



The Judiciary Review

Report from the Senate Judiciary Committee (D)

JAY COSTA, DEMOCRATIC CHAIRMAN

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DECEMBER 2005

SENATE PASSES REVISIONS TO JOINT AND SEVERAL LIABILITY

After considering competing proposals to revise joint and several liability, the Senate passed a revised Senate Bill 435. The bill consists of changes that were enacted in Act 57 of 2002. That enactment was declared invalid by the Commonwealth Court based on Article III procedural defects in the consideration of the legislation by the General Assembly. The current legislation, Senate Bill 435, Printer's No. 1357, provides for comparative negligence between plaintiffs and defendants in civil actions. In a civil action for negligence or strict liability with multiple defendants, each defendant is only responsible for the amount of damages that are proportionate to the defendant's share of the liability when the proportionate share of the individual defendant does not exceed 60% of the total liability.

Joint and several liability continues to be applied for the following causes of action regardless of the amount of liability of any one defendant:

- Dram Shop
- Toxic Tort
- Intentional Torts
- Intentional Misrepresentation.

Current Status—House State Government Committee

Certificate of Merit Rules Amended

One of the most important rule changes made in recent years aimed at decreasing medical malpractice filings was amended recently by the Pennsylvania Supreme Court. Chief Justice of Pennsylvania Ralph J. Cappy announced that the rule covering certain aspects of medical malpractice litigation was amended to clarify the requirements for certificates of merit. Rules of Civil Procedure 1042.3(b) and 1042.8 were amended by the Court to clarify their application in medical malpractice cases in which multiple claims are asserted against the same defendant.

The changes better define when separate or single certificates of merit are required. The Court's order amended rule and explanatory comment are available on the Pennsylvania Judiciary Web site at: www.courts.state.pa.us

Allegheny County Judge Nominated to Supreme Court

Governor Rendell has nominated Allegheny County Court of Common Pleas Judge Cynthia A. Baldwin to fill a vacancy on the Pennsylvania Supreme Court. After a distinguished career as a private attorney and service as attorney-in-charge for the Bureau of Consumer Protection for the Office of the Attorney General,

Judge Baldwin was the first elected African-American female judge on the Allegheny County Court of Common Pleas in 1989. Additionally, Judge Baldwin served on the Pennsylvania Commission on Crime and Delinquency and the Pennsylvania Commission on Sentencing.

Judge Baldwin currently serves in the civil division of the Allegheny County Court of Common Pleas after assignments in the family division and as a juvenile court judge. In addition to her judicial duties, Judge Baldwin currently serves as the chairperson for the Penn State University Board of Trustees.

Judge Baldwin is being nominated to fill a vacancy on the Supreme Court beginning on January 2, 2006 that would extend to the first Monday in January 2008. At that time she would be succeeded by a jurist elected at the 2007 election. Confirmation hearings will likely occur after the first of the year when the General Assembly returns for session. After a hearing by the Senate Judiciary Committee, Judge Baldwin's nomination will require a two-thirds vote in the Senate for confirmation as a Justice of the Supreme Court.

Executive Nominations

Dwayne D. Woodruff was confirmed by the Senate as Judge of Court of Common Pleas of Allegheny County.

The Senate Judiciary Committee Reports

■ **Senate Bill 553** **Printer's No. 1421**

The legislation establishes the Sexual Violence Victim Protection Act. The legislation authorizes a victim of sexual assault who is not an intimate partner or family member of the assailant to petition the court requesting protection from the defendant. The legislation establishes procedures for such victims to petition the court and to receive orders protecting them from accused assailants. The legislation provides for costs, extensions of orders and arrest for violations of orders.

Current Status—Senate Calendar

■ **Senate Bill 935** **Printer's No. 1226**

The bill amends the Crimes Code by adding section 4914.1 making it a misdemeanor of the third degree for failing to provide identification or information about one's identity to a law enforcement officer, upon request, after being stopped on reasonable suspicion for the commission of a crime.

Current Status—Senate Calendar

■ **Senate Bill 957** **Printer's No. 1254**

The bill amends the Crimes Code by adding section 3703 providing for robbery on the premises of a financial institution. A person commits the offense if, during the course of a theft in a financial institution: inflicts or threatens another serious bodily harm, commits or threatens to commit any felony of the first or second degree, inflicts or threatens bodily injury on another, physically takes or removes property from another by force.

Current Status—Senate Calendar

■ **House Bill 456** **Printer's No. 1074**

The legislation adds a new Section 2717 to the Crimes Code, entitled "Terrorism." A person would be guilty of terrorism if the person commits a "violent offense," with the intent to (1) intimidate or coerce a civilian population; (2) influence the policy of a government by intimidation or coercion; or (3) affect the conduct of a government.

The bill would also add a new Section 6801.1 to the Judicial Code, providing for the forfeiture to the Commonwealth of all assets of an organization or individual engaged in planning or perpetrating an act of terrorism, and all assets acquired by an individual or an organization for the purpose of planning, conducting or supporting terrorism, or which are derived from terrorism.

Current Status—Senate Calendar

■ **House Bill 477** **Printer's No. 1076**

The legislation establishes a new cause of action that permits an individual to sue any organization or person who engages in terrorism or provides material support for such

activity. The term terrorism is defined as committing a "violent offense", with the intent to (1) intimidate or coerce a civilian population; (2) influence the policy of a government by intimidation or coercion; or affect the conduct of a government under Section 2717 of the Crimes Code. The damages could include damages for emotional distress, loss of consortium and life's pleasure along with punitive damages, attorney's fees and costs and any other relief the court may deem proper. Exceptions to this action would include financial institutions and labor organizations that are conducting their activities within the appropriate regulatory laws.

Current Status—Senate Calendar

■ **House Bill 750** **Printer's No. 841**

The legislation amends section 7361 of the Judicial Code to provide that the monetary limit requiring civil matters to be submitted to arbitration would be \$50,000 in all counties.

Current Status—Senate Calendar



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