



The Judiciary Review

Report from the Senate Judiciary Committee (D)

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SENATE JUDICIARY COMMITTEE REPORTS AMENDMENTS TO CRIMES CODE AND BUSINESS CODE

■ **Senate Bill 386** **Printer's No. 677**

The legislation amends the Crimes Code to clarify the definition of burglary. The legislation amends § 3502 of Title 18 (Crime and Offenses) to specifically set off the particular elements of whether a person is present in the structure and whether that structure is adapted for overnight accommodations. In addition to burglary of an occupied structure, both instances involving the presence of a person in a structure will be graded as a felony of the first degree with a maximum sentence of twenty years imprisonment for a first offense. Otherwise it is graded as a felony of the second degree, punishable by a maximum term of imprisonment of 10 years for a first offense.

Current status: Senate Calendar

■ **Senate Bill 392** **Printer's No. 678**

The legislation amends Title 15 (Corporations and Unincorporated Associations) by making a few basic revisions to the laws related to Limited Liability Partnerships (LLPs) and Limited Liability Companies (LLCs).

First, the legislation provides general partners in restricted LLPs with the same protection from liability as shareholders in a professional corporation. This change will give owners of large and small professional practices the same liability protection.

Second, the annual base registration fee for restricted LLPs is

being raised to equal the fee paid by LLCs recognizing that both forms of entities are entitled to the same liability protections. The base fee is being raised from \$200 to \$300. The base registration fee for unrestricted LLPs is also being raised from \$200 to \$240. In both cases the annual registration fee is calculated by multiplying the base fee times the number of general partners in the LLP.

Third, the legislation adds requirements that LLPs and LLCs provide public notice through legal advertising publications announcing formation and dissolution similar to that currently required of corporations.

Current status: Senate Calendar

■ **Senate Bill 393** **Printer's No. 400**

The legislation amends the Association Code to complete the codification of the Nonprofit Corporation Law. This legislation amends Title 15 (Corporations and Unincorporated Associations) by codifying the nonprofit corporation laws consistently with corporation laws generally. The purpose of the legislation insures that Pennsylvania has an internally consistent body of statutory law to govern the organization and operation of nonprofit corporations. Further, the changes will provide a statutory framework for governance of nonprofit business organizations that do not incorporate.

Additionally, the legislation adds the Uniform Unincorporated Nonprofit Association Act (Title 15, Part IV, Chapter 91B) to govern the organization and operation of nonprofit entities that choose not to incorporate. For the purposes of the uniform act, a "nonprofit association" is defined as an unincorporated organization consisting of two or more members joined by mutual consent for a common, nonprofit purpose.

The uniform act provides rules governing a nonprofit association's ownership and transfer of real property. A nonprofit association may acquire, hold or transfer real property in the name of the association and may be the beneficiary of a trust. If a nonprofit association has been inactive for three years or longer, a person in possession or control of the personal property of the nonprofit association may transfer the property. If there is no document specifying to whom the property should be transferred, the property may be transferred to a nonprofit corporation pursuing similar purposes.

A nonprofit association may appoint an agent authorized to receive service of process. The appointment should be filed with the Department of State. A claim for relief against a nonprofit association does not abate because of a change in its member or officers. Further, a person is not liable for a breach of

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Report from the
Senate Judiciary Committee

Senator Jay Costa Jr., Democratic Chairman

■ Supreme Court Adopts Juvenile Court Rules

On April 1, 2005, The Supreme Court of Pennsylvania adopted the Rules of Juvenile Court Procedure upon the recommendation of the Juvenile Court Procedural Rules Committee. The proposal was published before adoption at 33 Pa.B. 1581 (March 29, 2003), and an Explanatory Report has been published with the Court's order which is available at www.courts.state.pa.us.

The rules will secure uniformity and simplicity in procedure throughout juvenile courts in this Commonwealth. The Juvenile Court Procedural Rules Committee presented the rules in an order that tracks the juvenile system from beginning to end. Chapter One sets forth the general provisions and the provisions related to the business of the courts that apply throughout the juvenile court process. Chapter Two deals with the commencement of proceedings and the procedures when a juvenile is arrested and detained in a detention facility. Chapter Three provides for the procedures on venue and jurisdiction, intake and informal adjustment, the filing of a petition, discovery, motions, summons and notices, consent decree, preservation of testimony and evidence, and transfer for criminal prosecution. Chapter Four sets forth the adjudicatory hearing procedures. Chapter Five provides for the procedures for the dispositional hearing. Finally, post-dispositional procedures, including modifications, reviews, and appeals are provided for in Chapter Six.

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contract or for a tortuous act because the person is a member of the nonprofit association. Finally, a judgment or order entered against a nonprofit association, in itself, does not serve as a judgment or order against a member of the association.

Current status: Senate Calendar

■ Senate Bill 86 Printer's No. 665

This legislation addresses child abuse allegations when the child is a Pennsylvania resident and the abuse takes place outside of the Commonwealth and the other states child protective services cannot investigate. If there are allegations of abuse, the investigation will be opened in the child's home county or a county determined by the Department of Public Welfare. This bill also provides for a copy of the report being provided to the other states' child protective services bureau. This information will be shared within seven days of the completion of the investigation.

Current status: Final Passage—Senate April 20, 2005

BILLS PREVIOUSLY REPORTED IN THE JUDICIARY REVIEW

■ Senate Bill 69 Printer's No. 650

The bill amends the Judicial Code providing immunity for employers who provide information concerning current or former employees to a third party.

Current status: Final Passage—Senate April 20, 2005

■ Senate Bill 124 Printer's No. 703

The bill provides for applicability of certain provisions relating to equitable division of marital property in divorce actions.

Current status: Final Passage—Senate April 20, 2005

■ Senate Bill 256 Printer's No. 260

The bill amends Pennsylvania's "Son of Sam" law found in the Judicial Code relating to profits received as a result of the commission of a crime.

Current status: House Judiciary Committee



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