



# The Judiciary Review

## Report from the Senate Judiciary Committee (D)

JAY COSTA JR., DEMOCRATIC CHAIRMAN

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### BILLS RECENTLY CONSIDERED BY SENATE JUDICIARY COMMITTEE

#### Crimes Code

■ **Senate Bill No. 1074**  
**Printer's No. 1335**

The legislation makes it a summary offense to knowingly shine a laser pointer at another person with the intent to harass, annoy or alarm the person. The offense is increased to a misdemeanor of the third degree when committed against a police officer.

*Current Status:*

*Senate Calendar—Third consideration*

■ **Senate Bill No. 1177**  
**Printer's No. 1546**

The legislation amends section 2702 of the Crimes Code to add public utility workers and agents or employees of a county children and youth service agency to the list of officers and employees specially listed in the section. As such, a person commits a felony of the first degree if the offense is committed against such persons resulting in serious bodily injury and a felony of the second degree if the offense results in bodily injury.

*Current Status:*

*Senate Calendar—Third consideration*

■ **Senate Bill No. 1075**  
**Printer's No. 1336**

The bill regulates Bail Bond Enforcement Agents defined as a person licensed to recapture suspects released on bail. These agents must be certified under the Lethal Weapons Training Act and must register with the Court of Common Pleas where their principle place of business is located. Out-of-state agents must be registered in their state. The bill prohibits a person previously convicted of a felony in this state or another state or whose license was revoked from being licensed under this act. Further, the bill requires agents provide written notice to local law enforcement agencies or the State Police prior to engaging in the apprehension or surveillance of a fugitive unless exigent circumstances exist, then oral notification may be provided within

twenty-four (24) hours. Agents are liable for compensatory and punitive damages caused by their actions.

*Current Status:*

*Senate Appropriations Committee*

■ **House Bill No. 1333**  
**Printer's No. 2330**

The bill requires Internet Service Providers (ISP) to remove child pornographic materials accessible through the ISP in the Commonwealth. An approved amendment offered by Senator Costa provides that the District Attorney or Attorney General may institute procedures by petitioning the court of common pleas to make a determination that the materials located on the ISP constitute child pornography. A copy of the application must be forwarded to the ISP by the Attorney General and include notice that the materials must be removed or disabled within fifteen days of filing of application pending judicial review. The court reviews the application and determines if the materials constitute a prima facie violation of section 6312 (c) (relating to abuse of children). A copy of the order or a notice of a denial must be forwarded to the ISP within three (3) days of its receipt by the Attorney General.

The Attorney General and District Attorney have concurrent jurisdiction to prosecute violations of this section. An ISP that fails to remove or disable such materials violates this section and is subject to the following penalties:

A misdemeanor of the third degree punishable by a fine of \$5000 for a first offense; a misdemeanor of the first degree punishable by a fine of \$10,000 for a second offense; and a felony of the third degree for a third or subsequent offense punishable by a fine of \$20,000 and imprisonment for a maximum of seven years.

*Current Status:*

*Senate Calendar—Second Consideration*

#### Probation and Parole

■ **House Bill No. 476**  
**Printer's No. 2189**

The legislation amends the Probation and Parole Act removing the requirement that the Chief County Probation Officer representative to the Probation Advisory Committee of the Board of Probation and Parole be a member of the County Chief Probation Officers Association. Instead, the person must be a Chief County Probation Officer and may remain a committee member only so long as the person holds that position.

*Current Status:*

*Senate Calendar—House of Representatives*

#### Judicial Code

■ **House Bill No. 1806**  
**Printer's No. 3071**

The bill extends the sunset date to January 1, 2010 for the annual adjustment of costs imposed in civil and criminal matters before district justices. Further, the bill removes the disqualification from jury service for a person convicted of an offense punishable by imprisonment of one year, if the offense was a violation of either of the former Vehicle Codes that constitutes a summary offense under current Title 75 and is not a violation of another law.

*Current Status:*

*Senate Calendar—Third consideration*

#### Volunteer Health Care

■ **Senate Bill No. 1017**  
**Printer's No. 1545**

The legislation amends the Volunteer Health Services Act to extend the provisions of the act to licensed health care practitioners who are not retired but do not require coverage under the Health Care Services Malpractice Act. Under the legislation, a non-retired health care practitioner will be eligible to obtain a volunteer license entitling the person to

*Continued*

perform health care services without remuneration at an approved clinic. Health care practitioners providing non-remunerated services at an approved clinic are entitled to indemnity coverage from insurance maintained in the scope of the health care practitioner's regular professional practice.

*Current Status: Passed by the Senate—House Judiciary Committee*

**Asbestos Litigation**

■ **Senate Bill No. 216**  
**Printer's No. 1617**

The Bill amends the statute of limitations to require that an action to recover damages for injury or for the death caused by asbestos exposure must be commenced within two years from the date the person is informed by a licensed physician that the person has been injured by such exposure or the date the person should have known by the exercise of reasonable diligence whichever is first.

The bill was recently amended in the Senate to exempt certain domestic corporations, organized prior to May 1, 2001, from asbestos-related successor liability resulting from mergers or consolidations completed prior to May 1, 2001. The exemptions limit the asbestos-related liability of a Pennsylvania Corporation to the lesser of the following:

- The fair market value of all assets of the transferor on date of merger or consolidation; or
- The fair market value of a prior transferor, on date of earlier merger or consolidation with the current transferor, if the current transferor assumed such liabilities.

Further, the bill exempts the assets of a Pennsylvania Corporations from restraint, attachment or execution except in the amounts provided in the section. A method for determining and challenging fair market value is provided. Last, the limitations provided do not apply to:

- Workers Compensation benefit claims.
- Claims against domestic corporations that do not constitute successor liability.
- Insurance Corporations.
- Obligations arising under the National Labor Relations Act.

*Current Status: Governor's Desk last day of action Dec. 24, 2001*

**Schools**

■ **Senate Bill 1013**  
**Printer's No. 1260**

The legislation amends the Public School Code authorizing the Office of Safe

Schools in the Department of Education to include bullying conduct as problem behavior that should be addressed and included in school violence protection programs. The bill also requires schools to develop and implement a specific policy concerning bullying prevention and education. Schools are required to include incidents of bullying in the annual report filed with the Office of Safe Schools that details incidents of school violence, weapons possession and those involving controlled substances.

*Current status: Senate Appropriations Committee*

**Bills Reported by the Senate Judiciary Committee Signed by the Governor**

■ **House Bill 17**  
**Printer's No. 2740**

The legislation increases the grading for witnesses and victim intimidation. The offense will be one grade higher than the highest charged offense or a felony of the first degree when the underlying conduct charged is murder of the first or second degree. Additionally, the offense is graded as a felony of the first degree when the conduct involves force, violence, deception, offers of pecuniary benefit or when it is in the furtherance of a conspiracy. Otherwise an offense is graded as a misdemeanor of the second degree. The legislation also creates the offense of Aggravated Jury Tampering. If the offense is committed against or toward a juror with the intent to influence, intimidate or impede a juror in the discharge of the juror's duties in a civil or criminal matter, the actor commits an offense that is graded as:

- A felony of the first degree when the underlying offense to be submitted to the juror is murder of the first or second degree or a felony of the first degree.

- A felony of the second degree when the underlying offense to be submitted to the juror is a felony of the second degree
- A felony of the third degree in all other circumstances.

*Current status: Signed by the Governor—Act 90 of 2001*

■ **Senate Bill No. 977**  
**Printer's No. 1441**

The legislation establishes a grant program for reimbursement of expenses associated with senior judges of the courts of common pleas. The Administrative Office of the Pennsylvania Courts (AOPC) will administer the grant program that reimburses counties for certain operational expenses related to senior judges.

*Current Status: Act 88 of 2001*

■ **House Bill No. 1541**  
**Printer's No. 2719**

The bill increases the statute of prosecution from two (2) years to five (5) years for the criminal offenses of neglect of a care-dependent person, deceptive or fraudulent business practices and for attempt, conspiracy and solicitation to commit murder where no murder occurs.

*Current Status: Act 86 of 2001*

■ **House Bill No. 1603**  
**Printers' No. 2743**

The legislation adds a section to the Crimes Code making it a summary offense for a person to carry a loaded paintball gun or paintball marker in a motor vehicle. A paintball gun or paintball marker may be carried in a motor vehicle if the propellant canister is disassembled or emptied and the device does not contain any gelatin paintballs.

*Current Status: Act 87 of 2001*

**STATE SENATOR JAY COSTA, JR.**

*Serving the 43rd District*

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