



# The Judiciary Review

## Report from the Senate Judiciary Committee (D)

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MAY 2005

### COSTA COURT INTERPRETERS BILL MOVES OUT OF JUDICIARY COMMITTEE

Senate Bill 669 directs the Court Administrator and the Department of Labor and Industry to establish a program for identifying certified and otherwise qualified interpreters for persons with limited English proficiency and persons who are deaf. Further, the legislation will ensure that a listing of qualified and certified foreign language interpreters is available to litigants. This way, litigants in need of certified interpreters will have access to statewide service for all administrative, civil and criminal proceedings. Certification programs established by the Court Administrator and the Department of Labor and Industry may include:

- Testing and certification
- Written and oral proficiency
- Periodic examinations to ensure availability of certified interpreters
- Reasonable fees
- Reciprocity of interpreters with other jurisdictions
- Audio recording of interpreted testimony
- Continuing education for certified interpreters

The legislation provides for the use of Otherwise Qualified Interpreters (OQIs) when certified interpreters are unavailable for such proceedings. OQIs must establish proficiency and agree to be bound by rules of professional conduct as provided by the Court Administrator or Department of Labor and Industry. Additionally, OQIs for deaf and hearing impaired must be certified by the National Association for the Deaf or

the Registry of Interpreters for the Deaf.

The program established by the Department of Labor and Industry and the Court Administrator will provide:

- Guidelines for the selection of OQIs
- Fee Schedule
- Standards of professional conduct.

An interpreter may be dismissed and replaced with another if their services are inadequate. Interpreters are required to take an oath before performance of services affirming that they will provide true and correct translation services. Certified interpreters and Otherwise Qualified Interpreters are protected by statutes and rules that provide for confidential communications when providing interpretive services that translate confidential communications. The Court Administrator and the Secretary must compile and publish a listing of certified interpreters for use in court and administrative proceedings that is available to litigants.

*Current status: Senate Calendar—  
Second Consideration*

#### ■ **Senate Bill 332** **Printer's No. 805**

The legislation amends § 2908 of Title 23 (Domestic Relations) to further provide for the registration of foreign adoption decrees and the issuance of a certificate of adoption by standardizing the procedures for the filing of foreign adoption decrees. A foreign adoption decree duly issued in another state or foreign country may be filed with the clerk

of courts for the county of the adopting parents residence. The decree and related documents are filed under seal unless ordered open for inspection on a showing for cause. Information regarding the birth parents is not required to be included.

Upon the filing of the foreign adoption decree and related documents, the clerk of courts must create a docket entry of the record that includes the foreign court, the proceedings and the date of the decree. The clerk must also be required to issue a certificate of adoption that shows the adoption has been duly registered in the county court. The name of the adoptee may be changed on this certificate from that which is included in the foreign adoption decree. A record of these transactions is forwarded to the Bureau of Vital Statistics in the Department of Health. Finally, proceedings for re-adoption of the adoptee are not required unless the foreign adoption was not finalized as to one or both parents wishing to adopt.

*Current status: Senate Calendar—  
Second Consideration*

#### ■ **Senate Bill 439** **Printer's No. 462**

The legislation creates the "Sexual Assault Testing and Evidence Collection Act" establishing a procedure for collection of evidence through the use of specific testing procedures. The Department of Health, in consultation with the Pennsylvania Coalition Against Rape and the Pennsylvania State Police, is required to establish a statewide assault evidence collection program. To standardize the testing and approval of rape kits for use in

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health care facilities in the Commonwealth as well as procedures for the collection of evidence in sexual assault offenses by local law enforcement agencies.

*Current status: Senate Calendar—  
Second Consideration*

■ **Senate Bill 509**  
**Printer's No. 806**

The legislation amends section 3392 of Title 20 to further provide for the list of priority for the payment of debts from a decedent's estate when insufficient funds exist to satisfy all debts or claims. The bill adds "medical assistance service" provided in the last 6 months of life to the third category of prioritized expenses which is intended to capture expenses of the Department of Public Welfare. Further, the bill places the Commonwealth and its political subdivisions sixth on the list for the payment of claims above the general category "all other claims" that are not specifically provided for in the list of preferred claims.

*Current status: Senate Calendar—  
Second Consideration*

■ **Senate Bill 584**  
**Printer's No. 807**

The bill adds section 5104 to Title 18 (Crimes Code) making it an offense to disarm a law enforcement officer or a corrections officer or to deprive such an officer of a weapon. The offense is graded as a felony of the third degree.

*Current status: Senate Calendar—  
Second Consideration*

■ **Senate Bill 628**  
**Printer's No. 693**

This bill incorporates changes recommended by the Joint State Government Commission's Task Force and Advisory Committee on Decedents' Estates Laws. Provisions relating to advanced directives for health care (living wills) and provisions creating comprehensive health care powers of attorney are added.

Chapter 54 of Title 20 is reorganized

into five separate subchapters:

Subchapter A (General Provisions) — this chapter contains definitions, and also contains sections dealing with legislative findings and intent, compliance, conflicting advance health care directives, life insurance, health care instruments optional, pregnancy, and the effect of divorce.

Subchapter B (Living Wills) — this chapter shall be known as the Living Will Act. This section outlines the execution, revocation, and validity of a living will. The subchapter also includes a section regarding the content of the form.

Subchapter C (Health Care Agents and Representatives) — this chapter provides for comprehensive health care power of attorney. With a health care power of attorney, an individual (principal) identifies and appoints a health care agent to make health care decisions on behalf of the principal. The power of attorney would become effective upon presentation to the attending physician and a determination by the attending physician that the person is unable to make or communicate health care decisions. The methods for executing, amending, countermanding and revoking the powers of attorney are similar to those for living wills.

The health care agent would be granted the same powers to make health care decisions that the principal could have made and exercised. The agent also has the same right to health care information as the principal. The

agent, after consultation with health care providers, shall make health care decisions in accordance with the understanding and interpretation of any instructions given by the principal. In the absence of instructions, the agent shall make health care decisions in conformity with the agent's assessment of the principal's preferences and values, including religious and moral beliefs. The agent shall act in accordance with his assessment of the principal's best interests.

Subchapter D (Combined Form) — this chapter contains a sample of a document that combines a living will and the health care power of attorney.

Subchapter E (Out-of-Hospital Nonresuscitation) — this chapter was added to address out-of-hospital do not resuscitate orders in conformity with Act No. 59 of 2002. In addition the legislation clarifies provisions of the Probate Code relating to do not resuscitate orders that were added by Act No. 59.

*Current status: Senate Appropriations  
Committee*

■ **Vance Bill Advances  
to Governor**

Senate Bill 69 introduced by Senator Vance amends the Judicial Code providing immunity for employers who provide information concerning current or former employees to a third party. The bill has passed both the House and Senate and goes to the Governor for signing.

**STATE SENATOR JAY COSTA**

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