



# The Judiciary Review

## Report from the Senate Judiciary Committee (D)

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March 2002

### SENATE JUDICIARY COMMITTEE MEETS TO CONSIDER A VARIETY OF MEASURES

#### ENHANCED SENTENCES FOR CHILD RAPISTS

■ **Senate Bill No. 271**  
**Printer's No. 1708**

The bill increases the maximum sentences for the offenses of rape and involuntary deviate sexual intercourse to forty years imprisonment when the victim is less than thirteen years of age. The grading of aggravated indecent assault is increased to a felony of the first degree when the victim is less than 13 years of age.

■ **Senate Bill No. 874**  
**Printer's No. 1709**

The legislation provides that a person convicted of rape or involuntary deviate sexual intercourse resulting in serious bodily injury to a victim less than 13 years of age may be sentenced to life imprisonment. The increased sentence is referenced in both the criminal statutes to comply with the United States Supreme Court decision in *Apprendi v. New Jersey*.

#### AIRPORT SECURITY

■ **Senate Bill No. 1252**  
**Printer's No. 1636**

The bill makes it a felony of the first degree to unlawfully and intentionally use, attempt or conspire to use a device, weapon or substance to perform an act of violence resulting in death or serious injury to another person; causing serious damage to the facilities or disrupting service at an airport in this Commonwealth.

Further the bill makes it a felony of the second degree if a person enters or attempts to enter the secure

area of an airport by fraud, deceit or false pretence with the intent to commit another felony offense. Otherwise the offense is graded as a felony of the third degree.

The bill increases the offense of falsely impersonating persons privately employed from a misdemeanor of the second degree to a felony of the first degree under certain circumstances, including a person who pretends or holds himself out to be the employee of an airline, airport or agent for the purposes of gaining access to the secure area of an airport with the intent to commit a felony offense.

Last, the bill increases the grading of the offense of carrying an explosive on a conveyance from a misdemeanor of the second degree to a felony of the second degree and expands the application of the section to include aircraft, buses or other forms of public transportation.

#### RETAIL THEFT

■ **Senate Bill No. 2129**  
**Printer's No. 2841**

The bill makes it a misdemeanor of the first degree to knowingly possess, manufacture, sell, offer or deliver a theft detection shielding device or a theft detection deactivation device. These terms are defined in the bill to be devices that are ultimately used to remove or cloak materials or merchandise from electronic detection devices for the purposes of depriving merchants or libraries of retail merchandise or other materials without first lawfully obtaining possession of such merchandise or materials.

#### DUI

■ **Senate Bill No. 1029**  
**Printer's No. 1718**

In response to the 2001 Superior Court decision in *Commonwealth v. Kinney*, the legislation provides that a conviction for driving under the influence in another state will be considered the same as an offense under Pennsylvania's DUI statute for grading and sentencing purposes.

#### CIVIL PRACTICE CHANGES

■ **Senate Bill No. 235**  
**Printer's No. 3239**

The legislation creates a cause of action for the unauthorized publication or use of the name, portrait, voice, photograph or other likeness of a natural person for a commercial or advertising purposes without the express written consent of the person or a person, agent, firm or corporation authorized to give consent during the person's life or after death for a period of forty (40) years from the date of the person's death, absent consent. A natural person or an authorized person, agent, firm or corporation may bring an action to enjoin commercial use of the person's name, portrait, voice, photograph or other likeness and recover damages for loss or injury sustained including loss of royalty and punitive or exemplary damages.

The cause of action does not apply to the following:

- Use in newspapers or news presentations having a public interest.

*Continued*

- Displaying the person as a member of the public without specific identification.
- An expressive work other than those used for advertising or commercial purposes.
- Medium of political or news-worthy value.
- An original work of fine art.
- An announcement for any other permissible use.

■ **Senate Bill No. 1054**  
**Printer's No. 1313**

Courts of Common Pleas are granted jurisdiction over appeals regarding the denial or suspension of certificates authorizing a mechanic to conduct safety inspections of mass transit vehicles. Appeals from the Workers Compensation Appeals Board pursuant to section 427 of the Occupational Disease Act and from the Pennsylvania Labor Relations Board involving the Public Employees Relations Act are transferred to the jurisdiction of the Commonwealth Court from the Court of Common Pleas. The Common Pleas Courts retains jurisdiction of appeals currently filed and pending on the effective date of the act.

The bill removes the ability of an appointed Commonwealth Court judge to seek retention when the combined aggregated service on the court and Philadelphia Municipal Court totals ten years. District justices will be subject to discipline and removal under existing statutes rather than by general rule of court.

The bill repeals several sections of the Judicial Code relating to evidentiary matters but that are provided in Pennsylvania Rules of Evidence as promulgated by the Pennsylvania Supreme Court.

**ELDERLY PRISONERS**

■ **Senate Resolution No. 149**  
**Printer's No. 1653**

The resolution authorizes the creation of a bipartisan task force to study geriatric, seriously ill and lifer

populations in the Department of Corrections and review institutional procedures of other states.

**SENATE BILLS RETURN FROM HOUSE**

■ **Senate Bill No. 1109**  
**Printer's No. 1577**

Provides for terroristic threats, bomb threats, weapons of mass destruction, false alarms to agencies of public safety, false reports to law enforcement, dealing in proceeds of unlawful activity, facsimile weapons of mass destruction, the intercept of communications, restitution and possession of firearms relating to those offenses. A weapon of mass destruction is defined as biological agent, bomb, chemical agent or nuclear agent. The terms are defined to include a pathogen, toxin, virus, bacteria, prion, fungus, nerve agent, choking agent, blood agent, blister agent or radioactive material.

Provides that to bar prosecution for an existing offense, defendant must have requested joinder of an existing charge with a prior prosecution in which he was acquitted and existing offense must have occurred in the same judicial district as the prior offense.

*Current status: Passed by House—  
Referred to Senate Rules Committee*

■ **Senate Bill No. 421**  
**Printer's No. 429**

Extends sunset date for the annual adjustment of costs by district justices to January 1, 2010. Amends Pennsylvania's "Son of Sam Law" to include recovery of reasonable attorney fees.

Provides that section 1933 of the Statutory Construction Act or similar law, does not apply to criminal prosecutions. The bill provides that multiple criminal offenses do not merge for sentencing purposes unless the crimes arise from a single criminal transaction and all elements of one crime are included in the other criminal offense.

Authorizes a sentencing enhancement for offenses related to terrorism of additional ten-(10) year sentence and a fine of \$100,000.

Provides for the forfeiture of property deemed contraband including foreign or domestic assets of an individual, entity or organization engaged in planning or perpetrating an act of terrorism. Provisions are similar to those found in the Controlled Substances Forfeiture Statute.

*Current status: Passed by House—  
Referred to Senate Rules Committee*

**STATE SENATOR JAY COSTA, JR.**

*Serving the 43rd District*

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