

No. 204

AN ACT

HB 1375

Implementing the provisions of Article V of the Constitution of Pennsylvania relating to district justices; establishing magisterial districts; setting salaries and expenses; providing for certain education requirements; fixing jurisdiction; creating an administrator for district justices and imposing powers and duties on such administrator; requiring certain liability insurance; and making repeals.

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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 “Magisterial District Reform Act.”

Section 102. Application.—Except for magisterial districts in cities of the first class and counties of the first class, this act shall apply to all magisterial districts in this Commonwealth.

Section 103. Definitions.—As used in this act:

“Board” means the administrative board known as the “Minor Judiciary Education Board” established by this act.

“Court” means the Supreme Court of Pennsylvania or the court of common pleas for each judicial district under the direction of the Supreme Court of Pennsylvania.

“Department” means the Department of Education.

“District justice” means a justice of the peace elected or appointed to a term of office on or after January 1, 1970.

“Political subdivision” means a city of the second class, a city of the second class A, city of the third class, borough, incorporated town and townships of the first or second class or any similar general purpose unit of government hereafter created by the General Assembly.

“Population” means the number of persons residing within a political subdivision or part thereof as determined by the then current Federal decennial or Federal special census.

“Population density” means the number of persons residing within a political subdivision or part thereof as determined by dividing said number by the land area expressed in square miles as determined in the official publication by the Bureau of Statistics of the Department of Commerce.

ARTICLE II
Magisterial Districts and Compensation

Section 201. Classification of Magisterial Districts.—(a) Second class counties.—The classes of magisterial districts in judicial districts coextensive with counties of the second class shall be determined as follows:

(1) Magisterial districts of the first class shall have a population density of more than 5,000 persons per square mile and a population of not less than 65,000 persons.

(2) Magisterial districts of the second class shall have a population density of more than 500 persons per square mile and a population of between 22,500 and 65,000 persons.

(3) Magisterial districts of the third class shall have a population density of more than 200 persons per square mile and a population of between 12,000 and 22,500 persons.

(4) Magisterial districts of the fourth class shall have a population density of more than 70 persons per square mile and a population of between 7,500 and 12,000 persons.

(5) Magisterial districts of the fifth class shall have a population density of less than 70 persons per square mile and a population of between 4,000 and 7,500 persons.

(b) Other counties.—The classes of magisterial districts in judicial districts not coextensive with counties of the first class or counties of the second class shall be determined as follows:

(1) Magisterial districts of the first class shall have a population density of more than 1,000 persons per square mile and a population of not less than 15,000 persons.

(2) Magisterial districts of the second class shall have a population density of more than 400 persons per square mile and a population of not less than 4,000 persons.

(3) Magisterial districts of the third class shall have a population density of less than 400 persons per square mile and a population of not less than 4,000 persons.

(4) Magisterial districts of the fourth class shall have a population density of less than 400 persons per square mile and a population of between 2,000 and 4,000 persons. The number of magisterial districts of the fourth class within a judicial district shall not be increased.

Section 202. Reestablishment of Magisterial Districts.—(a) General rule.—In each year following that in which the Federal decennial census is officially reported as required by Federal law the court shall reestablish the number, boundaries and classes of magisterial districts within each judicial district except:

(1) The first judicial district.

(2) Any judicial district where a community court has been established and not discontinued.

The number, boundaries and class of magisterial districts within each judicial district shall be revised from time to time as required for the efficient administration of justice within each magisterial district.

(b) Discontinuance of community court.—The court upon the discontinuance of a community court shall establish the number, boundaries and classes of magisterial districts within the judicial district embracing such discontinued community court. Such action shall be

completed prior to the first Monday of January of the odd-numbered year next following the primary election at which the discontinuance of the community court is approved.

(c) Standards for establishment of magisterial districts.—In the case of a political subdivision containing within its boundaries two or more magisterial districts, the court shall divide the political subdivision into magisterial districts as nearly equal as possible in population and area, and the court may presume that the population density of each part of a political subdivision is the same population density as for the whole political subdivision. The court in establishing the number and boundaries of magisterial districts shall not subdivide political subdivisions unless either:

(1) the political subdivision contains two or more noncontiguous parts; or

(2) the political subdivision contains within its boundaries two or more magisterial districts, in which case wards or other election districts of the political subdivision shall not be subdivided.

Section 203. Number of Justices.—There shall be one district justice for each magisterial district established.

Section 204. Priority of Judicial Business.—A district justice shall devote the time necessary for the prompt and proper disposition of the business of his office, which shall be given priority over any other occupation, business, profession, pursuit or activity. He shall not use or permit the use of the premises established for the disposition of his magisterial business for any other occupation, business, profession or gainful pursuit. No district justice shall hold any other elected or appointed public office in the Commonwealth. All district justices shall be subject to the Canons of Ethics applied to judges of the courts of common pleas of this Commonwealth in so far as such canons apply to salaries, full-time duties and conflicts of interest.

Section 205. Retired District Justices.—Retired district justices, who retire subsequent to January 1, 1976, may be eligible for recall to duty by the district justice administrator at the same per diem salary as paid to a district justice serving outside of the elected magisterial district. A qualified retired district justice, who wishes to be recalled for duty, shall register with the district justice administrator and agree to abide by any rules and regulations set forth by the administrator. Retired district justices shall not include district justices defeated for reelection by the electorate, nor shall it include any district justice who was suspended or removed from office.

Section 206. Compensation.—(a) Computation.—A district justice shall receive an annual salary paid by the Commonwealth and computed by adding to \$9,000 the product of the population of his magisterial district times 60¢, but in no event shall the salary exceed \$19,500 or be less than \$10,500.

(b) Expenses while temporarily assigned.—Any district justice temporarily assigned to sit outside the political subdivision in which such

justice's magisterial district is located shall be paid by the county, in which magisterial district the justice is temporarily assigned to, the actual, accountable expenses, not to exceed \$44 per day, and mileage at 15c per mile for each day as such justice is so assigned.

Section 207. **Mandatory Liability Insurance.**—Every district justice shall be covered by an errors and omissions liability insurance policy in such amounts as are set forth by the Supreme Court. The cost of such liability insurance shall be borne by the individual district justices.

Section 208. **Offices.**—The district justice shall establish an office or offices within the magisterial district in locations approved by the president judge of the court of common pleas in compliance with standards and rules prescribed by the Supreme Court. Reasonable costs and expenses incident to the establishment, maintenance and operation of offices of district justices as approved by the president judge of the court of common pleas and the county commissioners in compliance with standards and rules prescribed by the Supreme Court shall be paid by the county in which the offices are located.

Section 209. **Disposition.**—(a) **Costs.**—Costs collected by a district justice shall be paid monthly to the Commonwealth in amounts as prescribed in subsection (b), and the balance shall be paid monthly to the county in which the magisterial district is located. Costs paid to the Commonwealth shall be credited to the General Fund. Costs paid to the county shall be retained by the county for its use.

(b) Commonwealth share.—Amounts payable to the Commonwealth:

(1) Summary convictions, except motor vehicle cases	\$ 5.00
(2) Summary convictions, motor vehicle cases other than (3) below	\$ 5.00
(3) Summary convictions, motor vehicle cases, hearing demanded	\$ 5.00
(4) Misdemeanor	\$ 7.00
(5) Felony	\$ 8.00
(6) Assumpsit or trespass involving:	
(i) \$100 or less	\$ 2.50
(ii) More than \$100 but not more than \$300	\$ 5.00
(iii) More than \$300 but not more than \$500	\$ 7.50
(iv) More than \$500	\$10.00
(7) Landlord-tenant proceeding	\$10.00
(8) Order of execution	\$10.00
(9) Issuing a search warrant	\$ 7.00

ARTICLE III
Powers and Duties

Section 301. **Powers of District Justices.**—Every district justice shall have power to issue every lawful process to or to be served or enforced by system and related personnel and to make such lawful orders as his official business may require.

Section 302. Seal.—Each magisterial district shall have a seal, which shall be in the custody of the district justice elected or appointed for such district. The official acts of the district justice shall be authenticated therewith. There shall be engraved on the seal such inscription as may be specified by general rule.

Section 303. Jurisdiction.—Except as otherwise provided, district justices shall, under procedures prescribed by general rule, have jurisdiction of the following matters:

(1) All civil claims wherein the sum demanded does not exceed \$2,000, exclusive of interest and costs, in the following classes of cases:

(i) actions in assumpsit, except cases where the title to real estate may be in question;

(ii) actions in trespass, including all forms of trespass and trespass on the case; and

(iii) actions for fines and penalties by any government agency.

A plaintiff may waive a portion of the claim of more than \$2,000 so as to bring the matter within the jurisdiction of a district justice. Such waiver shall remain effective except upon appeal by either party or when the judgment is set aside upon certiorari.

(2) All summary offenses, except those within the jurisdiction of an established and open traffic court.

(3) All violations under the provisions of section 1037 of the act of April 29, 1959 (P.L.58, No.32), known as "The Vehicle Code," provided the following criteria are met:

(i) the violation is a first offense;

(ii) no personal injury resulted from the violation;

(iii) no property damage resulted from the violation; and

(iv) the defendant pleads guilty.

The arresting authority shall transmit a copy of the charge of any violation of section 1037 of "The Vehicle Code" to the county clerk of courts within five days after the preliminary arraignment. Within ten days after the disposition, the district justice shall certify the disposition to the county clerk of courts.

(4) All violations under the provisions of Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses) which are classified as misdemeanors of the third degree, except violations under sections 4303, 4321, 4323 and 5103 of Title 18, provided the following criteria are met:

(i) the misdemeanor is not the result of a reduced charge;

(ii) the defendant pleads guilty; and

(iii) any personal injury and/or property damage is less than \$100.

(5) Matters arising under the act of April 6, 1951 (P.L.69, No.20), known as "The Landlord and Tenant Act of 1951," which are stated therein to be within the jurisdiction of a justice of the peace.

(6) 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.

(7) All matters jurisdiction of which is vested in district justices by any statute.

Section 304. Venue and Process.—(a) Venue.—The venue of a district justice concerning matters over which jurisdiction is conferred by section 303 shall be as prescribed by general rule.

(b) Process.—The process of the district justice shall extend beyond the limits of the magisterial district to the extent prescribed by general rule.

Section 305. Lien of Judgment.—No judgment of a district justice shall in any manner operate as a lien on real property until a transcript of the record showing a final judgment of a district justice has been filed in the manner prescribed by general rules in the office of the clerk of the court of common pleas of the county where the property is situated, or in the office of the clerk of the branch of the court of common pleas embracing such county. After such entry the judgment shall, from the date of such entry, be a lien upon property to the same extent that judgment recovered in the court of common pleas is a lien. No such transcript shall be filed until after 30 days after the entry of final judgment by the district justice. No execution against real estate shall be issued by a district justice.

Section 306. Restitution.—(a) Restitution authorized.—In addition to the punishment prescribed by law for an offense within the jurisdiction of a district justice to convict and sentence a defendant, upon conviction of the defendant of the offense the district justice may order the defendant to compensate the victim of the criminal conduct for the damage or injury that he sustained.

(b) Authority of district justice.—In determining whether to order restitution the district justice:

(1) Shall consider:

(i) The financial means of the defendant.

(ii) The extent of injury suffered by the victim.

(iii) Such other matters of record as he deems appropriate.

(2) May order restitution in a lump sum, by monthly installments, or according to such other schedule as he deems just.

(3) May at any time alter or amend any order of restitution made pursuant to this section.

(c) Payment and records.—Restitution shall be made by the defendant to the district justice. The district justice shall forward to the victim the property or payments made pursuant to the restitution order. The district justice shall maintain records of the restitution order and its satisfaction.

(d) Enforcement of order.—Whenever the defendant shall fail to make restitution within 20 days to a district justice as ordered, the district justice shall declare the defendant in contempt of court and forward the case to the court of common pleas. Upon receipt of the contempt decision from a district justice, the court shall order a hearing to determine if the defendant is in contempt of court.

(e) Civil remedies preserved.—No order of restitution shall debar the owner of the property or the victim who sustained personal injury, by

appropriate action, to recover from the defendant as otherwise provided by law, provided that any civil award shall take into account the money paid under the order of restitution.

ARTICLE IV
Costs

Section 401. Criminal Cases.—The costs to be charged by the minor judiciary in every criminal case, except as hereinafter provided, shall be as follows:

- (1) Summary conviction, except motor vehicle cases. \$16.00
- (2) Summary convictions, motor vehicle cases, other than (3) below \$10.00
- (3) Summary convictions, motor vehicle cases, hearing demanded \$15.00
- (4) Misdemeanor \$20.00
- (5) Felony \$25.00

Such costs shall include all charges including the costs of postage and registered mail and the costs of giving a transcript to the prosecutor or defendant, or both, if requested.

Section 402. Payment of Summary Conviction Costs by County.—(a) Division of costs.—In every case of summary conviction in which the evidence is not sufficient to convict and the defendant is dismissed, the costs thereof shall be borne by the county if the prosecutor is a police officer engaged as such in the employ of this Commonwealth or of any of its political subdivisions. In all other cases, the costs shall be paid by the prosecutor or by the defendant if so permitted by law.

(b) County to pay where default.—In every case of summary conviction in which the defendant is convicted and sentenced to jail in default of the payment of the fine and costs imposed, the costs of prosecution shall be paid by the county.

(c) County of the second class.—In any case before a salaried magistrate where costs are payable by a county of the second class, the costs chargeable to the county shall be one-half of the costs set forth in section 401.

Section 403. Civil Cases.—The costs to be charged by the minor judiciary in every civil case, except as hereinafter provided, shall be as follows:

- (1) Assumpsit or trespass involving \$100 or less \$10.00
- (2) Assumpsit or trespass involving more than \$100 but not more than \$300 \$15.00
- (3) Assumpsit or trespass involving more than \$300 but not more than \$500 \$20.00
- (4) Assumpsit or trespass involving more than \$500. \$25.00
- (5) Landlord and tenant proceeding \$25.00
- (6) Order of execution \$15.00

Such costs shall include all charges including, when called for, the costs relating to depositions and interrogatories and the costs of postage and registered mail, except the costs of a transcript of every proceeding on appeal or certiorari (including affidavit, bail and certificate), which shall be \$2.50 per transcript.

Section 404. Unclassified Costs or Charges.—The costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

(1) Order for relief or removal of pauper	\$3.00
(2) Order to seize goods for maintenance of wife or children	\$3.00
(3) Entering transcript of judgment from another member of the minor judiciary	\$3.00
(4) Certificate to obtain land warrant	\$3.00
(5) Marrying each couple, making record thereof, and certificate to the parties	\$5.00
(6) Swearing and affirming county, township, or other public officer, each officer	\$3.00
(7) Probating accounts	\$3.00
(8) Issuing a search warrant	\$10.00

Section 405. Federal Cases.—The costs to be charged by the minor judiciary for services under the laws of the United States shall be as follows:

(1) For certificate of protection	\$2.00
(2) For certificate of lost protection	\$2.00
(3) Warrant	\$2.00
(4) Commitment	\$2.00
(5) Summons for seamen in admiralty case	\$2.00
hearing thereon	\$2.00
(6) For certificate to clerk of the district court to issue admiralty process	\$2.00
(7) For affidavit of claims and copies thereof	\$2.00
(8) Affidavit of defense	\$2.00

ARTICLE V

Education

Section 501. Minor Judiciary Education Board; Department of Education.—There shall be appointed by the Governor with the consent of two-thirds of the members elected to the Senate an administrative board composed of seven members to be known as the “Minor Judiciary Education Board.” Three of the members of the board shall be members of the bar of the Pennsylvania Supreme Court, three of the members shall be district justices or judges of the Traffic Court of the City of Philadelphia, and one member shall be a lay citizen. Three members shall be appointed for terms of five years, three members shall be appointed for terms of four years, and one member shall be appointed for a term of three years, and until their successors have been appointed and qualified. Thereafter each

appointment shall be for a term of five years and until a successor has been appointed and qualified. Four members of the board shall constitute a quorum; and, no action of the board shall be valid unless it shall have the concurrence of at least four members. Each member shall be paid \$50 for each day or part thereof upon which he attends a board meeting, or performs any duty assigned to him by the chairman; and, he shall be reimbursed for reasonable traveling or other expenses incurred incident to such attendance and to such assigned duty. The board shall organize by electing a chairman. The board shall prescribe and approve the subject matter and the examination for the course of instruction and training required by the Constitution of the Commonwealth of Pennsylvania and this act. The department shall serve as the administrative officers of the board and in such capacity shall, subject to the direction of the board, administer the course of instruction and training and conduct the examination.

Section 502. Course of Instruction.—District justices shall complete a course of training and instruction in the duties of their offices as required by the Constitution of the Commonwealth of Pennsylvania and successfully pass an examination prior to filing a nominating petition for a candidacy in a primary election for the office of district justice, which 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, procedure, summary proceeding, and laws relating to motor vehicles. The department shall make the course of instruction available at such times as determined by it and the board, so as to insure that any district justice, to be elected or appointed may qualify to assume office as soon as possible. By regulation the board shall direct the department to conduct the course at such time, at such places and in such manner as it shall prescribe. In addition to those required by the Constitution of the Commonwealth of Pennsylvania and this act to complete the course of training and instruction and successfully pass an examination prior to filing a nominating petition for a candidacy in a primary election for the office of district justice, any interested person may apply to the department to be enrolled in the course of instruction and take the examination, subject to such rules and regulations as the department with the approval of the board may determine. Any such interested person who successfully completes the course and passes the examination shall secure an appropriate certificate from the department and file same as set forth in section 505.

Section 503. Costs.—The course of training and instruction required by the Constitution of the Commonwealth of Pennsylvania and this act shall be provided at the expense of the Commonwealth. Until such person has successfully completed the course of training and instruction and passed the examination, he shall not file any nominating petition for the office of district justice anywhere in the Commonwealth.

Section 504. Rules and Regulations.—The department shall, with the approval of the board, have the power to promulgate such rules and regulations as are necessary to carry out its duties under this act.

Section 505. Completion of Course.—Upon the successful completion of the course of training and instruction and examination, the department shall issue 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 the Commonwealth of Pennsylvania. Such certificate shall be filed in the office of the prothonotary of the county in which the district justice resides. In the event that an appointed district justice as required by the Constitution of the Commonwealth of Pennsylvania and this act to successfully complete such course, has failed to obtain and file such certificate in the proper prothonotary's office within nine months after his appointment, said office of district justice or judge shall be vacant, such vacancy to be filled as otherwise provided by law, and in the case of justice of the peace, said office shall be abolished.

Section 506. Continuing Education Requirement.—Every district justice 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.

ARTICLE VI

District Justice Administrator

Section 601. Office of District Justice Administrator.—There is hereby established within the Administrative Office of Pennsylvania Courts a branch office to be known as the Office of District Justice Administrator to be supervised by such person as the Supreme Court shall appoint to act as administrator.

Section 602. Powers and Duties.—The district justice administrator shall have the following powers and duties:

- (1) to be responsible for the prompt and proper disposition of the business of all district justices;
- (2) to perform all functions now carried out by the court administrator;
- (3) to require and receive reports from the various judicial districts relating to the utilization of the district justices in the judicial districts;
- (4) to transfer the various district justices to other judicial districts on a temporary basis in an effort to remove any backlog of cases. Any transfers made under this paragraph shall be subject to the approval of the president judge of the judicial district from which the district justice is being temporarily transferred;
- (5) to prescribe forms to be used by district justices;
- (6) to make such rules and regulations as are necessary to the efficient functioning of the Office of District Justice Administrator; and
- (7) to employ such individuals as approved by the Supreme Court to implement the provisions of this act.

ARTICLE VII
Miscellaneous Provisions

Section 701. Repealers.—(a) Specific repealers.—

(1) The act of January 7, 1952 (P.L.1841, No.492), known as the “Minor Judiciary Fee Bill.”

(2) The act of December 2, 1968 (P.L.1131, No.352), known as the “Magisterial Districts Act,” in so far as it relates to district justices and magisterial districts outside of cities and counties of the first class.

(3) The act of February 24, 1970 (P.L.53, No.22), known as the “Minor Judiciary Education Act,” in so far as it relates to district justices.

(b) General repealer.—Any act or part of an act inconsistent with the provisions of this act is repealed to the extent of the inconsistency.

Section 702. Effective Date.—This act shall take effect July 1, 1976.

APPROVED—The 15th day of July, A. D. 1976.

MILTON J. SHAPP