

**PROPOSED AMENDMENTS TO 44 PA.C.S.  
Constable Modernization & Professionalization Act of 2016 (Rev #5)**

Amending Title 44 (Law and Justice) of the Pennsylvania Consolidated Statutes, in constables; further providing for powers and duties, for conflicts, for training, for compensation and for penalties, remedies and making repeals.

\*NOTE – Any section which is **HIGHLIGHTED YELLOW** is the direct wording from the 2014 Joint State Government Committee Constable Study. Any section which is **HIGHLIGHTED BLUE** is an addition to the recommendation. (see footnotes for additional information)

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 2. Section 7114 of Title 44 is *amended* to read:

§ 7114. Townships.

[(a) Election.--] The following shall apply:

(1) The qualified voters of every township shall vote for and elect a properly qualified person for constable.

(2) The qualified electors of each township of the first class may vote for and elect a properly qualified person to serve as constable, in addition to the constable elected under paragraph (1).

[(b) Procedure upon election; penalty.--Every person elected to the office of constable in a township shall appear in court on the first day of the next court of common pleas of the same county to accept or decline the office.

(c) Bond.--The bond given by a constable in a township shall be in a sum not less than \$500 nor more than \$5,000, as the court shall direct, and shall be taken by the clerk of the court in the name of the Commonwealth, with conditions for just and faithful discharge by the constable of the duties of office. The bond shall be held in trust for the use and benefit of persons who may sustain injury by reason of neglect of duty, and for the same purposes and uses as a sheriff's bond.

Section 3. Title 44 is *amended* by adding a section to read:

§ 7115. Bond.

The bond given by a constable shall be in a commercially available sum not less than \$500 nor more than \$5,000, as the court shall direct, and shall be taken by the clerk of the court in the name of the Commonwealth, with conditions for just and faithful discharge by the constable of the duties of office. The bond shall be held in trust for the use and benefit of persons who may sustain injury by reason of neglect of duty, and for the same purposes and uses as a sheriff's bond.

Section 4. Section 7132 of Title 44 is amended to read:

§ 7132. Police officers.

[(a) Constable employed as policeman not to accept other fees in addition to salary.--] Except for public rewards and legal mileage allowed to a constable or deputy constable for traveling expenses, [and except as provided in subsection (b), it is unlawful for] a constable or deputy constable who is also employed as a policeman [to] may not charge or accept a fee or other compensation, other than his salary as a policeman, for services rendered or performed pertaining to his office or duties as a policeman or constable or deputy constable.

Reimbursement for mileage is not payable to a constable for travel within the municipality where the constable or deputy constable is also employed as policeman.

[(b) Exception.--Unless prevented from doing so by the operation of the civil service provisions of the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, borough policemen who reside in the borough may hold and exercise the office of constable in the borough, or in any ward thereof, and receive all costs, fees and emoluments pertaining to such office.]

Section 5. Title 44 is amended by adding sections to read:

§ 7133. Bail bond enforcement agent.

(a) General rule.--Unless separately licensed within the Commonwealth as a bail bond enforcement agent and except as provided in subsection (b), a constable or deputy constable may not recapture suspects who are released on bail. If separately licensed within the Commonwealth as a bail bond enforcement agent, a constable or deputy constable recapturing suspects released on bail shall comply with all statutes and regulations governing bail bond enforcement agents.

(b) Exception.--Regardless of licensure as a bail bond enforcement agent, a constable or deputy constable may execute a warrant of arrest issued for an individual released on bail.

§ 7134. Professional bondsman.

A constable or deputy constable may not engage in or continue to engage in business as a licensed professional bondsman.

§ 7135. Debt collection.

(a) Debt collector.--Except when engaged under judicial or other civil process, a constable or deputy constable may not enforce, collect, settle, adjust or compromise claims on behalf of a creditor or collection agency.

(b) Collector-repossessor.--Unless regularly employed by an installment seller or a sales finance company, a constable or deputy constable may not collect a payment on an installment sale contract or repossess a motor vehicle that is the subject of an installment sale contract. When collecting a payment or repossessing a motor vehicle as a regularly employed person, a constable or deputy constable may not hold himself out to be a constable or deputy constable. A constable or deputy constable who is authorized as a regularly employed person to collect these payments or repossess motor vehicles may not independently contract to perform the same or similar services as a constable or deputy constable.

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

“Claim.” As defined in 18 Pa.C.S. § 7311(h) (relating to unlawful collection agency practices).

“Collection agency.” As defined in 18 Pa.C.S. § 7311(h).

“Creditor.” As defined in 18 Pa.C.S. § 7311(h)

“Installment sale contract.” As defined in 12 Pa.C.S. § 6202 (relating to definitions).

“Installment seller.” As defined in 12 Pa.C.S. § 6202.

“Motor vehicle.” As defined in 12 Pa.C.S. § 6202.

“Sales finance company.” As defined in 12 Pa.C.S. § 6202.

### § 7136. Disqualification.

(a) Ineligibility.--An individual is ineligible to be certified as a constable or deputy constable if that individual:

(1) Was convicted of an offense graded as a felony or serious misdemeanor and has not been pardoned.

(2) An offense in another jurisdiction, state, territory or country in accordance with the laws of that jurisdiction, state, territory or country, and the offense is equivalent to that in Paragraph (1), regardless of the grading in that location.

(i) Definition.--Serious misdemeanor is, for this purpose, defined as a criminal offense where more than one year in prison may be imposed as a sentence.

(3) Is required to register under 42 Pa.C.S. § 9799.13 (relating to applicability).

(b) Certification.--The Constables’ Education and Training Board may not certify a constable or deputy constable under section 7144(9) (relating to program established) who is disqualified under subsection (a). To comply with this section, the board shall check criminal history record information under 18 Pa.C.S. Ch. 91 (relating to criminal history record information).

### § 7138. Nepotism.

(a) Magisterial district judge.--A magisterial district judge may not request services from nor assign work to a constable or deputy constable related to the magisterial district judge or a staff member of the magisterial district judge.

(b) Constable.--A constable or deputy constable may not perform work for or accept an assignment from a magisterial district judge if the constable or deputy constable is related to the magisterial district judge or a staff member of the magisterial district judge.

(c) Definition.--As used in this section the term “related to” refers to spouses, parents, siblings, aunts, uncles, nieces, nephews, cousins, grandparents, grandchildren and members of the same household.<sup>1</sup>

### § 7137. Precertification Requirements

(a) Prior to enrollment in an initial PCCD approved “Basic Training” constable or deputy constable certification course, a new constable or deputy constable must satisfy the following standards:

(1) *Physical standard.* The applicant must be personally examined by a doctor of medicine licensed by the Pennsylvania Board of Medical Education and Licensure or a doctor of osteopathy licensed by the Pennsylvania Board of Osteopathic Examiners and found to be

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<sup>1</sup> 7136 directly references the “Confidence in Law Enforcement Act” and is an even higher requirement for background check than previously recommended by the JSGC study. This background check is nearly identical to the standards of all other law enforcement entities.

physically fit to complete training and the handling of lethal and less-lethal weapons. The examination shall include the following elements:

(i) *Neurological condition.* The applicant must be free from a debilitating condition, such as tremor, uncoordination, convulsion, fainting episodes, and the like.

(ii) *Cardiovascular condition.* The applicant's physical condition must be such that he could reasonably be expected to withstand significant cardiovascular stress.

(iii) *Intoxicants.* The applicant must be free from the addictive or excessive use of either alcohol or drugs and entirely free of any non-prescribed drugs or intoxicants.

(iv) *Visual acuity.* The applicant must have a visual acuity correctable to at least 20/20 in the strongest eye and correctable to at least 20/40 in the weakest eye, and must be free of any significant visual abnormality.

(v) *Audio acuity.* The applicant must be able to distinguish a normal whisper at a distance of 15 feet. The test shall be independently conducted for each ear while the tested ear is facing away from the speaker and the other ear is firmly covered with the palm of the hand.

(vi) *Other conditions.* The applicant must be free from any other significant physical defect or disorder which would, in the physician's opinion, impair the applicant's ability to handle a lethal weapon.

(vii) *Submission.* The examining physician must forward the physical examination form to the PCCD within 15 days, even if the applicant is found to be unfit.

(2) *Psychological standard.* The applicant shall be personally examined by a psychologist who is licensed by the Pennsylvania Board of Psychologist Examiners and found to be psychologically capable to exercise appropriate judgment or restraint to handle a lethal weapon at the time of the examination. The examination shall include the following

elements: (i) *Interview and history.* The psychologist must personally interview the applicant, which interview shall include a summary of the applicant's personal, educational, employment, and criminal history, if any.

(ii) *Required personality test.* The applicant must be administered any current standard form of the Minnesota Multiphasic Personality Inventory (MMPI) which shall be administered by the licensed psychologist or a paraprofessional employed by and under the direct control and supervision of the licensed psychologist.

(iii) *Other testing methods.* If the licensed psychologist is unable to certify the applicant's psychological capability or risk to exercise appropriate judgment and restraint in the handling of a lethal weapon at this time, after conducting the test, the psychologist must personally employ whatever other psychological measuring instruments and techniques are deemed necessary to form his professional opinion. The use of these instruments and techniques requires a full and complete written explanation to the Department.

(iv) *Submission.* The examining psychologist must forward the psychological examination form to the PCCD within 15 days of the examination, even if the applicant is found to be psychologically at risk. No person who has been found psychologically at risk in the exercise of appropriate judgment and restraint in the handling of a lethal weapon may reapply for certification until after 1 year from the date of being found psychologically at risk.

(b) Prior to enrollment in their next yearly constable or deputy constable recertification course, a currently certified constable or deputy constable who has already attended "Basic Training" but

has not yet completed subsections A(1) and A(2) of this section must first satisfy these standards prior to enrollment.

(c) All constables or deputy constables, regardless of their status as elected or appointed, shall bear the costs associated with obtaining and meeting these standards. Acceptable forms shall be provided by the PCCD.<sup>2</sup>

Section 6. Section 7142 of Title 44 is *amended* to read:

§ 7142. Conduct and insurance.

(b) Liability insurance.--Every constable and deputy constable must file with the clerk of courts proof that he has, currently in force, a policy of professional liability insurance covering each individual in the performance of his judicial duties with a minimum coverage of [\$250,000] \$500,000 per incident and a minimum aggregate of [\$500,000] \$750,000 per year. The Constables' Education and Training Board shall [immediately] recurrently investigate and implement the most cost-effective method of achieving liability insurance for constables and deputy constables under this subsection.

(c) Loss of certification.--Any constable or deputy constable who fails, neglects or refuses to maintain a current insurance policy as required by subsection (b) or to file proof thereof with the clerk of courts shall cease automatically to be certified to perform judicial duties upon the expiration of the policy of which proof has been filed with the clerk of courts. A fee earned prior to loss of certification remains payable to the constable or deputy constable.

Section 7. Sections 7144 and 7145 of Title 44 are *amended* to read:

§ 7144. Program established.

The board, with the review and approval of the commission, shall:

(12) Make an annual report to the Governor and to the General Assembly concerning:

(i) The administration of the Constables' Education and Training Program.

(ii) The activities of the board.

(iii) The costs of the program.

(iv) Proposed changes, if any, in this subchapter.

(v) The availability of insurance.

§ 7145. Program contents.

The Constables' Education and Training Program shall include training for a total [of] ranging from a minimum of 120 hours to a maximum of 240 hours, the content of which shall be determined by regulation. This shall be training separate from any Firearms-related training. The training shall include instruction in the interpretation and application of the fees provided for in section 7161 (relating to fees).<sup>3</sup>

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<sup>2</sup> 7137 is the exact standard of Pennsylvania Act 235 of 1974, known as the "Lethal Weapons Act", and is an additional portion of the background check which is a higher requirement than previously recommended by the JSGC study. This check is nearly identical to the standards of all other law enforcement entities.

<sup>3</sup> This change to the JSGC recommendation brings forth an even higher level of initial training hours and will assist Constables in better serving the needs of the Minor Judiciary and allow for more professional conduct courses and training.

Section 8. Section 7149 of Title 44 is *amended* to read:

§ 7149. Restricted account.

(a) Account established.--There is established a special restricted account within the General Fund, which shall be known as the Constables' Education and Training Account, for the purposes of financing training program expenses, the costs of administering the program and all other costs associated with the activities of the board and the implementation of this subchapter and as provided under subsection (f). This account shall also be used to pay the costs associated with the Commonwealth constabulary review board established by section 7179(c) (relating to oversight). The costs shall not exceed \$5,000 per year without a majority vote by the governing board of the PCCD.<sup>4</sup>

(b) Surcharge.--There is assessed as a cost in each case before a magisterial district judge a surcharge of [\$5] \$9 per docket number in each criminal case and [\$5] \$9 per named defendant in each civil case in which a constable or deputy constable performs a service provided in Subchapter G (relating to compensation), except that no county shall be required to pay this surcharge on behalf of any indigent or other defendant in a criminal case.

(c) Audit. -- A yearly audit of the special restricted account shall be performed by the Auditor General to assure all funds received and deposited into this fund are utilized only for their intended purposes regarding Constables.

Section 9. Sections 7151 and 7152 of Title 44 are *amended* to read:

§ 7151. General imposition of duties and grant of powers.

(a) Statutory duties.-- Constables or deputy constables shall perform all duties [authorized or] imposed on them by statute and follow all applicable rules set forth by all section of this Title.

(b) Uniform.--When performing or attempting to perform an authorized duty, a constable or deputy constable shall wear a police-style uniform or other clothing clearly identifying him as a constable or deputy constable and carry a constabulary badge. If a constable or deputy constable is wearing clothing clearly identifying him as a constable or deputy constable, the writing on the clothing must say "constable" or "deputy constable" and may not say "police". By regulation, the Pennsylvania Commission on Crime and Delinquency may establish general guidelines for uniform or other clothing consistent with this section.

§ 7152. Elections.

(a) Duty.--The constable of a borough, township or ward, or his deputy, shall do all of the following:

(1) Be present at the polling place in each election district of the borough, township or ward at [each election] elections during the continuance of each election and while the votes are being counted, for the purpose of preserving the peace.

(2) Serve at [all] elections.

(b) Applicability.--A constable:

(1) Shall perform the duty under subsection (a) when a county director of elections and voter registration requires the constable to be present at a polling place within an election district of the borough, township or ward in which the constable was himself elected.

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<sup>4</sup> This is an additional recommendation which would assure that funds are not errantly spent and will be allocated appropriately for their intended purpose, allowing for accountability of taxpayer funds.

(2) May perform the duty under subsection (a) when a county director of elections requests the constable to be present at a polling place within an election district of the county outside of the borough, township or ward in which the constable was himself elected.

(3) May not perform the duty under subsection (a) unless required or requested to do so by the county director of elections and voter registration, who must base his requirement or request on the input of judges of election.

(c) Deputy constable.--If the duty under subsection (a) is required or requested under subsection (b), a constable may have his deputy:

(1) Substitute for him.

(2) Supplement the constable's presence when the requirement or request is for more than one polling place.

Section 11. Section 7156(b) of Title 44 is *amended* to read:

§ 7156. Executions.

(b) Invalid returns.--If a constable or deputy constable makes a false return, does not produce the plaintiff's receipt on the return day or makes a return deemed insufficient by the magisterial district judge, the magisterial district judge shall issue a summons to the constable or deputy constable to appear on the designated day, which may not be more than eight days from the date of issuance, to show cause why a writ of execution should not be issued against the constable or deputy constable for the amount of the writ of execution under subsection (a). If the constable or deputy constable does not appear or does not show sufficient cause why the writ of execution should not be issued against him, the magisterial district judge shall enter judgment against the constable or deputy constable for the amount of the writ of execution under subsection (a) with costs. No stay may be entered upon the writ of execution, and, upon application of the plaintiff or his agent, the magisterial district judge shall issue an execution against the constable or deputy constable for the amount of the judgment, which may be directed to an authorized person. The summons under this subsection shall be issued to an authorized person to serve. If the summons is not served, that person shall pay a fine of [\$20] \$25. If an authorized person cannot be conveniently found to serve the summons, the magisterial district judge shall direct it to the supervisor of the highways of the township, ward or district where the constable or deputy constable resides, who shall serve the summons or pay a penalty of [\$20] \$25.

Section 12. Section 7158 of Title 44 is *amended* to read:

§ 7158. Arrest [in boroughs].

(a) Authority.--In addition to [any other powers granted under law] executing a warrant of arrest, a readily identifiable constable or deputy constable while on official business [of a borough shall] may, without warrant and upon view and probable cause, arrest and commit for hearing any person: [who:

(1) Is guilty of a breach of the peace, vagrancy, riotous or disorderly conduct or drunkenness.

(2) May be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens.

(3) Violates any ordinance of the borough for which a fine or penalty is imposed](1) whose ongoing or threatened conduct is a criminal offense presenting an immediate, clear and present danger to persons.

(b) Fee.--A fee is not payable for the effectuation of a warrantless arrest.

- (c) A constable or deputy constable performing a warrantless arrest shall have access to appropriate court forms (criminal complaint) in order to file charges accordingly.
- (d) Nothing in this section shall be construed to allow or authorize constables or deputy constables to enforce any portion of the Pennsylvania Vehicle Code or Traffic Code.
- (e) Definition.--As used in this section the term "readily identifiable" means the constable or deputy constable is wearing a uniform and carrying a badge as required by section 7151(b) and makes a reasonably prompt effort to identify himself as a constable or deputy constable.

Section 14. Sections 7161 and 7161.1 of Title 44 are amended to read:

§ 7161. Fees.

- (a) Travel or mileage.--Actual mileage for travel by motor vehicle shall be reimbursed at a rate equal to the highest rate allowed by the Internal Revenue Service. Actual mileage for travel by motor vehicle is reimbursable for distances equaling or exceeding one mile. If travel occurs by a mode other than motor vehicle, reimbursement shall be for the vouchered travel expenses.
- (b) Apportionment.--If more than one defendant is transported simultaneously, reimbursements shall be for miles traveled, and the travel cost shall be divided between or among the defendants.
- (c) Additional persons.--A constable or deputy constable, when he is transporting a prisoner, [serving a felony or misdemeanor warrant or serving a warrant on a juvenile or a defendant of the opposite sex may], or serving any warrant may, at his discretion, be accompanied by a second constable or deputy constable who is certified under section 7147 (relating to automatic certification) to perform judicial duties. In those cases, each officer shall receive the fee set out in this section. In all other civil, landlord-tenant and summary criminal cases, the issuing authority may authorize payment to a second officer.
- (d) Civil and landlord-tenant cases.--In civil and landlord-tenant cases, constable fees must be paid in advance to the court for services desired to be performed. These fees shall not be refundable to the plaintiff if a case is settled or a debt is satisfied less than 48 hours prior to a scheduled sale or ejectment. In the latter case, the constable or deputy constable shall be paid for holding the sale or carrying out an ejectment, respectively.
- (e) Payment.--All civil, landlord-tenant and criminal fees shall be paid by the court to the constable or deputy constable as soon as possible and in no case not more than 15 days in civil and landlord-tenant cases and 30 days in criminal cases after the service is performed and a proper request for payment is submitted, provided that, in criminal cases where the books and accounts of the relevant county offices are payable on a monthly basis, payment shall be made not more than 15 days after the close of the month.
- (f) Civil and landlord-tenant cases.--Fees in civil and landlord-tenant cases shall be as follows:
- (1) For serving complaint, summons or notice on suitor or tenant, either personally or by leaving a copy, [\$13] \$15, plus [\$5] \$6 for each additional defendant at the same address, [\$2.50] \$3 for each return of service, plus mileage.
  - (2) For levying goods, including schedule of property levied upon and set aside, notice of levy and return of service, [\$75] \$90, plus mileage.
  - (3) For advertising personal property for public sale, [\$7] \$8 per posting, with a maximum [\$21] \$25 fee, plus mileage, plus the cost of advertising.

- (4) For selling goods levied, receipts and returns to court, [\$85] \$100, plus mileage.
- (5) For making return of not found, [\$13] \$15, plus mileage. Payment shall be limited to three returns of not found.
- (6) For executing order of possession, [\$13] \$15, plus [\$5] \$6 for each additional defendant at the same address, [\$2.50] \$3 for each return of service, plus mileage.
- (7) For ejectment, [\$90] \$105, [\$2.50] \$3 for each return of service, plus mileage.
- (8) For making any return of service other than not found, [\$2.50] \$4 each.
- (9) For providing courtroom security as ordered by a magisterial district judge, [\$13] \$15 per hour, assessed against one or more parties as determined by the court.
- (10) Actual mileage for travel by motor vehicle shall be reimbursed at the rate equal to the highest rate allowed by the Internal Revenue Service. Actual mileage for travel by motor vehicle is reimbursable for distances equaling or exceeding one mile. If travel is by other than motor vehicle, reimbursement shall be for vouchered travel expenses.
- (g) Criminal cases.--Fees in criminal cases shall be as follows:
  - (1) For executing each warrant of arrest or for effectuating the payment of fines and costs by attempting to execute each warrant of arrest, [\$25] \$29 for each docket number and [\$2.50] \$3 for each return of service, plus mileage.
  - (2) For taking physical custody of a defendant, [\$5] \$10 per defendant, starting when released by a law enforcement agency or jailor to the constable or deputy constable or after the execution of a warrant of arrest and ending with discharge or commitment with the starting and ending times documented.
  - (3) For physically taking a [conveyance of] defendant to or from court, [\$5] \$10 per defendant, but payable for physically taking a defendant from court when directed to do so and documented by a magisterial district judge. This fee is not payable in addition to the fees for transporting defendants by motor vehicle under paragraphs (9) and (10) during the same trip.
  - (4) For physical attendance at arraignment, preliminary hearing, or payment determination hearing, [\$13] \$15 as a flat fee, but the beginning and ending times must be documented.
  - (5) For executing discharge in lieu of arresting a defendant on a warrant when the money was collected to clear the warrant, [\$5] \$10 per defendant.
  - (6) For executing a judicial order of commitment to jail, [\$5] \$8 per defendant.
  - (7) For executing release of custody from police, sheriff or a correctional facility to a constable or deputy constable, [\$5] \$8 per defendant.
  - (8) For making timely returns of completed paperwork to the court or issuing authority, [\$2.50] \$5. For non-service of a criminal or bench warrant, the court shall require the constable or deputy constable to execute an affidavit of due diligence documenting the search efforts.
  - (9) Transporting by motor vehicle each nonincarcerated defendant to jail, [\$17] \$20, plus mileage; transporting by motor vehicle an incarcerated prisoner, [\$38] \$44 per prisoner, plus an hourly rate of [\$13] \$15 per hour, plus mileage. Computation of hourly rate will apply after the expiration of the first hour per prisoner per hour, not to exceed [\$26] \$30 per hour per constable or deputy constable.
  - (10) Receipt of the fees for transporting by motor vehicle a nonincarcerated defendant under paragraph (9) shall not exclude receipt of the fees under paragraphs (6) and (8) for that transport
  - (11) Receipt of the fees for transporting by motor vehicle an incarcerated prisoner under paragraph (9) shall exclude receipt of the fees under paragraphs (2), (3), (4) and (7) for the transport.

(12) Actual mileage for travel by motor vehicle shall be reimbursed at the rate equal to the highest rate allowed by the Internal Revenue Service. Actual mileage for travel by motor vehicle is reimbursable for distances equaling or exceeding one mile. If travel is by other than motor vehicle, reimbursement shall be for vouchered travel expenses.

(13) For [conveying] physically taking defendants for fingerprinting at a location other than jail, [\$17] \$20 per defendant as ordered by a magisterial district judge, plus [\$13] \$15 per hour while present beyond the first hour per defendant per hour, not to exceed [\$26] \$30 per hour per constable, plus mileage. Unless the fingerprinting is done at a location other than the jail, this fee is not payable in addition to the fees for transporting defendants by motor vehicle under paragraphs (9) and (10) during the same trip.

(14) For holding one or more defendants at the office of a magisterial district judge for the time the constable or deputy constable remains prior to the start of the hearing and the time after the conclusion of the hearing but prior to release or transport, [\$13] \$15 per hour per defendant beyond the first half hour.

(15) For courtroom security as ordered by a magisterial district judge, [\$13] \$15 per hour, assessed against one or more parties as determined by the court.

(16) In all criminal cases wherein the defendant is discharged or indigent or the case is otherwise dismissed, the court shall assess to the county the fee provided in this section, except that, in cases of private criminal complaints where the defendant is discharged prior to the indictment or the filing of any information or the case is otherwise dismissed at the summary offense hearing, the court [shall] may assess the fee to the affiant, except in cases of domestic violence wherein the fee shall be assessed to the county.

(17) The fees for physically taking a defendant under paragraphs (3) and (13) are payable whether the defendant is taken by motor vehicle or otherwise, but the fees for transporting a defendant by motor under paragraphs (9), (10) and (11) are not payable if the defendant is not transported accordingly.

(h) Subpoenas.--For serving district court-issued subpoenas for civil, landlord-tenant or criminal matters, [\$13] \$15 for first witness, plus [\$5] \$6 for each additional witness at the same address, [\$2.50] \$3 return of service for each subpoena, plus mileage. The same fee shall be payable for attempting to serve a subpoena at a wrong address supplied by the party requesting the service. The fees for witnesses and return of service under this subsection accrue per docket number.

(i) Similar fees.--For civil, landlord-tenant and criminal services not specifically provided for, the court shall pay the same fees as it pays for services that it determines to be similar to those performed.

(j) Nepotism.--A fee under this subchapter is not payable if the claim for payment arose under the circumstances prohibited in section 7138 (relating to nepotism).

§ 7161.1. Specific fees is repealed.

(a) Court appearances and returns.--For attendance on court and making returns, the fees to be received by constables shall be \$2.50 per day.

(b) Notices of election.--For serving notices of their election upon township or borough officers, the fees to be received by constables or deputy constables shall be \$0.15 for each service.

Section 17. Section 7171 of Title 44 is repealed:

§ 7171. Election notice in certain areas.

(b) Acting constables.--The acting constable shall, within six days after the election for a constable, give notice in writing to the elected individual of election to the office. An acting constable who violates this subsection shall pay a civil penalty of \$16 to the Commonwealth.

(c) Elected constables.--An individual elected and notified under subsection (b) shall appear on the next day that the court of common pleas of the applicable judicial district is in session and either decline or accept the office. A constable elect who violates this subsection shall pay a civil penalty of \$16 to the Commonwealth.

Section 18. Section 7172 of Title 44 is amended to read:

§ 7172. Incompetence; removal.

(a) Inquiry.--A court of common pleas with competent jurisdiction may inquire into the official conduct of the constable or deputy constable if any of the following apply:

(1) A surety of the constable files a verified petition alleging that the constable or deputy constable is incompetent to discharge official duties because of intemperance or neglect of duty.

(2) Any person files a verified petition alleging that the constable or deputy constable is malfeasant, engages in conduct or employment prohibited by subchapter D (relating to conflicts) or is incompetent to discharge official duties for a reason other than intemperance or neglect of duty. This paragraph includes an act of oppression of a litigant or a witness.

(b) Determination.--If the court determines that the constable or deputy constable is incompetent to discharge official duties, the following apply:

(1) The court may:

(i) require additional security from the constable; or

(ii) remove the constable or deputy constable from office.

(2) Upon removal under paragraph (1)(ii), the court may appoint a suitable individual to fill the vacancy until a successor is elected and qualified. The appointed individual must have a freehold estate with at least \$1,000 beyond incumbrance or furnish security.

(c) Quo warranto.--A constable or deputy constable is also subject to removal by an action in quo warranto instituted by the district attorney of their county or Office of Attorney General.

(d) Deputy constable.--A constable may revoke the appointment of his deputy with or without court approval.

Section 19. Section 7176 of Title 44 is amended to read:

§ 7176. Compensation violation.

A constable who violates [the act of July 14, 1897 (P.L.206, No.209), entitled "An act to regulate the remuneration of policemen and constables employed as policemen throughout the Commonwealth of Pennsylvania, and prohibiting them from charging or accepting any fee or other compensation, in addition to their salary, except as public rewards and mileage for traveling expenses,"] section 7132 (relating to police officers) commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of [\$50] \$1,000 or to imprisonment for not more than 30 days, or both.

Section 20. Section 7178 of Title 44 is repealed:

[§ 7178. Failure to serve in a township.

(a) Scope of section.--This section applies to an individual in a township if all of the following circumstances exist:

(1) The individual is elected or appointed a constable.

(2) The individual has a freehold estate worth at least \$1,000.

(3) The individual fails to:

(i) serve; or

(ii) appoint a deputy to serve.

(b) Fine.--Except as set forth in subsection (c), an individual under subsection (a) shall be fined \$40 for the use of the appropriate township.

(c) Exception.--Subsection (b) shall not apply to an individual who:

(1) has served personally or by deputy in the office of constable of the same township within 15 years of election or appointment; or

(2) has paid a fine under subsection (b) within 15 years of election or appointment.]

Section 21. Title 44 is amended by adding a section to read:

§ 7179. Oversight.

(a) County constabulary review board.--

(1) Each county shall create a constabulary review board to:<sup>5</sup>

(i) Assist in resolving disputes involving constables or deputy constables and their performance of duties or payment for that performance.

(ii) Establish uniform policies, procedures and standards affecting constabulary service and payment for those services and may adopt or promulgate a constabulary handbook to do so, so long as the handbook is in full compliance with Act 49 of 2009.

(iii) Comply with and implement any statute, regulation, rule of court, judicial ruling or ruling from the Commonwealth constabulary review board affecting constabulary service.

(2) Membership of the constabulary review board is as follows:

(i) The president judge shall appoint one magisterial district judge and one citizen at large from the county..

(ii) The county controller or his designee shall serve.

(iii) The president judge shall appoint two PCCD certified constables. If there is a conflict directly involving a member, the appointing authority shall appoint an alternate to be used to consider the issue.

(iii) Should the review board come to a tied decision on any matter brought before them, the president judge shall have the tie-breaking vote.

(iiii) Members shall serve for a two (2) year period and may not serve more than two (2) consecutive terms on the review board. Each term shall begin January 1 of even years.

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<sup>5</sup> The initial recommendation from the JSGC study was “each county MAY” rather than “each county SHALL”. By requiring each county to hold Constables accountable in the same manner across the Commonwealth, fewer issues will arise from one county to the next. Common unity in policy and enforcement of rules and regulations is the key to successful oversight.

(3) Any matters involving investigation of or allegations of criminal misconduct shall immediately be referred to the District Attorney's Office, so as to preserve a Constable's Constitutional rights accordingly.<sup>6</sup>

(b) Commonwealth constabulary review board.

(1) By regulation, the Pennsylvania Commission on Crime and Delinquency shall establish a constabulary review board to:

(i) Assist in resolving disputes involving constables or deputy constables and their performance of non-judicial duties considered originally, or judicial duties as an appeal of a resolution from a county constabulary board.

(ii) Comply with and implement any statute, regulation, rule of court or judicial ruling affecting constabulary service.

(2) Membership of the constabulary review board will be similar to and consistent with part (a)(2) of this Section.

(c) Appeal from Commonwealth constabulary review board.--The Commonwealth Court has jurisdiction to hear an appeal of a final order entered in any matter considered by the Commonwealth constabulary review board.

**This act shall take effect the calendar year following its enactment.**

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<sup>6</sup> The initial JSGC study recommended membership to include the President Judge, the court administrator, and the DA of the county. This could then be deemed unconstitutional as it creates "Judicial oversight" of Executive branch members. The new recommendation instead appoints a Magisterial District Judge, whom would be more familiar with the day-to-day operations of the Minor Judiciary and its actors. It also removes the court administrator and replaces them with a "citizen at large" from the community, as well as two certified Constables, which creates a more balanced committee of 5 individuals. The DA is removed from the board so as to protect a Constable's 5<sup>th</sup> Amendment right, since Constables are not afforded "Garrity" protection (see Garrity v. New Jersey). However, Section 3 still allows for any allegations of criminal activity or occurrences to be directly referred to the DA's office.