

No. 1982-326

A SUPPLEMENT

HB 1804

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.

TABLE OF CONTENTS

ARTICLE I. PRELIMINARY PROVISIONS

Section 101. Short title.

ARTICLE II. AMENDMENTS TO THE
PENNSYLVANIA CONSOLIDATED STATUTES

- Section 201. Amendments to Title 42.
- Section 202. Conforming amendments to Title 30.
- Section 203. Conforming amendment to Title 66.

ARTICLE III. REPEALS OF INCONSISTENT
LEGISLATION

- Section 301. Act No. 176 of 1929.
- Section 302. Act No. 155 of 1933 as affected by Act No. 283 of 1955.
- Section 303. Act No. 1 of 1936 (2nd Sp.Sess.) as affected by Act No. 108 of 1980.
- Section 304. (Reserved).
- Section 305. Act No. 294 of 1939.
- Section 306. Act No. 404 of 1939.
- Section 307. Act No. 254 of 1943.
- Section 308. (Reserved).
- Section 309. Act No. 21 of 1951 as affected by Act No. 221 of 1980.
- Section 310. Act No. 130 of 1955 as affected by Act No. 323 of 1968.
- Section 311. (Reserved).
- Section 312. Act No. 21 of 1967 as affected by Act No. 105 of 1980.
- Section 313. Act No. 8 of 1968 as affected by Act No. 101 of 1980.
- Section 314. (Reserved).
- Section 315. Act No. 364 of 1972 as affected by Act No. 234 of 1980.
- Section 316. Act No. 142 of 1976.
- Section 317. Act No. 53 of 1978.

- Section 318. Act No. 48 of 1979 as affected by Act No. 136 of 1980.
 Section 319. Act No. 97 of 1980.
 Section 320. Act No. 104 of 1980.
 Section 321. Act No. 164 of 1980.
 Section 322. Act No. 222 of 1980.
 Section 323. Title 66.

ARTICLE IV. MISCELLANEOUS PROVISIONS

- Section 401. Applicability of Statutory Construction Act.
 Section 402. Effect of Article III.
 Section 403. Applicability of amendments.
 Section 404. Effective date.

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 1982.”

ARTICLE II AMENDMENTS TO THE PENNSYLVANIA CONSOLIDATED STATUTES

Section 201. Amendments to Title 42.—The definition of “process” in section 102 and sections 723(a), 761(a), 762(a), 933(a)(1)(ix), 953, 1123(a), 1515, 1725.1(e), 4131, 4132, 4133, 4134, 4135, 4136, 4303(a), 4503, 4521, 4527, 4532, 4561, 4563, 4563.1, 4565, 5103, 5105(f), 5304, 5501(a), 5522(a)(2) and (b), 5523, 5524, 5525(5), (6), (7) and (8), 5526(4), 5527, 5529(b), 5552(b)(1) and (4), 5946, 5974, 6106, 6143(a), 6701, 6702, 6704, 6705, 6706, 6707, 6708, 6709, 6712, 7102(d) and 7342, Chapters 77 and 79, sections 8123(a) and (c), 8124(c)(9) and (10), 8127, 8128 and 8301(a), (c) and (d), Chapters 93 and 95 and sections 9755(g) and 9756(d) of Title 42, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, are amended, added or repealed 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:

* * *

“Process.” A document evidencing a command of a court *or of a district justice*.

* * *

§ 723. Appeals from Commonwealth Court.

(a) General rule.—The Supreme Court shall have exclusive jurisdiction of appeals from final orders of the Commonwealth Court entered in any matter which was originally commenced in **[said court and] the Commonwealth Court except an order entered in a matter which [does not constitute] constitutes** an appeal to the Commonwealth Court from another court, a district justice or another government unit.

* * *

§ 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;

(iii) actions **[on claims in which immunity has been waived] or proceedings conducted** pursuant to Chapter 85 (relating to matters affecting government units) **[or];**

(iv) **actions or proceedings conducted pursuant to** the act of May 20, 1937 (P.L.728, No.193), referred to as the Board of Claims Act; and

[(iv)] (v) actions or proceedings in the nature of trespass as to which the Commonwealth government formerly enjoyed sovereign or other immunity **and actions or proceedings in the nature of assumpsit relating to such actions or proceedings in the nature of trespass.**

(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."

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

* * *

§ 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 the following cases:

(1) Commonwealth civil cases.—All civil actions or proceedings:

[original] (i) Original jurisdiction of which is vested in another tribunal by virtue of any of the exceptions to section 761(a)(1) (relating to original jurisdiction), 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.

(ii) By the Commonwealth government, including any officer thereof acting in his official capacity.

(2) Governmental and Commonwealth regulatory criminal cases.—All criminal actions or proceedings for the violation of any:

(i) Rule, regulation or order of any Commonwealth agency.

(ii) Regulatory statute administered by any Commonwealth agency subject to Subchapter A of Chapter 5 of Title 2 (relating to practice and procedure of Commonwealth agencies). The term “regulatory statute” as used in this subparagraph does not include any provision of Title 18 (relating to crimes and offenses).

(3) Secondary review of certain appeals from Commonwealth agencies.—All appeals from Commonwealth agencies which may be taken initially to the courts of common pleas under section 933 (relating to appeals from government agencies).

(4) Local government civil and criminal matters.—

(i) All actions or proceedings arising under any municipality, institution district, public school, planning or zoning code or under which a municipality or other political subdivision or municipality authority may be formed or incorporated or where is drawn in question the application, interpretation or enforcement of any:

(A) statute regulating the affairs of political subdivisions, municipality and other local authorities or other public corporations or of the officers, employees or agents thereof, acting in their official capacity;

(B) home rule charter or local ordinance or resolution; or

(C) statute relating to elections, campaign financing or other election procedures.

(ii) All appeals from government agencies other than Commonwealth agencies decided under section 933 or otherwise.

(5) Certain private corporation matters.—

(i) All actions or proceedings relating to corporations not-for-profit arising under Title 15 (relating to corporations and unincorporated associations) or where is drawn in question the application, interpretation or enforcement of any provision of the Constitution, treaties or laws of the United States, or the Constitution of Pennsylvania or any statute, regulating in any such case the corporate affairs of any corporation not-for-profit subject to Title 15 or the affairs of the members, security holders, directors, officers, employees or agents thereof, as such.

(ii) All actions or proceedings otherwise involving the corporate affairs of any corporation not-for-profit subject to Title 15 or the affairs of the members, security holders, directors, officers, or employees or agents thereof, as such.

(6) Eminent domain.—All eminent domain proceedings or where is drawn in question the power or right of the acquiring agency to appropriate the condemned property or to use it for the purpose condemned or otherwise.

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

* * *

§ 933. Appeals from government agencies.

(a) General rule.—Except as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), each court of common pleas shall have jurisdiction of appeals from final orders of government agencies in the following cases:

(1) Appeals from Commonwealth agencies in the following cases:

* * *

(ix) Determinations of the Department of Labor and Industry or the Department of Commerce reviewable under the act of December 15, 1980 (P.L.1203, No.222), known as the "Building Energy Conservation Act." Except as otherwise prescribed by general rules, venue shall be in the county where the building is located.

* * *

§ 953. Administrative judges of divisions.

Each division of a court of common pleas shall [be presided over by] *have* an administrative judge[. Each such administrative judge] who shall assist the president judge of the court in supervising and administering the business of the court and shall be responsible to him.

§ 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:

(1) Summary offenses, except those within the jurisdiction of the Traffic Court of Philadelphia.

(2) Criminal offenses by any person (other than a juvenile) for which no prison term may be imposed or which are punishable by imprisonment for a term of not more than five years, including indictable offenses under Title 75 (relating to vehicles). In cases under this paragraph the defendant shall have no right of trial by jury in the municipal court, but shall have the right of appeal for trial de novo, including the right of trial by jury, to the court of common pleas. The judges of the municipal court exercising jurisdiction under this paragraph shall have the same jurisdiction in probation and parole arising out of sentences imposed by them as judges of the court of common pleas.

(3) Matters arising under the act of April 6, 1951 (P.L.69, No.20), known as "The Landlord and Tenant Act of 1951."

(4) Civil actions, *except actions by or against a Commonwealth party as defined by section 8501 (relating to definitions)*, wherein the sum demanded does not exceed \$1,000, exclusive of interest and costs, in the following classes of actions:

(i) In assumpsit.

(ii) In trespass, including all forms of trespass and trespass on the case.

(iii) For fines and penalties by any government agency.

A plaintiff may waive a portion of his claim of more than \$1,000 so as to bring the matter within the *monetary* jurisdiction of the municipal court. Such waiver shall be revoked automatically if the defendant appeals the final order of the municipal court. In cases under this paragraph the defendant shall have no right of trial by jury in the municipal court, but shall have the right to appeal for trial de novo, including the right of trial by jury, to the court of common pleas, it being the purpose of this paragraph to establish an expeditious small claims procedure whereby it shall not be necessary for the litigants to obtain counsel. Judgments by confession shall not be entered in the municipal court.

(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.

* * *

§ 1515. Jurisdiction and venue.

(a) Jurisdiction.—Except as otherwise prescribed by general rule adopted pursuant to section 503 (relating to reassignment of matters), district justices shall, under procedures prescribed by general rule, have jurisdiction of all of the following matters:

(1) Summary offenses, except those within the jurisdiction of an established and open traffic court.

(2) 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 district justice.

(3) Civil claims, *except claims by or against a Commonwealth party as defined by section 8501 (relating to definitions)*, wherein the sum demanded does not exceed \$2,000, exclusive of interest and costs, in the following classes of actions:

(i) In assumpsit, except cases of real contract where the title to real estate may be in question.

(ii) In trespass, including all forms of trespass and trespass on the case.

(iii) For fines and penalties by any government agency.

A plaintiff may waive a portion of his claim of more than \$2,000 so as to bring the matter within the *monetary* jurisdiction of a district justice. Such waiver shall **[remain effective except upon appeal by either party] be revoked automatically if the defendant appeals the final order of the district justice** or when the judgment is set aside upon certiorari.

(4) 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.

(5) Offenses under 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance), if the following criteria are met:

(i) The offense is the first offense by the defendant under such provision in this Commonwealth.

(ii) No personal injury (other than to the defendant or the immediate family of the defendant) resulted from the offense.

(iii) The defendant pleads guilty.

(iv) No property damage in excess of \$500 other than to the defendant's property resulted from the violation.

(v) The defendant is not subject to the provisions of Chapter 63 (relating to juvenile matters).

(vi) The arresting authority shall cause to be transmitted a copy of the charge of any violation of 75 Pa.C.S. § 3731 to the **[county] office of the clerk of [courts] the court of common pleas** within five days after the preliminary arraignment.

In determining that the above criteria are met the district justice shall rely on the certification of the arresting authority. Certification that the criteria are met need not be in writing. Within ten days after the disposition, the district justice shall certify the disposition to the **[county] office of the clerk of [courts] the court of common pleas** in writing.

(6) (i) Offenses under Title 18 (crimes and offenses) and Title 30 (fish) which are classified as misdemeanors of the third degree, if the following criteria are met:

(A) The misdemeanor is not the result of a reduced charge.

(B) Any personal injury or property damage is less than \$500.

(C) The defendant pleads guilty.

(D) The defendant is not subject to the provisions of Chapter 63.

(ii) Subparagraph (i) shall not apply to any offense under the following provisions of Title 18:

Section 4303 (relating to concealing death of **[bastard] child born out of wedlock**).

Section 4321 (relating to willful separation or nonsupport).

Section 5103 (relating to unlawfully listening into deliberations of jury).

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

(b) Venue and process.—The venue of a district justice concerning matters over which jurisdiction is conferred by subsection (a) shall be as prescribed by general rule. The process of the district justice shall extend beyond the territorial limits of the magisterial district to the extent prescribed by general rule.

§ 1725.1. Costs.

* * *

(e) Fish and boating offenses.—

(1) Except as provided in paragraph (2), any person convicted of a summary offense under Title 30 (relating to fish) shall, in addition to the fine imposed, be sentenced to pay \$10 as costs of the issuing authority which costs shall include all charges including, when called for, the costs of postage and registered or certified mail and the costs of giving a transcript to the prosecutor or defendant, or both, if requested.

(2) Where the person charged with a summary offense under Title 30 demands a hearing, the costs of the issuing authority shall be \$15, which costs shall include all charges including the charges specified in paragraph (1).

§ 4131. *Definitions (Reserved).*

[§ 4131. Classification of penal contempts.]

§ 4132. *Attachment and summary punishment for contempts.*

The power of the several courts of this Commonwealth to issue attachments and to **[inflict] impose** summary punishments for contempts of court shall be restricted to the following cases:

(1) The official misconduct of the officers of such courts respectively.

(2) Disobedience or neglect by officers, parties, jurors or witnesses of or to the lawful process of the court.

(3) The misbehavior of any person in the presence of the court, thereby obstructing the administration of justice.

[§ 4132. Punishment] § 4133. *Commitment or fine for contempt.*

Except as otherwise provided by statute, the punishment of **[imprisonment] commitment** for contempt **[as]** provided in section **[4131] 4132** (relating to **[classification of penal] attachment and summary punishment for contempts**) shall extend only to **[such]** contempts **[as shall be]** committed in open **[court, and all] court**. All other contempts shall be punished by fine only.

[§ 4133. Imprisonment] § 4134. *Commitment for failure to pay fine.*

The court may order the sheriff or other proper officer of any county to take into custody and commit to jail any person fined for a contempt[,] until such fine shall be paid or discharged. If **[such person shall be]** unable to pay such fine, **[he] such person** may be committed to **[prison] jail** by the court for not exceeding three months.

[§ 4134.] § 4135. Publication out of court.

(a) General rule.—**[No publication] Publication** out of court respecting the conduct of judges, district justices, other system or related personnel, jurors or participants in connection with any matter pending before any tribunal shall *not* be construed as a contempt of court on the part of the author, publisher or other person connected with such publication.

(b) Civil and criminal liability not affected.—If any publication specified in subsection (a) shall improperly tend to bias the minds of the public, or of the tribunal, other system or related personnel, jurors or participants in connection with any matter pending before any tribunal, any person **[who may be]** aggrieved thereby may proceed against the persons responsible for the publication by appropriate civil **[or criminal]** action or *criminal* proceeding **[as in other cases of wrongful publication]**.
[§ 4135. Criminal contempt.] § 4136. Rights of persons charged with certain indirect criminal contempts.

(a) General rule.—**[In all cases where a]** A person **[shall be]** charged with indirect criminal contempt for violation of a restraining order or injunction issued by a court **[or judge, the accused]** shall enjoy:

(1) The rights **[as to admission]** to bail that are accorded to persons accused of crime.

(2) The right to be notified of the accusation and a reasonable time to make a defense, if the alleged contempt is not committed in the immediate view or presence of the court.

(3) (i) Upon demand, the right to a speedy and public trial by an impartial jury of the judicial district wherein the contempt **[shall] is alleged to** have been committed.

(ii) The requirement of subparagraph (i) shall not be construed to apply to contempts:

(A) committed in the presence of the court or so near thereto as to interfere directly with the administration of justice, or to apply to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court; or

(B) subject to 75 Pa.C.S. § 4108(c) (relating to nonjury criminal contempt proceedings).

(4) The right to file with the court a demand for the withdrawal of the judge sitting in the proceeding, if the *alleged* contempt arises from an attack upon the character or conduct of such judge, and if the attack occurred otherwise than in open court. Upon the filing of any such demand, the judge shall thereupon proceed no further but another judge shall be designated by the court. The demand shall be filed prior to the hearing in the contempt proceeding.

(b) Punishment.—Except as otherwise provided in this title or by statute hereafter enacted, punishment for a contempt specified in subsection (a) may be by fine not exceeding \$100 or by imprisonment not exceeding 15 days in the jail of the county where the court is sitting, or both, in the discretion of the court. Where a person is committed to jail for the nonpayment of such a fine, he shall be discharged at the expiration of 15 days, but where he is also committed for a definite time, the 15 days shall be computed from the expiration of the definite time.

§ 4303. Effect of judgments and orders as liens.

(a) Real property.—Any judgment or other order of a court of common pleas for the payment of money shall be a lien upon real prop-

erty on the conditions, to the extent and with the priority provided 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.

* * *

§ 4503. Exemptions from jury duty.

(a) General rule.—No person shall be exempt or excused from jury duty except the following:

(1) Persons in active service of the armed forces of the United States or of the Commonwealth of Pennsylvania.

(2) Persons who have served within three years next preceding on any jury except a person who served as a juror for fewer than three days in any one year in which case the exemption period shall be one year.

(3) Persons demonstrating to the court undue hardship or extreme inconvenience may be excused permanently or for such period as the court determines *is* necessary, and if excused for a limited period *shall*, at the end of the period **[the juror shall]**, be assigned to the next jury array.

(b) Challenges.—This **[section] subchapter** shall not affect the existing practice with respect to peremptory challenges and challenges for cause.

§ 4521. Selection of prospective jurors.

(a) Preparation of master list *of prospective jurors*.—**[In order to accomplish the objectives of section 4501 (relating to declaration of policy), the jury selection commission shall at]** *At least annually the jury selection commission shall* prepare a master list of prospective jurors. The list shall contain all voter registration lists for the county, which lists may be incorporated by reference, or names from such other lists which in the opinion of the commission will provide a number of names of prospective jurors which is equal to or greater than the number of names contained in the voter registration list. The commission may, but will not be required to, supplement the **[list which supplemental list may include but need not be limited to those]** *master list of prospective jurors to include, without being limited to*, persons in any of the following categories:

(1) Persons listed in telephone, city, municipal directories and similar directories.

(2) Persons who pay taxes or are assessed for taxes imposed by any political subdivisions. **[Officials of political subdivisions having custody, possession or control of the tax assessment lists of names shall upon request of the commission make such records available to the commission. This paragraph shall not be construed to require or permit any official having custody, possession or control of such tax**

records to provide the commission with any information other than the name, mailing address and municipality of residence of such persons.]

(3) Persons in the county participating in any State, county or local program authorized by law and, to the extent such names are available, persons participating in any Federal program authorized by law. **[State and local officials having custody, possession or control of such records bearing the names and residences or mailing addresses of such persons shall make them available to the commission for inspection, reproduction and copying. This paragraph shall not be construed to require or permit an official having custody, possession or control of records of programs authorized by law:**

(i) **to provide the commission with information other than the name, mailing address and municipality of residence of such persons; or**

(ii) **to provide the commission or otherwise disclose records or information which the Department of Justice by regulation determines to be privileged from disclosure.]**

(4) Persons who are on school census lists.

(5) Any other person whose name does not appear in the master list of prospective jurors and who meets the qualifications for jurors set forth in this chapter and who makes application to the commission to be listed on the master list of prospective jurors.

(b) **Maintenance of and access to master list of prospective jurors.—**The group of names compiled as set forth in subsection (a) shall constitute the master list of prospective jurors. The list shall be open to the public for inspection.

(c) **Selection of names for jury service.—**At least once each year the commission shall select *at random* from the master list of prospective jurors the number of names designated by the president judge, **which names shall be selected at random] pursuant to court orders issued under section 4531 (relating to issuance of court orders for jurors).**

(d) **Juror qualification form.—**

(1) The commission may mail to each person whose name has been selected in the manner set forth in subsection (c) a juror qualification form devised by the commission in such manner that the commission may determine from the answers to the questions on the form whether or not the prospective juror is qualified. The questions asked in such juror qualification form shall be limited to matters reasonably calculated to permit a determination of the person's qualifications to serve as a juror.

(2) The juror qualification form shall be executed by the prospective juror and shall plainly and conspicuously state thereon that its execution is subject to the penalty for perjury. If the person is unable to fill out the form, another person may fill it out for him, indicate that he has done so, and the reason therefor. **The prospective juror shall mail or deliver the completed form to the commission.**

(3) If the form does not appear to be properly executed, the commission shall return the form to the prospective juror with instructions to make such additions or corrections as may be necessary and return it to the commission within the time specified.

(4) Any person who fails to return the juror qualification form as directed may be summoned by the commission to appear at the offices of the commission to fill out a juror qualification form or to resolve any ambiguity contained therein.

(e) Selection in certain counties.—In those counties which do not use the juror qualification form as provided for in subsection (d), the selection of persons for jury service shall be made in accordance with section 4524 (relating to selection of jurors for service) and provision shall be made for the collection of information with the summons in order to comply with sections 4502 (relating to qualifications of jurors) and 4503 (relating to exemptions from jury duty).

(f) Compelling compliance with section.—On application by the commission, the court shall compel compliance with subsections (a)(2), (3) and (4) and (d). *Officials of political subdivisions and Commonwealth officials having custody, possession or control of lists of names described in this section shall, upon request of the commission, make such lists available to the commission for inspection, reproduction and copying but shall not be required or permitted to:*

(1) *provide the commission with information other than the name, mailing address and municipality of residence of such person; or*

(2) *provide the commission with or otherwise disclose records or information which the Attorney General by regulation determines to be privileged from disclosure.*

§ 4527. *Effect of verdict on jury selection errors.*

Except as otherwise prescribed by general rule, errors and omissions in the selection of jurors under this subchapter shall not constitute grounds to set aside any jury verdict in any civil or criminal matter or to arrest, reverse, open or strike any judgment entered on a jury verdict, and the trial by jury and its rendition of a verdict in any matter shall constitute a waiver of all such errors and omissions.

§ 4532. *Summoning persons to serve as jurors [for service].*

[Jurors] *Persons* who have been selected for service *as jurors* shall be summoned to serve in a manner determined by the jury selection commission with the concurrence of the president judge.

§ 4561. *Compensation of and travel allowance for jurors.*

(a) Compensation.—A **[juror]** *person* summoned to serve *as a juror* shall receive compensation at the rate of \$9 a day for the first three days in any calendar year he shall be required to report for service and \$25 a day for each day thereafter in such calendar year that such **[juror]** *person* is required to report. In addition, **[jurors]** *persons so summoned* shall be **[compensated for mileage]** *paid a travel allowance* at the rate of 17¢ per mile circular except that no **[mileage]** *travel allowance* shall be paid in the first judicial district.

(b) State reimbursement.—The Commonwealth shall reimburse each county 80% of the amount expended by the county for such compensation and **[mileage] travel allowance** beyond the first three days of service if the juror is participating in a trial or in grand jury proceedings. Application for reimbursement shall be made by the county to the State Treasurer through the Administrative Office **[on forms and]** pursuant to **[uniform]** procedures prescribed by said office. As used in this section, trial participation shall include voir dire examination only if such examination shall have commenced prior to the juror's fourth day of service.

§ 4563. Protection of employment of **[jurors] petit and 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 a juror or attends court for prospective jury service. *Nothing in this section shall be construed to require the employer to compensate the employee for employment time lost because of such jury service.*

(b) Penalty.—Any employer who violates subsection (a) commits a summary offense.

(c) Civil remedy available.—If an employer penalizes an employee in violation of subsection (a) the employee **[within six months after the violation occurs]** may bring a civil action for recovery of wages and **[other]** benefits lost as a result of the violation and for an order requiring **[his] 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 jury service.*

§ 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.]

§ 4565. [Competency of] *Challenging* certain petit jurors where political subdivision is a party.

A person shall not be challenged for cause and excluded from serving as a juror in any action or proceeding in which a political subdivision is a party or is interested because such person *is or* was an officer, rated citizen or inhabitant in such political subdivision or owns assessed or taxable property or is liable to the assessment or payment of taxes in such political subdivision. This section shall not apply to peremptory challenges of such persons.

§ 5103. Transfer of erroneously filed matters.

(a) **General rule.**—If an appeal or other matter is taken to or brought in a court or magisterial district *of this Commonwealth* which does not have jurisdiction of the appeal or other matter, the court or district justice shall not quash such appeal or dismiss the matter, but shall transfer the record thereof to the proper [court or magisterial district] *tribunal* of this Commonwealth, where the appeal or other matter shall be treated as if originally filed in the transferee [court or magisterial district] *tribunal* on the date *when the appeal or other matter was* first filed in a court or magisterial district *of this Commonwealth*. *A matter which is within the exclusive jurisdiction of a court or district justice of this Commonwealth but which is commenced in any other tribunal of this Commonwealth shall be transferred by the other tribunal to the proper court or magisterial district of this Commonwealth where it shall be treated as if originally filed in the transferee court or magisterial district of this Commonwealth on the date when first filed in the other tribunal.*

(b) **Federal cases.**—

(1) Subsection (a) shall also apply to any matter transferred or remanded by any United States court for a district embracing any part of this Commonwealth. *In order to preserve a claim under Chapter 55 (relating to limitation of time), a litigant who timely commences an action or proceeding in any United States court for a district embracing any part of this Commonwealth is not required to commence a protective action in a court or before a district justice of this Commonwealth. Where a matter is filed in any United States court for a district embracing any part of this Commonwealth and the matter is dismissed by the United States court for lack of jurisdiction, any litigant in the matter filed may transfer the matter to a court or magisterial district of this Commonwealth by complying with the transfer provisions set forth in paragraph (2).*

(2) Except as otherwise prescribed by general rules, or by order of the United States court, such transfer may be effected by filing a certified transcript of the final judgment of the United States court and the related pleadings in a court or magisterial district of this Commonwealth. The pleadings shall have the same effect as under the practice in the United States court, but the transferee court or district justice may require that they be amended to conform to the practice in this Commonwealth. Section 5535(a)(2)(i) (relating to termination of prior matter) shall not be applicable to a matter transferred under this subsection.

(c) Interdivisional transfers.—If an appeal or other matter is taken to, brought in, or transferred to a division of a court to which such matter is not allocated by law, the court shall not quash such appeal or dismiss the matter, but shall transfer the record thereof to the proper division of the court, where the appeal or other matter shall be treated as if originally filed in the transferee division on the date first filed in a court or magisterial district.

(d) *Definition.*—As used in this section “tribunal” means a court or district justice or other judicial officer of this Commonwealth vested with the power to enter an order in a matter, the Board of Claims, the Board of Property, the Office of Administrator for Arbitration Panels for Health Care and any other similar agency.

§ 5105. Right to appellate review.

* * *

(f) Effect of reversal or modification.—The reversal or modification of any order of a court *or any determination of any other government unit* in a matter in which the court *or government unit* has jurisdiction of the sale, mortgage, exchange or conveyance of real or personal property shall not *impair or* divest any estate or interest acquired thereunder by a person not a party to the appeal.

§ 5304. Documents.

The tribunals of this Commonwealth shall have jurisdiction over documents [**which are**] *situated* within this Commonwealth whether or not the persons owning or claiming interests therein are subject to the jurisdiction of the tribunals of this Commonwealth.

§ 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**] *a civil* action or proceeding, a different time is 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.

* * *

§ 5522. Six months limitation.

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

* * *

(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 *to person or property* shall be dismissed and the person to whom any such cause of action accrued for any **[personal]** injury *to person or property* shall be forever barred from proceeding further thereon within this Commonwealth or elsewhere. The court shall excuse **[noncompliance]** *failure to comply* with this requirement upon a showing of reasonable excuse for failure to file such statement.

* * *

(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)]** *4563(c)* (relating to civil **[liability]** *remedy available*).
 - (5) *An action or proceeding to set aside a judicial sale of property.*
- § 5523. One year limitation.

The following actions and proceedings must be commenced within one year:

- (1) An action for libel, slander or invasion of privacy.
 - (2) **[An action upon a statute for a civil penalty or forfeiture, where the action is given to a person other than a government unit.]**
 - (3) An action upon a bond given as security by a party in any matter, except a bond given by a condemnor in an eminent domain proceeding.
 - [(4)]** (3) An action upon any payment or performance bond.
- § 5524. Two year limitation.

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

- (1) An action for assault, battery, false imprisonment, false arrest, malicious prosecution or malicious abuse of process.
- (2) An action to recover damages for injuries to the person or for the death of an individual caused by the wrongful act or neglect or unlawful violence or negligence of another.
- (3) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof.
- (4) An action for waste or trespass of real property.
- (5) An action upon a statute for a civil penalty or forfeiture**[, where the action is given to a government unit].**

(6) An action against any officer of any government unit for the nonpayment of money or the nondelivery of property collected upon on execution or otherwise in his possession.

(7) *Any other action or proceeding to recover damages for injury to person or property which is founded on negligent, intentional, or otherwise tortious conduct or any other action or proceeding sounding in trespass, including deceit or fraud, except an action or proceeding subject to another limitation specified in this subchapter.*

§ 5525. Four year limitation.

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

* * *

(5) *An action upon a judgment or decree of any court of the United States or of any state.*

(6) *An action upon any official bond of a public official, officer or employee.*

(7) *An action upon a negotiable or nonnegotiable bond, note or other similar instrument in writing. Where such an instrument is payable upon demand, the time within which an action on it must be commenced shall be computed from the later of either demand or any payment of principal of or interest on the instrument.*

(8) *An action upon a contract, obligation or liability founded upon a writing not specified in paragraph (7), under seal or otherwise, except an action subject to another limitation specified in this subchapter.*

§ 5526. Five year limitation.

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

* * *

(4) *A proceeding in inverse condemnation, if property has been injured but no part thereof has been taken, or if the condemnor has made payment in accordance with section 407(a) or (b) (relating to possession and payment of compensation) of the act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the "Eminent Domain Code."*

§ 5527. Six year limitation.

[The following actions and proceedings must be commenced within six years:

(1) An action upon a judgment or decree of any court of the United States or of any state.

(2) An action upon a contract, obligation or liability founded upon a bond, note or other instrument in writing, except an action subject to another limitation specified in this subchapter. Where an instrument is payable upon demand, the time within which an action or proceeding on it must be commenced shall be computed from the later of either demand or any payment of principal of or interest on the instrument.

(3) An action upon any official bond.

(4) A proceeding in inverse condemnation, if property has been injured but no part thereof has been taken, or if the condemnor has made payment in accordance with section 407(a) or (b) (relating to possession and payment of compensation) of the act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the "Eminent Domain Code."

(5) An action to set aside a judicial sale of property.

(6) Any civil action or proceeding which is neither subject to another limitation specified in this subchapter nor excluded from the application of a period of limitation by section 5531 (relating to no limitation) *must be commenced within six years.*

§ 5529. Twenty year limitation.

* * *

(b) Instruments under seal.—

(1) Notwithstanding section [5527] 5525(7) (relating to [six] *four* year limitation), an action [or proceeding] upon an instrument in writing under seal must be commenced within 20 years.

(2) This subsection shall expire June 27, 1998.

§ 5552. Other offenses.

* * *

(b) Major offenses.—A prosecution for any of the following offenses [under Title 18 (relating to crimes and offenses)] must be commenced within five years after it is committed:

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

* * *

(4) *Under the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code."*

* * *

§ 5946. Competency of *certain* witnesses [and jurors] *where political subdivision is a party.*

[No] A person shall *not* be excluded from being a witness [or juror] in any action or proceeding in which a political subdivision is a party or is interested [by reason of] *because* such person [being or having been] *is or was* an officer, rated citizen or inhabitant in such political subdivision[,] or [owning] *owns* assessed or taxable property[,] or [being] *is* liable to the assessment or payment of [any tax therein] *taxes in such political subdivision.*

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

(a) Certification.—A judge of a state court of record in another state, which by its laws has made provision for commanding persons confined in penal institutions within that state to attend and testify in this Commonwealth, may certify:

(1) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court;

(2) that a person who is confined in a penal institution in this Commonwealth may be a material witness in the proceeding, investigation or action; and

(3) that his presence will be required during a specified time.

(b) Hearing.—Upon presentation of the certificate to any court having jurisdiction over the person confined and upon notice to the **[Department of Justice] Bureau of Correction**, the court in this Commonwealth shall fix a time and place for a hearing and shall make an order, directed to the person having custody of the prisoner, requiring that the prisoner be produced before it at the hearing.

§ 6106. Certified exemplifications of records.

Whenever provision is made by law for recording or filing in a public office any document, the record thereof made, and exemplifications of the document lawfully certified, shall be legal evidence in all matters in which the document would be competent **[testimony] evidence**.

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

(a) General rule.—In any *action or* 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 *person to whom the registration number was officially assigned is the owner* of the conveyance *and* was then operating the conveyance.

* * *

§ 6701. Scope of subchapter.

[The] Actions or proceedings provided by this subchapter are in addition to and not in substitution of *actions or* proceedings provided by **[law] unsuspended statutes** where there is desertion or a failure **[of] to perform a** duty to support.

§ 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] The legal document prescribed by general rules** for the commencement of support *actions or* proceedings.

“Duty of support.” Includes any duty of support imposed or imposable 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.

“Initiating county.” Any county in which any *action or* proceeding pursuant to this subchapter is commenced.

“Probation officer.” Includes any officer now or hereafter serving in any court at the direction of the court in the domestic relations section

of the court and to whom is assigned the enforcement of the duty to support.

“Responding county.” Any county (including the initiating county) in which any *action or proceeding* pursuant to the proceeding in the initiating county is or may be commenced.

§ 6704. Commencement of support actions *or proceedings*.

(a) General rule.—A support action *or proceeding* under this subchapter shall be commenced [by the filing of a verified complaint which shall set forth:

- (1) The name and address of the complainant.
- (2) The name and address of the defendant.
- (3) The date and place of marriage if married, or if unmarried the date and place of birth of each child born out of lawful wedlock.
- (4) The names and ages of any children.
- (5) Date and circumstances of separation or failure to support.
- (6) Employment of defendant and earnings.
- (7) Amount of public assistance.
- (8) Amount of support asked.

The complaint may contain any information to aid the locating or identification of a defendant including, but without limitation, by enumeration, a photograph of the defendant, a description of any distinguishing marks of or on his person, other names and aliases by which he has been or is known, his financial status, fingerprints and Social Security number, and any order of support in any other court.

(b) Moving party.—A complaint may be filed by any person, including a minor spouse, to whom a duty of support is owing. It shall be filed on behalf of a minor child by a person having custody of the minor, without appointment as guardian ad litem. It may be filed by any public body or public or private agency having any interest in the care, maintenance or assistance of any person to whom a duty of support is owing.

(c) Order for hearing.—Every complaint shall be accompanied by an order directing the defendant to appear for hearing at a time and place as specified in such order.

(d) Service.—Every complaint and order may be served by registered or certified mail or by any adult person or by any other manner provided or prescribed by law.] *in the manner prescribed by general rules.*

[(e)] (b) Limitation of actions.—All actions *or proceedings* 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 *or proceeding* may be commenced at any time within two years of any such contribution or acknowledgement by the reputed father.

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

[(g)] (d) 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.

§ 6705. Failure of defendant to appear.

(a) General rule.—A defendant who willfully fails or refuses to appear in response to a duly served order or other process under this subchapter may[, **after hearing**], *as prescribed by general rule*, be adjudged in contempt and committed to **[prison] jail** by the court for not exceeding six months.

(b) Philadelphia cases.—In any county of the first class the defendant named in the order or other process shall be brought before the court forthwith, but in any event within 48 hours or two court working days, whichever is the longer, after the defendant is taken into custody, for the purpose of hearing on the issue of contempt of the order or other process involved.

§ 6706. **[Order] Payee of order** of support.

[(a) Effective date.—An order of support may be made effective from the date of the filing of the complaint.

(b) Payee.—]An order of support of any person shall *direct payment* to be made payable to *or payment to be made to* the domestic relations section, for transmission to the complainant or for transmission directly to a public body or public or private agency, whenever the care, maintenance and assistance of such person is provided for by such public body or public or private agency.

§ 6707. **[Surety] Security** for attendance or performance.

(a) General rule.—At any stage of the proceedings under this subchapter, upon affidavit *filed* that the defendant is about to leave the Commonwealth[, *or the judicial district, the court may, as prescribed by general rule, issue* 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]** and 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.

(b) Philadelphia cases.—In any county of the first class the hearing shall be fixed as provided in section 6705(b) (relating to Philadelphia cases).

§ 6708. Enforcement of support orders.

(a) General rule.—A defendant who willfully fails to comply with any order under this subchapter, except an order subject to section 6705 (relating to failure of defendant to appear), may[, **after hearing**], *as prescribed by general rule*, be adjudged in contempt and committed to **[prison] jail** by the court.

(b) Philadelphia cases.—In any county of the first class:

(1) The hearing shall be fixed as provided in section 6705(b) (relating to Philadelphia cases).

(2) The commitment to **[prison] jail** may not exceed six months.

(3) The order shall state the condition which upon fulfillment will result in the release of the defendant.

§ 6709. Procedure to attach wages, etc.

The wages, salary or commissions of any person owing a duty of support may be attached in the **[following]** manner[:

(1) A certified copy of the order of support shall be served on the employer, whether a government unit or private person, and may be served by registered or certified mail or by any adult person or by any other manner provided or prescribed by law.

(2) Such certified copy of the order shall contain an order directing the employer to make a full answer, within ten days after services of the order, of the amount of wages, salary or commissions of the defendant, and further directing the employer to make no payment to the defendant of over 50% of the amount due to him until further order of the court.

(3) The court shall determine the amount of the wages, salary or commissions which shall be regularly paid by the employer to the domestic relations section and shall so notify said employer.

(4) Thereafter, it shall be the duty of the employer to pay such amount regularly to the domestic relations section, and upon failure so to pay such employer shall be in contempt and subject to the order of the court as otherwise provided in this subchapter with respect to proceedings against the defendant.] *prescribed by general rule.* The employer may deduct *from the wages, salary or commissions of the defendant* 2% of the amount paid under the order **[from the wages of the defendant]** for **[clerical work and]** *reimbursement of* expense involved in complying **[therewith]** *with the order.*

[(5) Such attachment shall continue until dissolved by order of the court.]

§ 6712. Duties of court in initiating county.

If the court of the county acting as an initiating county finds that the complaint sets forth facts from which it may be determined that the defendant owes a duty of support or the defendant is in default in payment on an order of support, and that *jurisdiction cannot be obtained over the defendant or his property as prescribed by general rules or that there has been an election to proceed under this section, and that* the court of the responding county may obtain jurisdiction of the defendant or his property, it shall so certify to the responding county and shall cause three copies of the complaint or order and its certification to be transmitted to the court in the responding county.

§ 7102. Comparative negligence.

* * *

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

“Defendant or defendants against whom recovery is sought.” Includes impleaded defendants.

“Plaintiff.” Includes counterclaimants and cross-claimants.

§ 7342. Procedure.

(a) General rule.—The following provisions of Subchapter A (relating to statutory arbitration) shall be applicable to arbitration conducted pursuant to this subchapter:

Section 7303 (relating to validity of agreement to arbitrate).

Section 7304 (relating to court proceedings to compel or stay arbitration).

Section 7305 (relating to appointment of arbitrators by court).

Section 7309 (relating to witnesses, subpoenas, oaths and depositions).

Section 7317 (relating to form and service of applications to court).

Section 7318 (relating to court and jurisdiction).

Section 7319 (relating to venue of court proceedings).

Section 7320 (relating to appeals from court orders), except subsection (a)(4).

(b) Confirmation and judgment.—On application of a party made more than 30 days after an award is made by an arbitrator under section 7341 (relating to common law arbitration), the court shall enter an order confirming the award and shall enter a judgment or decree in conformity with the order. Section 7302(d)(2) (relating to special application) shall not be applicable to proceedings under this subchapter.

**CHAPTER 77
TRIAL
[(Reserved)]**

Sec.

7701. Procedures, motions and other matters.

7702. Commencement and termination of trial.

§ 7701. Procedures, motions and other matters.

All procedures, motions and other matters relating to the trial, by jury or otherwise, of any civil action or proceeding, trial de novo and returns on certiorari from the minor judiciary shall be conducted in the manner, at the times, on the terms and conditions and in the form prescribed by general rules.

§ 7702. Commencement and termination of trial.

The trial of a civil action or proceeding shall be deemed to commence and terminate at the times or on the occurrence of events prescribed by general rules.

CHAPTER 79
POST-TRIAL MATTERS
[(Reserved)]

Sec.

7901. Procedures, motions and other matters.

§ 7901. Procedures, motions and other matters.

All post-trial procedures, motions and other matters relating to any civil action or proceeding, trial de novo and returns on certiorari from the minor judiciary shall be conducted in the manner, at the times, on the terms and conditions and in the form prescribed by general rules.

§ 8123. General monetary exemption.

(a) General rule.—In addition to any other property specifically exempted by this subchapter, property of the judgment debtor [to the value of \$300,] (including bank notes, money, securities, real property, judgments or other indebtedness due the judgment debtor[,]) to the value of \$300 shall be exempt from attachment or execution on a judgment. Within such time as may be prescribed by general rules the judgment debtor may claim the exemption in kind and may designate the specific items of property to which the exemption provided by this section shall be applicable[,], unless the designated property is not capable of appropriate division, or the judgment debtor may claim the exemption in cash out of the proceeds of the sale.

* * *

(c) [Reduction.—The] Executions issued by minor judiciary.—As to executions issued by the minor judiciary the amount of the exemption specified in subsection (a) shall[, as to executions issued by the minor judiciary,] be reduced by the value of any real or personal property of the judgment debtor which is generally subject to attachment or [levy and sale upon] execution but which by law is not subject [thereto upon] to attachments or executions issued by the minor judiciary.

§ 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:

* * *

(9) Certain amounts paid, provided or rendered under the provisions of section 106(f) of the act of July 19, 1974 (P.L.489, No.176), known as the "Pennsylvania No-fault Motor Vehicle Insurance Act."

(10) Certain amounts paid, provided or rendered under the provisions of section 703 of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the "Unemployment Compensation Law."

§ 8127. Personal earnings exempt from process.

(a) General rule.—[The] wages, salaries and commissions of individuals shall while in the hands of the employer be exempt from any attach-

ment, execution or other process except upon an action or proceeding [for support or for board for four weeks or less.

(b) **Transfer of claim to avoid policy of the Commonwealth.**—It shall be unlawful for any creditor or obligee to commence an action on or to transfer any claim against a resident of this Commonwealth for the purpose of having such claim collected by proceedings in a forum which accords such resident less favorable exemptions from attachment or execution than are accorded by this Commonwealth, or for the purpose of depriving such resident of the right to have his personal earnings while in the hands of his employer exempt from application to the payment of his debts.

(c) **Remedy.**—In addition to remedy by injunction or otherwise, a resident of this Commonwealth who is aggrieved by any action by a creditor or obligee in violation of subsection (b) shall have a right of action against the creditor or obligee for treble the amount recovered from such resident in violation of this section and reasonable counsel fees. The transfer of any claim against the resident and the commencement of any action thereon outside this Commonwealth shall be prima facie evidence of a purpose to violate the provisions of subsection (b).]

(1) *For support.*

(2) *For board for four weeks or less.*

(3) *Under the act of August 7, 1963 (P.L. 549, No. 290), referred to as the Pennsylvania Higher Education Assistance Agency Act.*

§ 8128. *Transfer of claim to avoid policy of Commonwealth.*

(a) **General rule.**—*It shall be unlawful for any creditor or obligee to commence an action on or to transfer any claim against a resident of this Commonwealth for the purpose of having such claim collected by proceedings in a forum which accords such resident less favorable exemptions from attachment or execution than are accorded by this Commonwealth, or for the purpose of depriving such resident of the right to have his personal earnings while in the hands of his employer exempt from application to the payment of his debts.*

(b) **Remedy.**—*In addition to remedy by injunction or otherwise, a resident of this Commonwealth who is aggrieved by any action by a creditor or obligee in violation of subsection (a) shall have a right of action against the creditor or obligee for treble the amount recovered from such resident in violation of this section and reasonable counsel fees. The transfer of any claim against the resident and the commencement of any action thereon outside this Commonwealth shall be prima facie evidence of a purpose to violate the provisions of subsection (a).*

§ 8301. *Death action.*

(a) **General rule.**—*An action may be brought, under procedures prescribed by general rules, to recover damages for the death of an individual caused by the wrongful act or neglect or unlawful violence or negligence of another if no action for damages was brought by the injured individual during his lifetime.*

* * *

(c) Special damages.—[The plaintiff in] *In* an action *brought* under subsection (a), *the plaintiff* shall be entitled to recover, in addition to other damages, damages for reasonable hospital, nursing, medical, funeral expenses and expenses of administration necessitated by reason of injuries causing death.

(d) Action by personal representative.—If no person is eligible *to recover damages* under subsection (b) [to bring an action under this section], the personal representative of the deceased may bring an action [for the] *to recover damages [expressly specified in subsection (c)] for reasonable hospital, nursing, medical, funeral expenses and expenses of administration necessitated by reason of injuries causing death.*

CHAPTER 93
TRIAL
[(Reserved)]

Sec.

9301. Procedures, motions and other matters.

9302. Commencement and termination of trial.

§ 9301. Procedures, motions and other matters.

All procedures, motions and other matters relating to the trial, by jury or otherwise, of any criminal proceeding shall be conducted in the manner, at the times, on the terms and conditions and in the form prescribed by general rules.

§ 9302. Commencement and termination of trial.

The trial of a criminal proceeding shall be deemed to commence and terminate at the times or on the occurrence of events prescribed by general rules.

CHAPTER 95
POST-TRIAL MATTERS
SUBCHAPTER A
GENERAL PROVISIONS
[(Reserved)]

Sec.

9501. Procedures, motions and other matters.

§ 9501. Procedures, motions and other matters.

Except as otherwise provided by this chapter all post-trial procedures, motions and other matters relating to any criminal proceeding shall be conducted in the manner, at the times, on the terms and conditions and in the form prescribed by general rules.

§ 9755. Sentence of partial confinement.

* * *

(g) Prisoner release plans.—This section shall not be interpreted as [in any way] limiting the authority of the [Department of Justice] *Bureau of Correction* as set forth in the act of July 16, 1968 (P.L.351, No.173),

as amended, relating to prisoner pre-release centers and release plans, or the authority of the court as set forth in the act of August 13, 1963 (P.L.774, No.390), as amended, relating to prisoner release for occupational and other purposes.

§ 9756. Sentence of total confinement.

* * *

(d) Prisoner release plans.—This section shall not be interpreted as [in any way] limiting the authority of the [Department of Justice] *Bureau of Correction* as set forth in the act of July 16, 1968 (P.L.351, No.173), as amended, relating to prisoner pre-release centers and release plans, or the authority of the court as set forth in the act of August 13, 1963 (P.L.774, No.390), as amended, relating to prisoner release for occupational and other purposes.

Section 202. Conforming amendments to Title 30.—Sections 924, 926 and 930 of Title 30 are amended to read:

§ 924. Costs for summary offenses.

[(a) General rule.—Except as provided in subsection (b), any] Any person convicted of a summary offense under this title shall, in addition to the fine imposed, be sentenced to pay **[\$10 as costs of the issuing authority which costs shall include all charges including, when called for, the costs of postage and registered or certified mail and the costs of giving a transcript to the prosecutor or defendant, or both, if requested.**

(b) Conviction after hearing.—Where the person charged with a summary offense under this title demands a hearing, the costs of the issuing authority shall be \$15, which costs shall include all charges including the charges specified in subsection (a).] costs as provided or prescribed by or pursuant to 42 Pa.C.S. Ch. 17 (relating to governance of the system).

§ 926. Disposition of fines and penalties.

(a) General rule.—Subject to any inconsistent procedures and standards relating to reports and transmission of funds prescribed pursuant to Title 42 (relating to judiciary and judicial procedure) and related penalties:

(1) Fines recovered in cases where the prosecutor is a salaried officer of the commission shall be immediately surrendered by the court receiving the fines to the prosecutor who, within 30 days of receipt, shall forward the fines and penalties to the executive director.

(2) Where any officer of this Commonwealth other than a salaried officer is the prosecutor, the fines and penalties shall, as soon as the case is fully determined, be forwarded by the court to the executive director through the district waterways patrolman, together with a statement of the cause for which the fines were collected.

(3) All fines received **[by the executive director] under this section** shall be paid **[monthly]** into the State Treasury for the use of the Fish Fund or Boat Fund, as appropriate.

(b) Penalty.—Any person failing to forward fines in accordance with this section commits a summary offense of the first degree.

§ 930. Arrest of nonresident.

Subject to any inconsistent regulations prescribed pursuant to 42 Pa. C.S. § 3502 (relating to financial regulations):

[(a)] (1) General rule.—Upon the arrest, apprehension or citation of a nonresident of this Commonwealth for any violation of this title that is a summary offense, the waterways patrolman or deputy waterways patrolman shall, unless the defendant elects to acknowledge guilt in accordance with section 925 (relating to acknowledgment of guilt and receipts for payment), escort the defendant to the appropriate issuing authority for a hearing, posting of bond or payment of the applicable fine and costs, unless the defendant chooses to place the amount of the applicable fine and costs in a stamped envelope addressed to the appropriate issuing authority and mails the envelope in the presence of the waterways patrolman or deputy waterways patrolman.

[(b)] (2) Procedure upon payment by mail.—If the defendant mails the amount of fine and costs prescribed in **[subsection (a)] paragraph (1)**, he shall indicate on an accompanying form whether the payment constitutes a bond for a hearing based on a plea of not guilty or a fine based upon a plea of guilty in lieu of acknowledging guilt under section 925. If the plea is not guilty, the waterways patrolman or deputy waterways patrolman shall notify the issuing authority by telephone and the issuing authority shall schedule a hearing for the following day (excluding Saturdays, Sundays or legal holidays), unless the defendant requests a continuance, in which case a hearing shall be scheduled to accommodate the defendant, the waterways patrolman or deputy waterways patrolman and the issuing authority.

[(c)] (3) Form of payment.—The amount of fine and costs may be paid in cash, personal or other check, credit card or guaranteed arrest bond, **except that the Court Administrator of Pennsylvania may enlarge or restrict the type of payment which may be made by mail**.

[(d)] (4) Receipt for payment.—The waterways patrolman or deputy waterways patrolman shall give the defendant a receipt for payment, a copy of which shall be mailed with the payment and a copy retained by the officer.

Section 203. Conforming amendment to Title 66.—Title 66 is amended by adding a section to read:

§ 902. Reliance on orders pending judicial review.

The issue or assumption of securities registered by the commission, the performance of any contract or arrangement approved by the commission and any other act by a person or corporation shall be subject to the provisions of 42 Pa. C.S. § 5105(f) (relating to effect of reversal or modification) insofar as relates to any sale, mortgage, exchange or conveyance subject to the jurisdiction of the commission.

**ARTICLE III
REPEALS OF INCONSISTENT LEGISLATION**

Section 301. Act No. 176 of 1929.—Section 1104 and as much as reads “in quo warranto” of the first sentence and as much as reads “for other proceedings in quo warranto” of the second sentence of section 1711, act of April 9, 1929 (P.L.343, No.176), known as “The Fiscal Code,” are repealed.

Section 302. Act No. 155 of 1933 as affected by Act No. 283 of 1955.—As much as reads “of common pleas of the county within which such property is situated, or the County Court of Allegheny County, as the case may be, and, for that purpose, may present to said court or file in the prothonotary’s office or in the office of the clerk of the County Court of Allegheny County, within sixty days, after the county commissioners, acting as a board of revision, or the board of revision of taxes, or the board for the assessment and revision of taxes, or the Board of Property Assessment, Appeals and Review, in counties of the second class, as the case may be, have held the appeals provided for by this or any other act of Assembly and acted on the said assessments and valuations, a petition signed by him, his agent or attorney, setting forth the facts of the case” of the first sentence of section 518.1, act of May 22, 1933 (P.L.853, No.155), known as “The General County Assessment Law,” is repealed.

Section 303. Act No. 1 of 1936 (2nd Sp.Sess.) as affected by Act No. 108 of 1980.—Section 510.1, act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the “Unemployment Compensation Law,” is repealed. The notice of the board to the parties and the department under section 504 of the act of the final decision of the board and the reasons therefor shall constitute a final order of the board for purposes of judicial review, which order shall be subject to judicial review within the time and in the manner provided or prescribed by law. Judicial review may be sought under the act only after the party seeking review has exhausted its remedies before the board.

Section 304. (Reserved).

Section 305. Act No. 294 of 1939.—Section 12, act of June 21, 1939 (P.L.626, No.294), entitled “An act providing for and regulating the assessment and valuation of all subjects of taxation in counties of the second class; creating and prescribing the powers and duties of the Board of Property Assessment, Appeals and Review; imposing duties on certain county and city officers; abolishing the board for the assessment and revision of taxes in such counties; and prescribing penalties,” is repealed.

Section 306. Act No. 404 of 1939.—Section 15, act of June 27, 1939 (P.L.1199, No.404), entitled “An act relating to the assessment of real and personal property and other subjects of taxation in counties of the first class; providing for the appointment of members of the board of revision of taxes by the judges of the courts of common pleas; providing for the appointment, by the board, of personal property assessors, real

estate assessors and assistant real estate assessors, clerks and other employes; fixing the salaries of members of the board, assessors and assistant assessors, and providing for the payment of salaries and expenses from the county treasury; prescribing the powers and duties of the board and of the assessors, the time and manner of making assessments, of the revision and notice of assessments and of appeals therefrom; prescribing the records of assessments; and repealing existing laws," is repealed.

Section 307. Act No. 254 of 1943.—As much as reads "of common pleas of the county within which such property is situated, and for that purpose may present to said court, or file in the prothonotary's office within sixty days after the board entered its order on the said assessment, a petition signed by him, his agent or attorney, setting forth the facts of the case," of the first sentence of section 704, act of May 21, 1943 (P.L.571, No.254), known as "The Fourth to Eighth Class County Assessment Law," is repealed.

Section 308. (Reserved).

Section 309. Act No. 21 of 1951 as affected by Act No. 221 of 1980.—As much as reads "during which time such manufacturer may take an appeal as provided for in this act" of the second sentence and the entire third sentence of subsection (e) and all of subsection (i) of section 444, act of April 12, 1951 (P.L.90, No.21), known as the "Liquor Code," are repealed.

Section 310. Act No. 130 of 1955 as affected by Act No. 323 of 1968.—As much as reads "within ten days from the mailing of such notice" and "to the court of quarter sessions" of the third sentence of section 2199, act of August 9, 1955 (P.L.323, No.130), known as "The County Code," is repealed. The third sentence of section 2199 is also repealed insofar as relates to supersedeas on appeal to a court having appellate jurisdiction of the court of initial jurisdiction.

Section 311. (Reserved).

Section 312. Act No. 21 of 1967 as affected by Act No. 105 of 1980.—As much as reads "in the court of common pleas" of clause (4) and as much as reads "in the court of common pleas" of the last sentence of clause (5) of section 1408(c) and as much of section 1411 as relates to limitation of time when criminal prosecutions may be brought, act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code," as added July 10, 1980 (P.L.493, No.105), are repealed.

Section 313. Act No. 8 of 1968 as affected by Act No. 101 of 1980.—As much as reads "in the court of common pleas of any county in the metropolitan area in which the charge, service or change of service shall be applicable," of the sixth sentence of section 303(d)(9), act of January 22, 1968 (P.L.42, No.8), known as the "Pennsylvania Urban Mass Transportation Law," added July 10, 1980 (P.L.427, No.101), is repealed. Section 303(d)(9) of the act is repealed insofar as relates to practice or procedure in the Supreme Court, Superior Court or Commonwealth Court, or as to practice or procedure in the court of common

pleas or before the authority when an appeal has been or is being taken to, or review has been or is being sought in, one of such appellate courts.

Section 314. (Reserved).

Section 315. Act No. 364 of 1972 as affected by Act No. 234 of 1980.—As much of section 3 as relates to the definition of “court,” act of December 29, 1972 (P.L.1701, No.364), known as the “Health Maintenance Organization Act,” is repealed.

Section 316. Act No. 142 of 1976.—As much as reads as follows: “who are members of the bar of the Supreme Court” of section 9(b), as much as reads as follows: “Until there are a sufficient number of judges of the Philadelphia Municipal Court who are members of the bar of the Supreme Court to handle such matters the” of section 10 and as much as reads as follows: “, prothonotary of any county except the City and County of Philadelphia, clerk of the courts, Clerk of Quarter Sessions of the City and County of Philadelphia, clerk of the orphans’ court division” of section 27(a), act of July 9, 1976 (P.L.586, No.142), known as the “Judiciary Act of 1976,” are repealed.

Section 317. Act No. 53 of 1978.—As much of section 2(a) as relates to the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the “Unemployment Compensation Law,” as reads (at P.L.312) “A determination of the Unemployment Compensation Board of Review under the act, including action by the board disallowing an appeal from a referee, shall be final upon the entry thereof,” and section 3(c), act of April 28, 1978 (P.L.202, No.53), known as the “Judiciary Act Repealer Act,” are repealed.

Section 318. Act No. 48 of 1979 as affected by Act No. 136 of 1980.—As much as reads “of common pleas of the county in which the new institutional health service is located” of section 603(b), as much as reads “the Commonwealth” of the second sentence of section 702(d), all of section 712(b), as much as reads “Commonwealth” and “or the court of common pleas of the county in which the facility is located” of section 814(b), as much as reads “Commonwealth”, “the” (where it appears preceding the second occurrence of the word “court”) and “of common pleas of the county in which the health care facility is located, or in the Commonwealth Court” of subsection (a) and all of subsection (b) of section 815 and as much as reads “Commonwealth” (two occasions) of section 818, act of July 19, 1979 (P.L.130, No.48), known as the “Health Care Facilities Act,” as amended July 12, 1980 (P.L.655, No.136), are repealed.

Section 319. Act No. 97 of 1980.—As much as reads “Commonwealth” and “, which court is hereby granted jurisdiction” of the last sentence of section 603 and the entire third sentence of subsection (a) and all of subsection (d) of section 604, act of July 7, 1980 (P.L.380, No.97), known as the “Solid Waste Management Act,” are repealed.

Section 320. Act No. 104 of 1980.—Section 8(d), the last sentence of section 16 and as much as reads “Commonwealth” of section 19(c), act of July 10, 1980 (P.L.481, No.104), known as the “Milk Producers’ and

Cooperative Security Funds Act," are repealed. If, after the expiration of the appeal period prescribed by law, the determination of the Milk Marketing Board under section 8 of the act has not been stayed by a reviewing court, the board shall direct the fiscal agent under the act to pay the claimants from the moneys available in the Milk Producers' Security Fund.

Section 321. Act No. 164 of 1980.—The last sentence of section 205(a)(4), act of October 15, 1980 (P.L.950, No.164), known as the "Commonwealth Attorneys Act," is repealed.

Section 322. Act No. 222 of 1980.—Section 312, act of December 15, 1980 (P.L.1203, No.222), known as the "Building Energy Conservation Act," is repealed.

Section 323. Title 66.—66 Pa.C.S. §§ 317(a)(3) (relating to fees for services rendered by commission) and 903 (relating to restriction on injunctions) are repealed.

ARTICLE IV MISCELLANEOUS PROVISIONS

Section 401. Applicability of Statutory Construction Act.—This act is intended to integrate into Title 42 of the Pennsylvania Consolidated Statutes all relevant legislation of the 1979-1981 General Assemblies through Act No. 1981-18. The provisions of 1 Pa.C.S. §§ 1952 (relating to effect of separate amendments on code provisions enacted by same General Assembly) and 1974 (relating to effect of separate repeals on code provisions by same General Assembly) shall not be applicable to any act of the 1979-1981 General Assemblies through Act No. 1981-18 insofar as relates to Title 42 of the Pennsylvania Consolidated Statutes. Section 601 of the act of October 5, 1980 (P.L.693, No.142), known as the "JARA Continuation Act of 1980," is repealed.

Section 402. 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 403. Applicability of amendments.—Except as provided in section 404, the amendments to 42 Pa.C.S. Ch. 55 (relating to limitation of time) effected by this act shall apply only to causes of action which accrue after the effective date of this act.

Section 404. Effective date.—This act shall take effect in 60 days except that:

- (1) The amendment adding 42 Pa.C.S. § 762(a)(1)(ii) (relating to appeals from courts of common pleas) shall take effect immediately and shall be retroactive to December 5, 1980.

(2) The amendments to 42 Pa.C.S. §§ 4303(a) (relating to effect of judgments and orders as liens), 5501(a) (relating to scope of chapter) and 8301 (relating to death action) effected by this act shall take effect immediately and shall be retroactive to June 27, 1978.

APPROVED—The 20th day of December, A. D. 1982.

DICK THORNBURGH