



The Judiciary Review

Report from the Senate Judiciary Committee (D)

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NOVEMBER 2007

COSTA BILL ON JUVENILE JUSTICE GOES TO GOVERNOR

Legislation sponsored by Senator Jay Costa that will improve justice issues for children and families in courts goes to Governor Rendell for his approval. The legislation, Senate Bill 117, expands the duties of the Juvenile Court Judges Commission to include dependency proceedings as well as delinquency proceedings. This will provide the General Assembly with additional research and data on proceedings involving these youth so that it may better understand the needs of children and families before the courts. The legislation will also allow the Juvenile Court Judges Commission to serve as the official liaison between the General Assembly and the Supreme Court's office of children and families in the courts.

■ **Senate Bill 232** **Printer's No. 1572**

The legislation amends section 9122 of Title 18 (Crimes Code) to further provide for the expungement of criminal records. The legislation authorizes a person who is the subject of the criminal history information and has been free of arrest or prosecution for the prescribed period of time to petition for expungement.

- Summary offenses—five (5) years.
- Misdemeanors of the third degree—seven (7) years.
- Misdemeanors of the second degree—ten (10) years.

The following individuals are prohibited from petitioning for expungement under these new provisions:

- A person convicted of an offense graded as a misdemeanor of the first degree or a felony offense.
- A person with four or more offenses graded as a misdemeanor of the third degree or higher.
- A person convicted of indecent assault.
- A person convicted of intercourse with an animal.
- A person convicted of cruelty to animals.

Further, courts are prohibited from ordering the expungement of the criminal record of a person placed in Accelerated Rehabilitative Disposition for certain enumerated offenses where the victim was under 18 years of age as well as for violations of the Uniform Firearms Act, a violation requiring registration under Megan's Law and a violation of an offense involving domestic violence.

*Current Status—Senate Calendar
Second Reading*

■ **Senate Bill 1125** **Printer's No. 1573**

The legislation amends Title 18 (Crimes Code) and Title 42 (Judicial Code) by creating a criminal offense and a civil cause of action for the unauthorized use of the name, portrait, or picture of a deceased soldier.

The civil action provides for injunctive relief, compensatory damages, punitive or exemplary damages, attorney's fees and costs. The legislation provides for the calculation of damages based on profits from the unauthorized use. Further, the rights and remedies provided in this cause of action

supplement any other rights and remedies provided by law including the right to privacy, defamation and false light. The legislation provides a five-year statute of limitations to institute a cause of action under this section. The following individuals are authorized to enforce a soldier's rights under this section after the soldier's death:

- The soldier's legally designated representative
- The soldier's spouse, children, parents and grandchildren.

*Current Status—Senate Calendar
Third Reading*

■ **Senate Bill 1129** **Printer's No. 1574**

The legislation amends the Drug and Alcohol Abuse Control Act with regard to the commitment of minors. The legislation provides that assessments for involuntary commitment for drug or alcohol treatment services may be performed by an individual who has successfully met all Department of Health training requirements as provided in the most recent edition of the Adolescent American Society of Addiction Medicine Patient Placement Criteria and has at least one year of experience working with youth who have co-occurring substance abuse and emotional disorders.

*Current Status—Senate Calendar
Second Reading*

■ **Senate Bill 1147** **Printer's No. 1575**

The legislation amends Title 23 (Domestic Relations Code) to further provide for information relating to

prospective childcare personnel. The legislation requires all applicants for employment to child care facilities to obtain a federal criminal history record information including a set of fingerprints. It also requires self-employed family day care providers and persons seeking to operate child-care services to submit this information.

The bill requires all prospective adoptive parents, prospective foster parents and any person in the household 18 years of age or older to submit a criminal background check pursuant to 18 Pa.C.S. Ch. 91, child abuse clearance certification from the Department of Public Welfare and federal criminal history record information including a set of fingerprints.

If prospective adoptive parents, prospective foster parents or a person in the household has resided outside of the Commonwealth at anytime within the previous five years, that person must submit a certification from the statewide central registry or its equivalent from each state wherein the person has resided. Such a certification must be obtained within the previous one-year period. The certification must provide information whether the person has been named a perpetrator of child abuse within the previous five-year period. If a person is named as a perpetrator of child abuse, the report must be submitted to DPW for review and determination that the charge is equivalent to a founded report of child abuse. Foster parents are required to report any changes to this information within 48 hours to the foster family agency in their county. Foster parents are required to report any change in family status within 30 days. If any person who has resided outside of the Commonwealth for any time within the previous five years begins residence with the foster family, the person must submit information to the foster family agency from the central repository in the state in which they resided for review.

A person employed by a childcare service provider on or before January 1, 2008 is not required to obtain the information required as a condition of continued employment. Further, a

person who has submitted such information may transfer to another childcare service if it is established and supervised by the same organization without being required to obtain additional reports.

*Current Status—Senate Calendar
Second Reading*

■ **Senate Bill 1153**
Printer's No. 1538

The legislation amends Title 42 (Judicial Code) with respect to the Minor Judiciary Education Board, regarding appointment of members and staff. The members of the Minor Judiciary Education Board shall be appointed by the Supreme Court. The board may appoint an executive director and staff as necessary with the approval of the Court. Finally, the board is authorized to develop a course of instruction and examination and provide for certification upon successful completion. The course is available to magisterial district judges, bail commissioners or judges elected or appointed to such positions.

*Current Status—Senate Calendar
Second Reading*

■ **Senate Bill 1156**
Printer's No. 1576

The legislation amends Title 42 (Judicial Code) to insure that foster parents, pre-adoptive parent or relative providing care for a child be provided with the right to be heard at any hearing concerning the child. Further, the legislation requires that in a permanency hearing, the court consult with the child regarding the child's permanency plan and the wishes of the child in a manner appropriate to the child's age and maturity. In the absence of consulting with the child, the court shall consult with the child's guardian ad litem, child's counsel or court appointed special advocate as designated by the court.

*Current Status—Senate Calendar
Second Reading*

■ **House Bill 296**
Printer's No. 2873

The legislation amends Title 18 (Crimes Code) to increase the amount

of the bad check service charge permitted under section 4105 from \$20.00 to \$50.00. This offense is graded in a range from a summary offense to a felony of the third degree depending on the amount of the check passed.

*Current Status—Senate Calendar
Second Reading*

■ **House Bill 1235**
Printer's No. 2235

The legislation amends Title 18 (Crimes Code) to provide for grading of the offense of impersonating a public servant, providing for taping of debt collector phone calls, and to provide for challenges to the record and accuracy of criminal history record information, for reviews, and for appeals.

*Current Status—Senate Calendar
Second Reading*

Executive Nominations

Russell Austin Walsh for reappointment to the Board of Pardons.

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