



# The Judiciary Review

## Report from the Senate Judiciary Committee (D)

JAY COSTA, DEMOCRATIC CHAIRMAN  
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October 2008

## COMMON PLEAS JUDGES CONFIRMED BY SENATE

The Senate Judiciary Committee considered and reported the following nominations to fill vacancies on the courts of common pleas. These individuals were confirmed by the Senate and will serve a term that expires on January 4, 2010. The positions will be filled for a full ten year term at the election on November 3, 2009.

- **Judith Ference Olson**—Court of Common Pleas Allegheny County
- **Joseph K. Williams**—Court of Common Pleas Allegheny County
- **Maureen T. Beirne**—Court of Common Pleas Bradford County
- **Wallace H. Bateman, Jr.**—Court of Common Pleas Bucks County
- **Joseph J. Musto**—Court of Common Pleas Luzerne County
- **Angeles Roca**—Court of Common Pleas Philadelphia County
- **Joyce Eubanks**—Court of Common Pleas Philadelphia County
- **Leonard N. Zito**—Court of Common Pleas Northampton County

### Legislation

#### ■ **House Bill 1543,** **Printer's No. 4489**

The legislation amends section 9122 of Title 18 (Crimes Code) to further provide for the expungement of criminal records. A person may institute action for expungement of a criminal record by petitioning the court of common pleas. The legislation authorizes a person who is the subject of the information, who

was convicted of a summary offense and has been free of arrest or prosecution for five years, to petition the court of common pleas with jurisdiction over the records for expungement.

Expungement is still granted at the discretion of the court. Further courts are prohibited from expunging criminal records for violations of the Uniform Firearms Act, a violation requiring registration under Megan's Law and a violation of an offense involving domestic violence in addition to the prohibitions currently provided in the bill.

*Current Status: House Rules Committee on Concurrence*

#### ■ **House Bill 1845,** **Printer's No. 4528**

The legislation amends Titles 18 (Crimes Code) and 42 (Judicial Code) to provide for changes to the Uniform Firearms Act of 1995, penalties, seizure of weapons and ammunition, the statute of limitations.

The legislation amends sections relating to false reports to law enforcement to provide that if the false report relates to a firearm, a conviction for the offense will be graded as a misdemeanor of the second degree and adds that a conviction for that offense to the list of disqualifiers to lawful possession or ownership of a firearm. The bill

provides for an exception to the general prohibition on maintaining a registry of firearms and their owners, for the registry of lost or stolen firearms that is the subject of the previous section of the bill.

The bill amends sections providing for firearms not to be carried without a license to exempt those whose license expires while on active military duty and deployed overseas. The bill amends 18 Pa. CSA §6109(f) to provide that any license to carry a firearm shall be extended for ninety, (90) days after the end of deployment for any military person who possesses a license, and who is deployed overseas, and allows a copy of the orders for such deployment to be evidence of such.

The bill adds two new subsections prohibiting the seizure of firearms, accessories, and ammunition during an emergency unless the seizure would be lawful absent the emergency, and defines 'accessory', and 'firearm'.

The section is also amended to add new subsection (m.1) to provide for a temporary emergency license to carry to be issued to a person upon satisfactory proof to the sheriff that the person harbors a reasonable fear of imminent harm from another, and where they otherwise possess all the qualifications to possess a firearm. The person applying must provide

evidence that there is 'imminent danger' to the person or their minor child, an affidavit that contains the information normally on an application for a concealed weapon permit and attesting that the person applying is eligible to receive the permit and own a firearm. A fee of not more than \$10 will be charged for a State Police background check. The sheriff shall issue the permit if all criteria are met. If the sheriff declines to issue the permit, he must specify the reasons for refusing. The license is good for 45 days and during this time, the sheriff shall conduct additional investigation to determine if the person should be issued the permit. Information revealed during this investigation may lead to the sheriff revoking the license with court review of this decision.

The bill provides for an increased grading for a conviction for possession of a firearm with altered or obliterated manufacturer's number, from a misdemeanor of the first degree to a felony of the second degree. The section goes on to amend §6111 to insert a standardized question for any firearm purchaser asking whether the purchaser is the actual buyer, or whether the person is buying the firearm as a gift for a family member who is otherwise eligible to own the firearm. Subsection (g) is amended to provide that any person who makes a false statement, oral or written, on any federal or state firearm form commits a felony of the third degree upon conviction. Finally, subsection (j) is amended to exempt chiefs of police, the PSP commissioner or a county sheriff from the requirements of subsections (a) & (b) when purchasing firearms.

The bill amends the statute of limitations to allow five (5) years to commence a prosecution for a

violation relating to the sale or transfer of firearms and allowing a year to commence such a prosecution from date of discovery, but in any event, no longer than eight (8) years.

This bill implements the federal requirement that involuntary mental health commitments be reported to the FBI for inclusion in the National Instant Criminal Background Check System.

This legislation also creates a process for challenging the denial of a firearm purchase based on criminal records or other information used in the denial. A process for appealing to the Pennsylvania State Police is outlined, with a second appeal being allowed before the Attorney General.

This bill amends Section 1102 of Title 18 to add the murder of a law enforcement officer to the existing first and second degree murder statutes, as well as the attempt, solicitation and conspiracy statute. This legislation creates the offense of Criminal Homicide of a law enforcement officer. It also adds Section 2507.1 which creates the offense Assault of a law enforcement officer. The penalty for this offense shall be imprisonment of not more than 40 years. The bill amends Title 42 to ensure a mandatory minimum sentence of 20 years for this offense.

*Current Status: Signed by Governor, Act 131 of 2008*

**REMINDER:**  
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