



The Judiciary Review

Report from the Senate Judiciary Committee (D)

JAY COSTA JR., DEMOCRATIC CHAIRMAN

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Greetings and Happy New Year! It is my pleasure to again publish for your consideration the Judiciary Review. With this newsletter, it is my endeavor to keep interested parties current regarding issues before the General Assembly that impact the practice of law and administration of justice in our Commonwealth. I hope that you found last year's offerings helpful and instructive. As always, I welcome any suggestions or additions that you would have for this publication.

■ **New Legislative Session Begins with New Governor**

On January 21st, Governor Rendell was sworn into office and began to set the agenda for the 2003-2004 legislative session. However, with the change in administration, a certain amount of legislative attention will continue to be focused on the issue of medical malpractice. Despite the enactment of three separate pieces of legislation in 2002—Act 13 (MCARE), Act 57 (Repeal of Joint and Several Liability) and Act 127 (venue in medical professional liability actions) many physicians continue to labor under high professional liability insurance premiums. Governor Rendell has already empanelled a special task force to review the problem and that task force has made several preliminary recommendations:

■ **MCARE Premiums**

Governor Rendell will send legislation to the General Assembly on January 22 that would eliminate the 2003 MCARE Premium for high-risk specialties: OB/GYN, orthopedic surgery, neurosurgery, and general surgery and provide a 50 percent reduction in the 2003 MCARE premium for all other

physicians in Pennsylvania. This is expected to cost approximately \$220 million that may be covered by a one-time emergency assessment on surpluses held by all companies writing health insurance in Pennsylvania, including all four Blue Cross plans.

■ **Trauma Centers**

Governor Rendell announced that he would support legislation designed to subsidize trauma centers throughout the state compensating them for the higher costs of trauma care (including medical malpractice), and preventing their closure.

■ **Certificate of Merit**

Governor Rendell confirmed the existence of discussions between his Task Force and the Civil Rules Committee of the Pennsylvania Supreme Court that will recommend to the Supreme Court, early in 2003, adoption of a rule of civil procedure requiring the inclusion of a certificate of merit by an independent physician with every medical malpractice suit in Pennsylvania.

■ **Reimbursement Rates**

Governor Rendell announced that he would work with health

care insurers and the federal government to increase reimbursement rates to doctors and hospitals.

Additionally, the Governor has announced the creation of a new Cabinet-level agency to address the medical malpractice crisis and coordinate efforts to improve Pennsylvania's sprawling health care system.

■ **Chief Justice Zappala Continues Service to Court**

Chief Justice Ralph J. Cappy recently announced that Chief Justice Emeritus Stephen A. Zappala will continue to serve the Supreme Court of Pennsylvania by overseeing the Judiciary's computerization efforts. Throughout his tenure, Chief Justice Emeritus Zappala has been a strong advocate in the development of automation in Pennsylvania's Judiciary. Chief Justice Emeritus Zappala, who recently retired from the Pennsylvania Supreme Court 2002 after 20 years of service, due to the mandatory retirement provisions of the state constitution, was the commonwealth's 55th chief justice. Previously, he served as an Allegheny County Common Pleas Court judge.

■ **Governor Schweiker Makes Nomination for Supreme Court Vacancy**

In light of the vacancy occurring on the mandatory retirement of Chief Justice Stephen Zappala, Governor Schweiker nominated William Lamb, Esquire for the position of Justice of the Pennsylvania Supreme Court. The appointed position would continue until the first Monday in January, 2004 as an election for that position will occur on November 4, 2003. The Senate Judiciary Committee has scheduled a hearing on Mr. Lamb’s nomination for Monday, January 27, 2003.

■ **Senator Costa Reappointed Democratic Judiciary Committee Chairman and Appointed to Appropriations Committee**

Senator Jay Costa, Jr. was re-appointed Democratic chairman of the Senate Judiciary Committee for the 2003-2004 legislative session. The committee oversees a variety of legislation that directly impacts the administration of justice in the Commonwealth. The committee has responsibility for legislation that amends the Crimes Code, Judicial Code, Domestic Relations Code, Fiduciary and Estate Code as well as the Corporations Code. Additionally, the committee reviews legislation and regulations that impact the state’s criminal justice system—including measures governing the corrections and probation and parole at the state and county levels. Last, the committee considers nominees to the state’s judicial offices.

Last session, more than 330 bills were referred to the Judiciary Committee. As Democratic chairman, Costa authored legislation that toughened penalties against child rapists and made the drunk driving standard stricter for school bus drivers. Both proposals were signed into law by Governor Schweiker.

This year, Senator Costa’s privilege in serving as Democratic Chairman of the Senate Judiciary Committee will be enhanced by his appointment to the Senate Appropriations Committee. The Appropriations Committee reviews all expenditures in the state’s budget and is the largest and arguably the most influential of the 21 committees in the Senate. The appointment to the Senate Appropriations Committee offers an additional opportunity to impact legislation that may first be reviewed by the Senate Judiciary Committee but which goes to Appropriations for the consideration of its fiscal impact on state or local governments.

Costa will also serve on the Senate Transportation and Health and Welfare committees.

■ **Judiciary Committee Priorities**

In the response to his reappointment as Democratic Chairman of the Senate Judiciary Committee, Senator Costa announced several priorities that he hopes will be considered by the committee during the session.

- Second passage of a constitutional amendment providing for face-to-face confrontations in criminal convictions that involve child victims or witnesses.
- Implementation of the constitutional ban on the execution of the mentally retarded announced in the United States Supreme Court decision of Atkins v. Virginia.
- Increasing the grading of theft offenses and offenses for fraudulent or deceptive business practices that involve large sums of money or where the victim is a local government body.
- Extending civil immunity for those who assist crime victims.
- Providing for the implementation of court appointed foreign language interpreters certification program.



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