *Supreme Court*, such rules and regulations as are necessary to carry out its duties under this subchapter.

§ 6333. Subpoena.

(a) *General rule.*—Upon application of a child, parent, guardian, custodian, probation officer, district attorney, or other party to the proceedings, the court, master, or the clerk of the court shall issue, or the court or master may on its own motion issue, subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing under this chapter.

(b) *Copy to parents, guardians and custodians.*—

(1) *A copy of the subpoena requiring attendance and testimony of a witness who is under 18 years of age shall be issued to the parent, guardian or other custodian of the witness in addition to the issuance of the subpoena for the witness.*

(2) *The court may waive issuance of the copy under paragraph (1) for cause shown in a specific case.*

§ 9795.1. Registration.

(a) Ten-year registration.—The following individuals shall be required to register with the Pennsylvania State Police for a period of ten years:

(1) Individuals convicted of any of the following offenses:

18 Pa.C.S. § 2901 (relating to kidnapping) where the victim is a minor.

18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle *or structure*).

18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).

18 Pa.C.S. § 3126 (relating to indecent assault) where the offense is graded as a misdemeanor of the first degree or higher.

18 Pa.C.S. § 4302 (relating to incest) where the victim is 12 years of age or older but under 18 years of age.

18 Pa.C.S. § 5902(b) (relating to prostitution and related offenses) where the actor promotes the prostitution of a minor.

18 Pa.C.S. § 5903(a)(3), (4), (5) or (6) (relating to obscene and other sexual materials and performances) where the victim is a minor.

18 Pa.C.S. § 6312 (relating to sexual abuse of children).

18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(2) Individuals convicted of an attempt, *conspiracy or solicitation* to commit any of the offenses under paragraph (1) or subsection (b)(2).

(3) Individuals currently residing in this Commonwealth who have been convicted of offenses similar to the crimes cited in paragraphs (1) and (2) under the laws of the United States or one of its territories or

possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation *or under a former law of this Commonwealth*.

(b) Lifetime registration.—The following individuals shall be subject to lifetime registration:

(1) An individual with two or more convictions of any of the offenses set forth in subsection (a).

(2) Individuals convicted of any of the following offenses:

18 Pa.C.S. § 3121 (relating to rape).

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

18 Pa.C.S. § 3124.1 (relating to sexual assault).

18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

18 Pa.C.S. § 4302 (relating to incest) when the victim is under 12 years of age.

(3) Sexually violent predators.

(4) Individuals currently residing in this Commonwealth who have been convicted of offenses similar to the crimes cited in paragraph (2) under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation *or under a former law of this Commonwealth*.

* * *

Section 8. (a) The provisions of 42 Pa.C.S. § 3135 shall not be applicable to the selection of judges for the judgeships created in the amendment of 42 Pa.C.S. § 911(a).

(b) (1) Except as otherwise provided under paragraph (2), the new judgeships added by the amendment of 42 Pa.C.S. § 911(a) shall be established on January 4, 2010, and shall be initially filled by election at the 2009 municipal election.

(2) The new judgeship for the ninth judicial district of this Commonwealth added by the amendment of 42 Pa.C.S. § 911(a) shall be established on January 2, 2012, and shall be initially filled by election at the 2011 municipal election.

Section 9. References in other law to a bail commissioner shall be deemed to be a reference to an arraignment court magistrate.

Section 10. Nothing in this act shall be construed or deemed to provide arraignment court magistrates with retirement benefits or rights different from those available to bail commissioners immediately prior to the effective date of this act.

Section 11. This act shall take effect as follows:

(1) The following provisions of this act shall take effect immediately:

(i) The amendment of 42 Pa.C.S. § 911(a).

(ii) This section.

(iii) Section 8 of this act.

(2) The remainder of this act shall take effect in 60 days.

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LAWS OF PENNSYLVANIA

APPROVED—The 9th day of October, A.D. 2008.

EDWARD G. RENDELL