



The Judiciary Review

Report from the Senate Judiciary Committee (D)

JAY COSTA, DEMOCRATIC CHAIRMAN

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COSTA BURGLARY BILL MOVES TO HOUSE

The state Senate has unanimously approved a bill sponsored by State Sen. Jay Costa that would assure that sentencing courts could impose the toughest possible penalties for burglary and home invasion. The legislation amends the Crimes Code to clarify the offense of burglary. Under the current criminal statute, the offense of burglary is graded as a felony of the first degree when it involves a structure that is adapted for overnight accommodations regardless of whether a person is present during the commission of the offense.

Under Pennsylvania's Three Strikes law, burglary is only considered as a "crime of violence" for sentencing purposes when it involves an offense where a person was present during the commission of the offense. Further, this distinction currently exists under the Sentencing Guidelines and has been approved by the Legislature. By modifying the statutory language for "burglary" in the Crimes Code, the Legislature will address both the *Apprendi* and "home invasion" problems by embracing language that has already been approved and implemented for sentencing purposes. *Apprendi*, a recent decision of the United States Supreme Court, requires that other than prior convictions,

any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt.

Apprendi vs. New Jersey, 530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000).

*Current status: House Calendar—
Second Consideration*

■ **Senate Bill 660** **Printer's No. 754**

The proposed legislation contains the report and recommendations made by the Joint State Government Commission Advisory Committee on Decedents' Estates Laws. The Advisory Committee on Decedents' Estates Laws is a standing group of attorneys and judges from across the Commonwealth who assist the General Assembly by recommending improvements to Pennsylvania law relating to Title 20 of the Pennsylvania Consolidated Statutes, known as the Probate, Estates and Fiduciaries Code, and related statutes.

In 2001, the Advisory Committee decided to review Pennsylvania trust law in light of the adoption of the Uniform Trust Code (UTC). This report results from an extensive review of trust law in Pennsylvania and other matters governed by Title 20. It contains the proposed

Pennsylvania Uniform Trust Act as Subchapters A through I of a new Chapter 77 to Title 20. The Pennsylvania Uniform Trust Act borrows heavily from the structure and content of the UTC; however, where appropriate, it deviates from and replaces provisions of the UTC to preserve existing Pennsylvania law. Those sections that are substantially similar to the UTC sections contain a reference in the heading to the relevant UTC section number, thereby allowing the reader easily to recognize those provisions that are substantially based on the UTC. Conversely, sections that do not substantially incorporate the UTC provisions or are substantially rewritten do not contain a UTC reference in the heading. To parallel the organizational framework of the UTC, several sections, subsections and paragraphs in the Pennsylvania Uniform Trust Act are reserved.

Changes to the UTC are noted in the official Pennsylvania Comments, which follow many of the statutory provisions of the proposed act and explain the statutory provisions. Where the UTC provisions have been substantially retained, the UTC comments are applicable to the extent of the similarity. In addition, the uniform provisions are to be interpreted and construed to effect their

Continued on back



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Report from the
Senate Judiciary Committee

Senator Jay Costa, Democratic Chairman

■ Senate Judiciary Committee Receives Report on Senate Resolution 149

Senate Concurrent Resolution No. 149, Printer's No. 2175 of 2002 directed the Joint State Government Commission to establish a bipartisan legislative task force and an advisory committee to study the geriatric and seriously ill inmate populations in Pennsylvania State correctional institutions and make recommendations to the General Assembly. The 46-member advisory committee provided the legislative task force with a compilation of information, policy options and draft statutory language that may be reviewed by the General Assembly regarding geriatric and seriously ill inmates.

The Task Force was comprised of three subcommittees that studied various issues relating to the care and confinement of geriatric and seriously ill inmates as well as sentencing alternatives and issues relating to the Board of Probation and Parole. The subcommittees included Health and Hospice, Mental Health, Geriatric and Life-sentenced inmates, Victim wrap around programs.

The full report may be viewed at the Joint State Government Commission Website at: <http://jsg.legis.state.pa.us/Inmates%20Report.html>

Continued from front

general purpose to make uniform the laws of those states that enact them.

*Current status: Senate Calendar—
Second Consideration*

■ House Bill 127 Printer's No. 2212

The legislation requires county agencies to interview a child's foster parents as prospective adoptive parents, if that child has lived with the foster parents for a period of at least six months and the child's goal has been changed from placement in foster care to adoption.

The Department of Public Welfare would be responsible for the promulgation of regulations that would include an appeal

process for foster parents who felt that they may have been treated unjustly.

*Current status: Senate Calendar—
Second Consideration*

■ House Resolution 243 Printer's No. 1708

The resolution memorializes Congress to remove the budgetary cap on the Federal Crime Victims Fund (created by the Crime Victims Act of 1984) and release all monies appropriated to the Fund for distribution under federal grants and victim assistance.

Adopted by House/Senate



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