



# The Judiciary Review

## Report from the Senate Judiciary Committee (D)

JAY COSTA, DEMOCRATIC CHAIRMAN  
(717) 787-7683

November 2008

## GOVERNOR SIGNS JUDICIARY COMMITTEE LEGISLATION

### ■ **House Bill 301,** **Printer's No. 4508**

This bill amends Title 42 relating to subpoenas for a witness who is under 18 years of age. A copy of the subpoena must be issued to the parent, guardian or other custodian of the witness.

This bill makes changes to Megan's Law to reflect a recent change in the title of the offense (2005 Act 64). If an individual is convicted of "conspiracy or solicitation" to commit any Megan's Law offense, the individual must register for ten years.

This bill adds judicial offices to the Court of Common Pleas in ten of Pennsylvania's judicial districts; Northampton, Cumberland, York, Delaware, Franklin/Fulton, Lackawanna, Butler and Carbon. Two judges were added to Dauphin and Montgomery.

The new judgeships added by the amendment shall be established on January 4, 2010, and initially filled by election at the 2009 municipal election. The new judgeship for Cumberland shall be established on January 2, 2012, and initially filled by election at the 2011 municipal election.

The legislation amends the Judicial Code with respect to the Minor Judiciary Education Board. The members of the Minor Judiciary Education Board shall be appointed by the Supreme Court.

This legislation also amends the definition, duties and training requirements for Philadelphia Bail Commissioners. Bail Commissioners

will now be referred to as 'Arraignment Court Magistrates' and be subject to a training program, as prescribed by the Supreme Court. This portion of the act will take effect in 60 days.

*Current Status: Act 98—2008*

### ■ **House Bill 1027,** **Printer's No. 4340**

The legislation amends the Domestic Relations Code by providing for the grading of multiple offenses under the willful failure to pay child support. The legislation adds subsection (d) making a first offense a summary offense. A second or subsequent offense is graded as a misdemeanor of the third degree. Further if the obligor owes an amount equal to or greater than 12 months aggregate support, an offense is also graded as a misdemeanor of the third degree. An offense shall be graded a misdemeanor of the third degree if the individual convicted of the offense established residence outside this commonwealth with the intention of not complying with the support order. Finally, the bill provides that all costs involved in returning a person found in another jurisdiction be imposed at the time of sentencing.

*Current Status: Act 104—2008*

### ■ **Senate Bill 1107** **Printer's No. 2472**

The legislation amends the Military Code to further provide for child custody agreements of deployed military service personnel. The legislation prohibits any court of this commonwealth from modifying or

amending an existing custody order or entering a new order that changes the custody order of a child whose parent is a member of the armed forces while that person is deployed in support of a contingency operation upon the filing of such a motion. The court may enter a temporary custody order if it is in the best interest of the child.

The legislation prohibits the consideration of the service member's absence during the course of the deployment when considering a change, amendment or modification of an existing order when making a determination of the child's best interest for such amendment, modification or change. Further, failure to appear at any hearing because of such deployment may not be considered as non-compliance.

An eligible service member deployed in support of a contingency operation may send written notice of his or her status to any court with jurisdiction over the custody order for the child as well as to the parents or other person with physical custody of the child. This notice shall include the serviceperson's name, military rank, unit of assignment, duty location, dates of duty or deployment if known and copy of the applicable military orders if unclassified or not otherwise protected from release. The act takes effect in 60 days.

*Current Status: Act 127—2008*

### ■ **House Bill 1147,** **Printer's No. 1396**

The legislation amends the act of November 24, 1998 (P.L. 874, No. 110)

known as the Motor Vehicle Chop Shop and Illegally Obtained and Altered Property Act. The bill amends the definition of “chop shop” to provide that a chop shop is any building, lot or other premises where individuals are engaged in certain prohibited activities relative to the dismantling of motor vehicles that are known to be illegally obtained by theft, fraud or conspiracy to defraud.

*Current Status: Act 107—2008*

■ **House Bill 1511,  
Printer’s No. 4439**

This legislation amends the Judicial Code to provide for the right to file comprehensive adjustment and progress reports from a child’s parents, adoptive parents, or any adult providing care for a child who is the subject of a permanency hearing. When a child is placed in a form of care by the court as a result of court action, delinquency or otherwise, a court may hold a permanency hearing to consider a permanent placement of the child. The amendments permit the creation and consideration of comprehensive adjustment reports on a standardized form developed by the Department of Public Welfare.

This report shall be reviewed by the court, the county agency, and the child’s counsel and/or guardian, if any, as well as any agency with an interest in the welfare of the child if it is determined to be in the best interests of the child to permit it.

In new subsection 6336.1(b)(5) a county or private agency is prohibited from taking any retaliatory action against a foster parent for providing good faith comments or concerns in this report, which the statute grants the care-giver a right to submit. Language was added to the section to direct the court in such a permanency hearing to consult in an age appropriate manner with the child or the child’s counsel or guardian regarding the terms of the permanency plan, and the child’s views thereon. The bill was amended to include definitions of ‘assessment’

and ‘screening’. These definitions were added as part of the rights for the children. No information from a screening or assessment can be used to charge the child in question.

*Current Status: Act 109—2008*

■ **House Bill 1664,  
Printer’s No. 4520**

The legislation amends section 3932 of the Crimes Code by adding “written demand to return the property.” A written demand is one sent by first class mail, evidenced by a certificate of mailing to the address provided by the lessor of the property and by certified or registered mail. The seven day period for the return of property commences on the date the letter is sent by first class certified mail. This portion of the act takes effect in 60 days.

The legislation amends section 5743 of Title 18 regarding the release of information by providers of electronic communication services. The legislation prohibits the release or disclosure of records on information regarding electronic communications

or remote computing services by an electronic communication services provider except as follows:

- At the request of a subscriber or customer and pursuant to the provisions of the service agreement between that person and the service provider.
- Upon written authorization by the subscriber regarding the release of such information to a third party.
- Upon receipt of a court order based on a showing that the information is material to the preparation for a proceeding and that the request is reasonable. The subscriber or customer must receive notice from the person requesting the information and shall have standing as a party to any proceeding pursuant to such a request. This portion of the act shall take effect immediately.

The legislation amends §5781 to extend the sunset of Chapter 57 to December 31, 2013. This portion of the act shall take effect in 60 days.

*Current Status: Act 111—2008*

**REMINDER:**  
If you would like to receive The Judiciary Review electronically,  
please forward your e-mail address to [costa@pasenate.com](mailto:costa@pasenate.com)

**STATE SENATOR  
JAY COSTA**

**OFFICES TO SERVE YOU**

**FOREST HILLS**  
1501 Ardmore Blvd. • Suite 403  
Pittsburgh, PA 15221 • (412) 241-6690

**CARRICK**  
2306 Brownsville Road  
Pittsburgh, PA 15210 • (412) 488-6111

**HOMESTEAD**  
314 East 8th Avenue  
Homestead, PA 15120 • (412) 565-7536

**HARRISBURG**  
Senate Box 203043  
Harrisburg, PA 17120-3043 • (717) 787-7683

**E-MAIL:** [costa@pasenate.com](mailto:costa@pasenate.com) • **WEB SITE:** [www.SenatorCosta.com](http://www.SenatorCosta.com)