

Date Printed: 02/05/2009

---

JTS Box Number: IFES\_51  
Tab Number: 18  
Document Title: PURDON S PENNSYLVANIA STATUTES ANNOTATED  
- TITLE 25 ELECTIONS AND ELECTORAL  
Document Date: 2001  
Document Country: USA  
Document Language: ENG  
IFES ID: EL00661



\* 9 D E F A 9 8 6 - D 2 6 4 - 4 B 4 5 - A 3 0 1 - 2 C 7 D 2 F 9 A 1 F 7 3 \*

**PURDON'S  
PENNSYLVANIA STATUTES  
ANNOTATED**

**Title 25  
Elections and Electoral Districts**

**2001  
Cumulative Annual Pocket Part**

*For Use In 2001-2002*

Replacing 2000 pocket part  
supplementing 1994 main volume

**Includes Acts through the  
2000 Regular Session**



**WEST GROUP**

A THOMSON COMPANY

**COPYRIGHT © 2001**

**By**

**WEST GROUP**

**All rights reserved**

West Group has created this publication to provide you with accurate and authoritative information concerning the subject matter covered. However, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. West Group is not engaged in rendering legal or other professional advice, and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

**PURDON'S PENNSYLVANIA STATUTES ANNOTATED and  
PENNSYLVANIA CONSOLIDATED STATUTES ANNOTATED  
are trademarks used herein under license**

**WESTLAW is a registered trademark used herein under license.  
Registered in U.S. Patent and Trademark Office.**

# PREFACE

---

This 2001 Cumulative Annual Pocket Part contains laws of a general and permanent nature through Act No. 2000-142, the last law of the 2000 Regular Session of the General Assembly.

The laws are classified to Purdon's Pennsylvania Statutes Annotated and/or to Purdon's Pennsylvania Consolidated Statutes.

Citations following the text of sections to official P.L. numbers are to local page numbers, i.e., the page on which the text actually begins, through 1973 legislation. Beginning with 1974 legislation, and continuing to date, P.L. numbers are to the first page of an act.

The annotations from the decisions of the State and Federal Courts construing the laws close with cases published as of February 3, 2001, reported in:

Atlantic Reporter, Second Series .....	764 A.2d 198
Pennsylvania Reports .....	562 Pa.
Lower Court Reports .....	Current Vols.
Supreme Court Reporter .....	121 S.Ct. 849
United States Reports .....	529 U.S. (part)
Lawyers' Edition, Second Series .....	149 L.Ed.2d (part)
Federal Reporter, Third Series .....	235 F.3d 580
Federal Supplement, Second Series .....	124 F.Supp.2d 1341
Federal Rules Decisions .....	198 F.R.D. 88
Bankruptcy Reporter .....	256 B.R. 656
Federal Claims Reporter .....	48 Fed.Cl. 393
Opinions of the Attorney General .....	Op.Atty.Gen. 1998, No. 98-1
Other Standard Reports	

Library References to Key Number Digests, to Corpus Juris Secundum and to Pennsylvania Law Encyclopedia are included as a convenient aid to research.

Later laws and annotations will be cumulated in subsequent pocket parts and annotated pamphlets. For advance copies of laws enacted at subsequent sessions of the Legislature, see the Pennsylvania Session Law Service or the WESTLAW PA-LEGIS Database.

\*

# COORDINATED RESEARCH IN PENNSYLVANIA FROM WEST GROUP

---

GOODRICH-AMRAM 2D

---

STANDARD PENNSYLVANIA PRACTICE 2D

---

SUMMARY OF PENNSYLVANIA JURISPRUDENCE 2D

---

## PENNSYLVANIA PRACTICE SERIES

### **Pennsylvania Evidence**

Leonard Packel and Anne Bowen Poulin

### **Pennsylvania Criminal Procedure—Forms and Commentary**

David Rudovsky and Leonard Sosnov

### **Pennsylvania Torts: Law and Advocacy**

S. Gerald Litvin and Gerald A. McHugh, Jr.

### **Pennsylvania Discovery Practice**

Charles R. Gibbons

---

## WEST'S PENNSYLVANIA FORMS

### **Civil Procedure**

Gibbons, Kraut, Edgar and Frenkel

### **Domestic Relations**

David Hofstein and Judith Widman

### **Estate Administration**

James Kozloff

### **Business Organizations**

Kathleen O'Brien and David Shechtman

### **Estate Planning**

Christopher Gadsden

### **Debtor/Creditor**

Robert Simons and William Schorling

---

Purdon's Pennsylvania Statutes and Consolidated

Statutes Annotated

Pennsylvania Reporter

West's Pennsylvania Digest, 2d

## COORDINATED RESEARCH IN PENNSYLVANIA FROM WEST

Pennsylvania Rules of Court  
State and Federal  
Pennsylvania Criminal Justice Pamphlet  
Pennsylvania Family Law Pamphlet  
Pennsylvania School Laws and Rules  
Pennsylvania Law Finder

---

### WESTLAW

WESTCheck<sup>®</sup> and WESTMATE<sup>®</sup>

WIN<sup>®</sup>

WESTfax<sup>®</sup>

West CD-ROM Libraries<sup>™</sup>

---

WESTLAW, WEST BOOKS and  
West CD-ROM Libraries<sup>™</sup>  
*The Ultimate Research System*

---

To order any of these Pennsylvania practice tools, call your West representative or 1-800-328-9352.

### NEED RESEARCH HELP?

If you have research questions concerning WESTLAW or West Publications, call West Reference Attorneys at 1-800-733-2889.

### Internet Access

Contact the West Editorial Department directly with your questions and suggestions by e-mail at

**editor@westgroup.com.**

Visit West's home page on the World Wide Web at

**<http://www.westgroup.com>**

# WESTLAW ELECTRONIC RESEARCH GUIDE

---

## WESTLAW, Computer Assisted Legal Research

WESTLAW is part of the research system provided by West Group. With WESTLAW, you find the same quality and integrity that you have come to expect from West books. For the most current and comprehensive legal research, combine the strengths of West books and WESTLAW.

## WESTLAW Adds to Your Library

Whether you wish to expand or update your research, WESTLAW can help. For instance, WESTLAW is the most current source for case law, including slip opinions and unreported decisions. In addition to case law, the online availability of statutes, statutory indexes, legislation, court rules and orders, administrative materials, looseleaf publications, texts, periodicals, news and business information makes WESTLAW an important asset to any library. Check the online WESTLAW Directory or the print *WESTLAW Database Directory* for a list of available databases and services. Following is a brief description of some of the capabilities that WESTLAW offers.

### Natural Language Searching

You can now search most WESTLAW databases using WIN<sup>®</sup>, the revolutionary Natural Language search method. As an alternative to formulating a query using terms and connectors, WIN allows you to simply enter a description of your research issue in plain English:

What is the government's obligation to warn military personnel of the danger of past exposure to radiation?

WESTLAW then retrieves the set of documents that have the highest statistical likelihood of matching your description.

### Retrieving a Specific Document

When you know the citation to a case or statute that is not in your library, use the Find service to retrieve the document on WESTLAW. Access Find and type a citation like the following:

find 42 pa.c.s.a. 7302  
find 40 p.s. 1008.3  
find 289 pa super 248  
find 495 pa 177

## WESTLAW GUIDE

### Updating Your Research

You can use WESTLAW to update your research in many ways:

- Retrieve cases citing a particular statute.
- Update a state statute by accessing the Update service from the displayed statute using the jump marker.
- Retrieve newly enacted legislation by searching in the appropriate legislative service database.
- Retrieve cases not yet reported by searching in case law databases.
- Read the latest U.S. Supreme Court opinions within an hour of their release.
- Update West digests by searching with topic and key numbers.

### Determining Case History and Retrieving Citing Cases

**KeyCite®:** Cases and other legal materials listed in KeyCite Scope can be researched through West Group's KeyCite service on WESTLAW. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

### Additional Information

For more detailed information or assistance, contact your WESTLAW Account Representative or call 1-800-REF-ATTY (1-800-733-2889).

### WESTfax®

Call 1-800-562-2FAX to order full text cases by fax. Pricing: \$7.00 per case plus \$1.50 per page (\$1.00 per page after 10 pages) and applicable tax. Mail and overnight delivery also available. Cases include current history (reversed, overruled, etc.). Hours: 8:00 a.m.-6:00 p.m., central time, Monday through Friday. Available only in U.S.A. Order subject to approval of vendor. Price subject to change without notice.



# TITLES OF PURDON'S PENNSYLVANIA STATUTES AND PURDON'S PENNSYLVANIA CONSOLIDATED STATUTES

Title	Purdon's Statutes	Purdon's Consolidated Statutes <sup>1</sup>
1	Adoption [Repealed] -----	General Provisions
2	Aeronautics -----	Administrative Law and Procedure
3	Agriculture -----	Agriculture Code
4	Amusements -----	Amusements
5	Arbitration [Repealed] -----	Athletics and Sports
6	Bailees and Factors -----	Bailees and Factors
7	Banks and Banking -----	Banks and Banking
8	Bonds and Recognizances -----	Boroughs and Incorporated Towns
9	Burial Grounds -----	Burial Grounds
10	Charities and Welfare -----	Charities
11	Children -----	Cities
12	Civil and Equitable Remedies and Procedure [Repealed] -----	Commerce and Trade
12A	Uniform Commercial Code [Repealed]	
13	Constables -----	Commercial Code
14	Cooperative Associations -----	Community Affairs
15	Corporations and Unincorporated Associations -----	Corporations and Unincorporated Associations
16	Counties -----	Counties
17	Courts [Repealed] -----	Credit Unions
18	Crimes and Offenses -----	Crimes and Offenses
19	Criminal Procedure [Repealed] -----	(Reserved)
20	Decedents' and Trust Estates [Repealed] -----	Decedents, Estates and Fiduciaries
21	Deeds and Mortgages -----	(Reserved)
22	Detectives -----	Detectives and Private Police
23	Divorce -----	Domestic Relations
24	Education -----	Education
25	Elections and Electoral Districts -----	Elections
26	Eminent Domain -----	Eminent Domain
27	Escheats -----	Environmental Resources
28	Evidence and Witnesses [Repealed] -----	Escheats
29	Fences -----	Federal Relations

<sup>1</sup> Not all titles have been enacted into positive law.

## TITLES OF PENNSYLVANIA STATUTES

Title	Purdon's Statutes	Purdon's Consolidated Statutes
30	Fish [Repealed] -----	Fish
31	Food -----	Food
32	Forests, Waters and State Parks--	Forests, Waters and State Parks
33	Frauds, Statute of -----	Frauds, Statute of
34	Game [Repealed] -----	Game
35	Health and Safety -----	Health and Safety
36	Highways and Bridges -----	Highways and Bridges
37	Hotels and Lodging Houses -----	Historical and Museums
38	Industrial Police -----	Holidays and Observances
39	Insolvency and Assignments-----	Insolvency and Assignments
40	Insurance -----	Insurance
41	Interest -----	(Reserved)
42	Justices of the Peace, Aldermen and Magistrates [Repealed] ----	Judiciary and Judicial Procedure
43	Labor -----	Labor
44	Legal Holidays and Observances--	Law and Justice
45	Legal Notices and Advertisements-----	Legal Notices
46	Legislature and Statutes-----	Legislature
47	Liquor -----	Liquor
48	Marriage -----	Lodging and Housing
49	Mechanics' Liens -----	Mechanics' Liens
50	Mental Health -----	Mental Health
51	Military Affairs [Repealed]-----	Military Affairs
52	Mines and Mining -----	Mines and Mining
53	Municipal and Quasi-Municipal Corporations -----	Municipalities Generally
54	Names [Repealed] -----	Names
55	Navigation-----	(Reserved)
56	Negotiable Instruments -----	(Reserved)
57	Notaries Public -----	Notaries Public
58	Oil and Gas -----	Oil and Gas
59	Partnerships -----	(Reserved)
60	Peddlers -----	Peddlers
61	Penal and Correctional Institutions -----	Penal and Correctional Institutions
62	Poor Persons and Public Welfare -	Procurement
63	Professions and Occupations (State Licensed)-----	Professions and Occupations (State Licensed)
64	Public Lands-----	Public Authorities and Quasi- Public Corporations
65	Public Officers -----	Public Officers
66	Public Service Companies [Repealed] -----	Public Utilities
67	Railroads, Railways and Canals. <i>See Title 15</i> -----	Public Welfare
68	Real and Personal Property-----	Real and Personal Property
69	Sales -----	Savings Associations
70	Securities -----	Securities

## TITLES OF PENNSYLVANIA STATUTES

Title	Purdon's Statutes	Purdon's Consolidated Statutes
71	State Government -----	State Government
72	Taxation and Fiscal Affairs -----	Taxation and Fiscal Affairs
73	Trade and Commerce -----	Townships
74	United States -----	Transportation
75	Vehicles [Repealed] -----	Vehicles
76	Weights, Measures and Standards [Transferred to Title 31, Food; Title 68, Real and Personal Property; Title 73, Trade and Commerce] -----	Weights, Measures and Standards
77	Workmen's Compensation -----	Workmen's Compensation
78		Zoning and Planning
79		Supplementary Provisions

\*



## ABBREVIATIONS

---

A. ....	Atlantic Reporter
A.2d .....	Atlantic Reporter, Second Series
Abb. ....	Abbott's Circuit Court Reports, U.S.
Abb.Adm. ....	Abbott's Admiralty Reports, U.S.
Adams L.J. ....	Adams County Legal Journal
Add. ....	Addison's Reports
Am.Dec. ....	American Decisions
Am.J.L. & Med. ....	American Journal of Law & Medicine
Am.J.Trial Advoc. ....	American Journal of Trial Advocacy
Am.L.J.,N.S. ....	American Law Journal, New Series
Am.L.J.,O.S. ....	American Law Journal, Hall's
Am.L.Reg.,N.S. ....	American Law Register, New Series
Am.L.Reg.,O.S. ....	American Law Register, Old Series
Am.Rep. ....	American Reports
Am.St.Rep. ....	American State Reports
Am.U.L.Rev. ....	American University Law Review
Anml L. ....	Animal Law
Ann.Cas. ....	American & English Annotated Cases
Ashm. ....	Ashmead's Reports
Baldw. ....	Baldwin's Reports, U.S.
Beaver ....	Beaver County Legal Journal
Ben. ....	Benedict's Reports, U.S.
Berkely Women's L.J. ....	Berkeley Women's Law Journal
Berks ....	Berks County Law Journal
Binn. ....	Binney's Reports
Binns' Just. ....	Binns' Justice
Biss. ....	Bissell's Reports, U.S.
Black ....	Black's United States Supreme Court Reports
Blair ....	Blair County Law Reports
Blatchf.C.C. ....	Blatchford's Reports, U.S.
Bond ....	Bond's Reports, U.S.
B.R. ....	Bankruptcy reports
Bright.E.C. ....	Brightly's Election Cases
Bright.N.P. ....	Brightly's Nisi Prius Reports
Brooklyn L.Rev. ....	Brooklyn Law Review
Browne ....	P. A. Browne's reports
Brock. ....	Brockenbrough's Reports, U.S.
Bucks ....	Bucks County Law Reporter
Buff.L.Rev. ....	Buffalo Law Review
B.U.L.Rev. ....	Boston University Law Review
B.Y.U.L.Rev. ....	Brigham Young University Law Review
C.A. ....	United States Court of Appeals
C.C.A. ....	United States Circuit Court of Appeals
Cambria ....	Cambria County Legal Journal
Cambria C.R. ....	Cambria County Reports
Camp. ....	Campbell's Legal Gazette Reports

## ABBREVIATIONS

Cardoza L.Rev. -----	Cardozo Law Review
Case W.Res.L.Rev. -----	Case Western Reserve Law Review
Cath. U.L.Rev. -----	Catholic University Law Review
Cent. -----	Central Reporter
C.C. (see Pa.C.C.) -----	County Court Reports
Chest. -----	Chester County Reports
C.J. -----	Corpus Juris
C.J.S. -----	Corpus Juris Secundum
Cl.Ct. -----	Claims Court Reporter
Clark -----	Clark's Pennsylvania Law Journal Reports
Cliff. -----	Clifford's Reports, U.S.
Colum.Hum.Rts.L.Rev. ----	Columbia Human Rights Law Review
Colum.J. Gender & L. ----	Columbia Journal of Gender and Law
Colum.J.L. & Soc.Probs. ---	Columbia Journal of Law & Social Problems
Com. -----	Commonwealth
Const. -----	Constitution
Cont.Elect.Case -----	Contested Election Cases, U.S.
Cornell L.Rev. -----	Cornell Law Review
Corp. -----	Pennsylvania Corporation Reporter
C.P.Rep. -----	Common Pleas Reporter
Crabbe -----	Crabbe's Reports, U.S.
Cranch -----	Cranch's United States Supreme Court Reports
Cranch C.C. -----	Cranch's Circuit Court Reports, U.S.
Cl.Ct. -----	Claims Court Reporter
Cumb. -----	Cumberland Law Journal
Curt.C.C. -----	Curtis' Reports, U.S.
Daily L.N. -----	Daily Legal News
Daily L.R. -----	Daily Legal Record
Dall. -----	Dallas' United States Supreme Court Reports
Dauph. -----	Dauphin County Reports
D.C. -----	United States District Court
Deady -----	Deady's Reports, U.S.
Del. -----	Delaware County Reports
Del.Co.L.J. -----	Delaware County Legal Journal
Denv.U.L.Rev. -----	Denver University Law Review
DePaul L.Rev. -----	DePaul Law Review
Dick.L.Rev. -----	Dickinson Law Review
Dill. -----	Dillon's Reports, U.S.
Dist. -----	Pennsylvania District Reports
D. & C. -----	Pennsylvania District & County reports
D. & C.2d -----	District & County Reports, Second Series
Docket -----	The Docket
Duq.L.Rev. -----	Duquesne University Law Review
East. -----	Eastern Reporter
Elder L.J. -----	Elder Law Journal
Emory L.J. -----	Emory Law Journal
Erie -----	Erie County Law Journal
F. -----	Federal Reporter
F.2d -----	Federal Reporter, Second Series
F.3d -----	Federal Reporter, Third Series
Fay.L.J. -----	Fayette Legal Journal
Fed.Cas.No. -----	Federal Cases
Fed.Cl. -----	Federal Claims Reporter

## ABBREVIATIONS

Fed.Comm.L.J. -----	Federal Communications Law Journal
F.R.D. -----	Federal Rules Decisions
F.Supp. -----	Federal Supplement
F.Supp.2d -----	Federal Supplement, Second Series
Fiduciary -----	Fiduciary Reporter
Fisher -----	Fisher's Prize Cases, U.S.
Fla.St.U.L.Rev. -----	Florida State University Law Review
Flip. -----	Flippin's Reports, U.S.
Fordham L.Rev. -----	Fordham Law Review
Foster -----	Foster's Legal Chronicle Reports
Gall. -----	Gallison's Reports, U.S.
Gilp. -----	Gilpin's Reports, U.S.
Grant -----	Grant's Cases
Hall's Am.L.J. -----	Hall's American Law Journal
Hastings Const.L.Q. -----	Hastings Constitutional Law Quarterly
Haz.Pa.Reg. -----	Hazard's Register of Pennsylvania
Haz.U.S.Reg. -----	Hazard's United States Register
Hempst. -----	Hempstead's Reports, U.S.
Holmes -----	Holmes' Reports, U.S.
Hopk.Adm. -----	Hopkinson's Admiralty Cases
Hopk.Wks. -----	Hopkinson's Works
Hous.L.Rev. -----	Houston Law Review
How. -----	Howard's United States Supreme Court Reports
Id. -----	Idem. The same
Idaho L.Rev. -----	Idaho Law Review
Jour.Law -----	Journal of Law
J.L. & Com. -----	Journal of Law and Commerce
J.Marshall L.Rev. -----	John Marshall Law Review
J.P. -----	Justice of the Peace
Just. -----	Justice's Law Reporter
Key (☞) -----	American Digest Key Number System
Kulp -----	Kulp's Report, Luzerne Legal Register Reports
L.Ed. -----	United States Supreme Court Reports, Lawyers' Edition
L.Ed.2d -----	United States Supreme Court Reports, Lawyers' Edition, Second Series
Lack.Bar -----	Lackawanna Bar
Lack.Bar R. -----	Lackawanna Bar Reports
Lack.Co.Rep. -----	See Wilcox
Lack.Jur. -----	Lackawanna Jurist
Lack.L.N. -----	Lackawanna Legal News
Lack.L.R. -----	Lackawanna Legal Record
Lanc.Bar -----	Lancaster Bar
Lanc.Rev. -----	Lancaster Law Review
Law.L.J. -----	Lawrence Law Journal
Law Times, N.S. -----	Law Times, New Series
Law Times, O.S. -----	Law Times, Old Series, Luzerne
Lebanon -----	Lebanon County Legal Journal
Leg. Chron. -----	See Foster
Leg.Gaz. -----	Legal Gazette
Leg.Gaz.Rep. -----	See Camp
Leg.Op. -----	Legal Opinion
Leg.Rec. -----	Legal Record Reports

## ABBREVIATIONS

Leg. & Ins.Rep. -----	Legal and Insurance Reporter, Pa.
Leh.L.J. -----	Lehigh County Law Journal
Lehigh -----	Lehigh Valley Law Reporter
L. & Sexuality -----	Journal of Law & Sexuality
L.I. -----	Legal Intelligencer
Low. -----	Lowell's Reports, U.S.
Loy.U.Chi.L.J. -----	Loyola University of Chicago Law Journal
L.R.A. -----	Lawyers' Reports Annotated
L.R.A., N.S. -----	Lawyers' Reports Annotated, New Series
Luz.L.J. -----	Luzerne Law Journal
Luz.L.O. -----	Luzerne Legal Observer
Luz.L.Reg. -----	Luzerne Legal Register
Luz.L.Reg.Rep. -----	Luzerne Legal Register Reports, Continuation of Kulp
Luz.L.T.,N.S. -----	Luzerne Law Times, New Series
Luz.L.T.,O.S. -----	Luzerne Law Times, Old Series
Lycoming -----	Lycoming Reporter
McAll. -----	McAllister's Reports, U.S.
McCrary -----	McCrary's Reports, U.S.
McLean -----	McLean's Reports, U.S.
Mag. & Con. -----	Magistrate and Constable
Maryland L.Rev. -----	Maryland Law Review
Mason -----	Mason's Reports, U.S.
Mercer L.Rev. -----	Mercer Law Review
Miles -----	Miles' Reports
Mo.L.Rev. -----	Missouri Law Review
Mona. -----	Monaghan's Reports
Monroe L.R. -----	Monroe Legal Reporter
Montg. -----	Montgomery County Law Reporter
Mun. -----	Municipal Law Reporter
Nat.Bank.Reg. (or N.B.R.) -----	National Bankruptcy Register Reports, U.S.
Nat.Resources & Env't -----	Natural Resources & Environment
Newb.Adm. -----	Newberry's Admiralty Reports, U.S.
New Eng. J. on Crim. & Civ. Confinement -----	New England Journal on Criminal and Civil Confinement
Niles Reg. -----	Niles' Register
North. -----	Northampton County Reports
Northumb.Co. -----	Northumberland County Legal News
Northumb.L.J. -----	Northumberland Legal Journal
N.C.L.Rev. -----	North Carolina Law Review
N.D.L.Rev. -----	North Dakota Law Review
N.Y.U.L.Rev. -----	New York University Law Review
N.Y.U.Rev.L. & Loc. Change -----	New York University Review of Law and Social Change
Olcott -----	Olcott's Admiralty Reports, U.S.
O.L.J. -----	Olwines Law Journal
Op.Atty.Gen. -----	Opinions of the Attorney General
Or.L.Rev. -----	Oregon Law Review
Pa. -----	Pennsylvania State Reports
Pa.B.A.Q. -----	Pennsylvania Bar Association Quarterly
Pa.Bk.Cas. -----	Pennsylvania Bank Cases
Pa.C.C. -----	Pennsylvania County Court Reports



## ABBREVIATIONS

Pa.C.S.A. -----	Pennsylvania Consolidated Statutes Annotated
Paine -----	Paine's Report, U.S.
Pa.L.J. -----	Pennsylvania Law Journal
Pa.L.M. -----	Pennsylvania Law Magazine
Pa.L.S. -----	Pennsylvania Law Series
Pa.L.Rec. -----	Pennsylvania Law Record
Pa.O.C. -----	Orphans' Court
Pa.R.Admis. -----	Bar Admission Rules
Pa.R.A.P. -----	Rules of Appellate Procedure
Pa.R.CJC -----	Code of Judicial Conduct
Pa.R.C.L.E. -----	Rules for Continuing Legal Education
Pa.R.C.P. -----	Rules of Civil Procedure
Pa.R.C.P.D.J. -----	Rules of Conduct, Office of Standards and Civil Procedure for District Judges
Pa.R.Crim.P. -----	Rules of Criminal Procedure
Pa.R.D.E. -----	Rules of Disciplinary Enforcement
Pa.R.J.A. -----	Rules of Judicial Administration
Pa.R.J.Disc.Int. -----	Court of Judicial Discipline Interim Rule
Pa.R.Phila.Mun.Ct.RCP ---	Philadelphia Municipal Court Rules of Civil Procedure
Pars. -----	Parson's Select Equity Cases
Pa.Super. -----	Pennsylvania Superior Court Reports
Pears. -----	Pearson's Reports
PEB -----	Permanent Editorial Board for the Uniform Commercial Code
Penny. -----	Pennypacker's Supreme Court Reports
Penny.Col.Cas. -----	Pennypacker Colonial Cases
Pet. -----	Peters' United States Supreme Court Reports
Pet.Adm. -----	Peters' Admiralty Reports, U.S.
Pet.C.C. -----	Peters' Circuit Court Reports, U.S.
P.F.S. -----	P. F. Smith
Phila. -----	Philadelphia Reports
Pitts. -----	Pittsburgh Reports
P.L. -----	Pamphlet Laws
P.L.E. -----	Pennsylvania Law Encyclopedia
P.L.J. -----	Pittsburgh Legal Journal
P.S. -----	Purdon's Pennsylvania Statutes Annotated
P. & W. -----	Penrose and Watts' Reports
Rawle -----	Rawle's Reports
Sadler -----	Sadler's Pennsylvania Supreme Court Cases
Santa Clara L.Rev. -----	Santa Clara Law Review
Sawy. -----	Sawyer's Reports, U.S.
Sch.L.R. -----	Schuylkill Legal Record
Sch.Reg. -----	Schuylkill Register
Seton Hall J.Sport L. -----	Seton Hall Journal of Sport Law
Seton Hall Legis.J. -----	Seton Hall Legislative Journal
Shingle -----	Shingle
Singers -----	Singers Probate Cases
S.Ct. -----	United States Supreme Court Reporter
S.Ill.U.L.J. -----	Southern Illinois University Law Review
SMU L.Rev. -----	Southern Methodist University Law Review
Som. -----	Somerset Legal Journal

## ABBREVIATIONS

Sprague -----	Sprague's Reports, U.S.
St. Mary's L.J. -----	St. Mary's Law Journal
Stetson L.Rev. -----	Stetson Law Review
Story -----	Story's Reports, U.S.
Sumn. -----	Sumner's Reports, U.S.
Super.Ct.Rep. -----	See Pa.Super.
Susq.L.Chron. -----	Susquehanna Legal Chronicle
Syracuse L.Rev. -----	Syracuse Law Review
S. & R. -----	Sergeant & Rawle's Reports
Taney -----	Taney's Reports, U.S.
Temp.L.Q. -----	Temple Law Quarterly
Temp.L.Rev. -----	Temple Law Review
Tort & Ins.L.J. -----	Tort & Insurance Law Journal
Trial -----	Trial
U.Chi.L.Rev. -----	University of Chicago Law Review
U.Cin.L.Rev. -----	University of Cincinnati Law Review
U.Colo.L.Rev. -----	University of Colorado Law Review
U.Ill.L.Rev. -----	University of Illinois Law Review
U.Pa.L.Rev. -----	University of Pennsylvania Law Review
U.Pitt.L.Rev. -----	University of Pittsburgh Law Review
U.Pitt.J.L. & Comm. -----	The Journal of Law and Commerce
U.S. -----	United States Supreme Court Reports
U.S.C.A. -----	United States Code Annotated
Vand.L.Rev. -----	Vanderbilt Law Review
Vaux -----	Vaux Recorder's Decisions
Vill.L.Rev. -----	Villanova Law Review
W. -----	Watts' Reports
W. & S. -----	Watts' & Sergeant's Reports
Walk. -----	Walker's Pennsylvania Supreme Court Cases
Wall. -----	Wallace's United States Supreme Court Reports
Wall.C.C. -----	Wallace, Sr.'s, Reports, U.S.
Wall.Jr.C.C. -----	Wallace, Jr.'s, Reports, U.S.
War.Op. (or Warwick's Op.) -----	Warwick's Opinions, City Solicitor of Philadelphia
Ware -----	Ware's Reports, U.S.
Wash. -----	Washington County Reports
Wash.U.L.Q. -----	Washington University Law Quarterly
Watts -----	Watts' Reports
Watts & S. -----	Watts' & Sergeant's Reports
West. -----	Westmoreland County Law Journal
West's Op. -----	West's Opinions, City Solicitor of Philadelphia
Wh. -----	Wharton's Reports
Wheat. -----	Wheaton's United States Supreme Court Reports
Widener J.Pub.L. -----	Widener Journal of Public Law
Wilcox -----	Wilcox's Lackawanna County Reports
Wis.L.Rev. -----	Wisconsin Law Review
Wm. & Mary L.Rev. -----	William & Mary Law Review
W.N.C. -----	Weekly Notes of Cases
Woodb. & M. -----	Woodbury & Minot's Reports, U.S.
Woods -----	Woods' Reports, U.S.

## ABBREVIATIONS

Woodw. -----	Woodward's Decisions
Woolw.Rep. -----	Woolworth's Reports, U.S.
Work.Comp. -----	Workmen's Compensation Law of Pennsylvania
W.Va.L.Rev. -----	West Virginia Law Review
Y. -----	Yeates' Reports
Yale J.L. & Feminism -----	Yale Journal of Law and Feminism
Yeates -----	Yeates' Reports
York -----	York Legal Record

\*



## EFFECTIVE DATES OF ACTS

---

Section 1701 of Title 1, General Provisions, of Purdon's Pennsylvania Consolidated Statutes provides:

"(a) General rule.—Except as otherwise provided in this chapter all statutes enacted finally at any regular session of the General Assembly not containing a specified effective date shall be effective on the date specified by that one of the following rules of construction in effect on the date of final enactment of the statute:

"(1) Final enactment before May 18, 1929.—immediately upon final enactment.

"(2) Final enactment on or after May 18, 1929 and before August 25, 1951.—on the first day of September next following their final enactment.

"(3) Final enactment on or after August 25, 1951 and before January 10, 1960.—on the first day of September next following their final enactment, or if finally enacted after the first day of September of the year of the regular session, immediately upon final enactment.

"(4) Final enactment on or after January 10, 1960 and before June 6, 1969.—on the first day of September next following their final enactment, or if finally enacted after the first day of July of the year of the regular session, 60 days after final enactment.

"(5) Final enactment on or after June 6, 1969.—60 days after final enactment.

"(b) Statutes enacted after effective date therein specified.—Except as otherwise provided in this chapter all statutes enacted finally at any regular session of the General Assembly after the effective date therein specified shall be effective on the date specified by that one of the following rules of construction in effect on the date of final enactment of the statute:

"(1) Final enactment before January 10, 1960.—immediately upon final enactment.

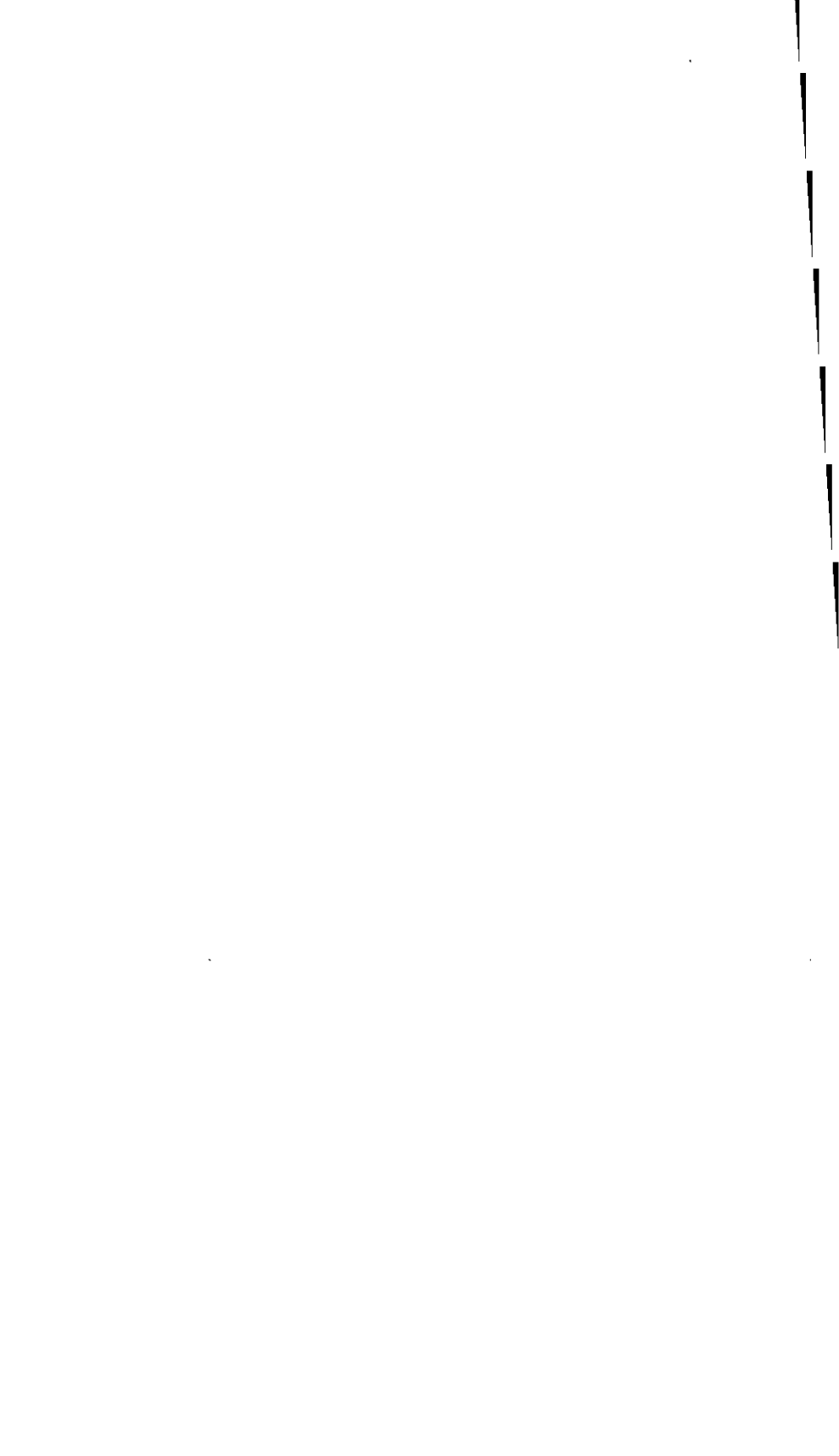
"(2) Final enactment on or after January 10, 1960.—60 days after final enactment."

1972, Dec. 6, P.L. 1339, No. 290, § 3, imd. effective.

A bill passed notwithstanding the objections of the Governor becomes law on the day of the vote to override the veto in the second house. Const. Art. 4, § 15. O.A.G. No. 76-9, March 24, 1976.

For special effective dates of statutes making appropriations, statutes affecting the budget of political subdivisions and statutes enacted at a special session, see 1 Pa.C.S.A. §§ 1702 to 1704.

\*



# CITE THIS BOOK

Purdon's Statutes:

\_\_\_\_ P.S. § \_\_\_\_

Pennsylvania Consolidated Statutes Annotated:

\_\_\_\_ Pa.C.S.A. § \_\_\_\_

\*

# PURDON'S PENNSYLVANIA STATUTES ANNOTATED

## TITLE 25

### ELECTIONS & ELECTORAL DISTRICTS

#### Chapter

- 4. REGISTRATION OF VOTERS; ENROLLMENT OF VOTERS
- 4A. VOTER REGISTRATION ACT
- 14. ELECTION CODE
- 15. ELECTION DISTRICT ALTERATION AND DATA REPORTING ACT

#### Cross References

Constables, election, see 13 Pa.C.S.A. § 1 et seq.

#### CHAPTER 4

#### REGISTRATION OF VOTERS; ENROLLMENT OF VOTERS

##### GENERAL PROVISIONS

###### Section

261 to 263. Repealed.

##### IN CITIES OF THE FIRST CLASS

623-1 to 623-17. Repealed.

623-19 to 623-22. Repealed.

623-24 to 623-46. Repealed.

###### Section

IN CITIES OF THE SECOND CLASS,  
SECOND CLASS A AND THIRD  
CLASS, BOROUGHES, TOWNS AND  
TOWNSHIPS

951-1 to 951-20. Repealed.

951-22 to 951-46. Repealed.

##### GENERAL PROVISIONS

###### ENUMERATION OF REGISTERED PERSONS

§ 261 to 263. Repealed. 1998, Feb. 13, P.L. 72, No. 18, § 23, imd. effective

#### Historical and Statutory Notes

Former §§ 261 to 263, which derived from Act 1925, May 13, P.L. 663, §§ 1 to 3, related to the

enumeration of registered persons, tabulation of totals of returns, and form for returns.

##### ENROLLMENT ACCORDING TO PARTY AFFILIATIONS

§ 292. Enrollment in cities; challenges; designation or change of affiliation; counting presidential electors; exclusive use of party name

#### United States Supreme Court

Elections, selection of Presidential electors, authority of state legislature and courts under U.S.C.A. Const. Article 2 § 1, see Bush v. Palm

Beach county Canvassing Board, 2000, 121 S.Ct. 471.



§ 299. Right to vote at primary

United States Supreme Court

Freedom of association,  
Political parties, blanket primary allowing  
voters to vote for any candidate regardless

of voter's or candidate's party affiliation,  
state interests, see California Democratic  
Party v. Jones, 2000, 120 S.Ct. 2402.

IN CITIES OF THE FIRST CLASS

PERMANENT REGISTRATION ACT

§§ 623-1 to 623-17. Repealed. 1995, June 30, P.L. 170, No. 25, § 5106(a),  
imd. effective

Historical and Statutory Notes

For subject matter of the repealed sections,  
see, now, 25 P.S. § 961.101 et seq.

§§ 623-19 to 623-22. Repealed. 1995, June 30, P.L. 170, No. 25, § 5106(a),  
imd. effective

Historical and Statutory Notes

For subject matter of the repealed sections,  
see, now, 25 P.S. § 961.101 et seq.

§§ 623-24 to 623-46. Repealed. 1995, June 30, P.L. 170, No. 25, § 5106(a),  
imd. effective

Historical and Statutory Notes

For subject matter of the repealed sections,  
see, now, 25 P.S. § 961.101 et seq.

IN CITIES OF THE SECOND CLASS, SECOND CLASS A AND  
THIRD CLASS, BOROUGHES, TOWNS AND TOWNSHIPS

PERSONAL AND PERMANENT REGISTRATION

§§ 951-1 to 951-20. Repealed. 1995, June 30, P.L. 170, No. 25, § 5106(a),  
imd. effective

Historical and Statutory Notes

For subject matter of the repealed sections,  
see, now, 25 P.S. § 961.101 et seq.

§§ 951-22 to 951-46. Repealed. 1995, June 30, P.L. 170, No. 25, § 5106(a),  
imd. effective

Historical and Statutory Notes

For subject matter of the repealed sections,  
see, now, 25 P.S. § 961.101 et seq.

# ELECTIONS

## CHAPTER 4A

### VOTER REGISTRATION ACT

#### CHAPTER 1. PRELIMINARY PROVISIONS

Section	Short title.
961.101.	Definitions.
961.102.	Applicability.
961.103.	Construction.

Section	
961.911.	Cancellation, removal and preservation of registration cards.
961.912.	Correction of errors in cancellation or suspension.

#### CHAPTER 3. REGISTRATION SYSTEM

961.301.	Regulations.
961.302.	Existing electors.
961.303.	Commissions.
961.304.	Commission staff.
961.305.	Police assistance.
961.306.	Unexpended balance; source of funds.
961.307.	Open records and documents.

#### CHAPTER 11. COMMISSION PROCEEDINGS

961.1101.	Subpoenas and witness fees.
-----------	-----------------------------

#### CHAPTER 13. JUDICIAL REVIEW

961.1301.	Court of common pleas.
961.1302.	Commission duties.

#### CHAPTER 5. VOTER REGISTRATION

961.501.	Qualifications to register.
961.502.	Residence of electors.
961.521.	Methods of voter registration.
961.522.	In-person voter registration.
961.523.	Application with driver's license application.
961.524.	Application by mail.
961.525.	Government agencies.
961.526.	Time.
961.527.	Preparation and distribution of applications.
961.528.	Approval of registration applications.
961.529.	Challenges.
961.530.	Appeals.

#### CHAPTER 15. PENALTIES

961.1501.	Lawful orders.
961.1502.	Registration.
961.1503.	Application.
961.1504.	Altering registration.
961.1505.	Votes.
961.1506.	Duties under act.
961.1507.	Official documents.
961.1508.	Withholding information.
961.1509.	Law enforcement assistance.
961.1510.	Interference.
961.1511.	Preventing registration.
961.1512.	Approval of registration.
961.1513.	Solicitation of registrations.
961.1514.	Crimes Code.

#### CHAPTER 7. RECORDS

961.701.	General register.
961.702.	District registers.
961.703.	Street lists.
961.704.	Public information lists.
961.705.	Retention of records.
961.706.	Reports.

#### CHAPTER 17. ENFORCEMENT

961.1701.	Attorney General.
961.1702.	District attorneys.

#### CHAPTER 19. PROVISIONS CONTINGENT ON FEDERAL LAW

961.1901.	Removal of voters.
961.1902.	Procedure for voting following failure to return notification card.
961.1903.	Incorrect records.
961.1904.	Files.
961.1905.	Errors in cancellation.

#### CHAPTER 9. CHANGES IN RECORDS

961.901.	Removal notices.
961.902.	Transfer of registration.
961.903.	Change of enrollment of political party.
961.904.	Physical disability.
961.905.	Department of Health.
961.906.	Checkup of registers.
961.907.	Canvass of registered electors.
961.908.	Comparison and correction of registers.
961.909.	Petition to strike off names.
961.910.	Failure to vote.

#### CHAPTER 51. MISCELLANEOUS PROVISIONS

961.5101.	Standardized forms.
961.5102.	Application for absentee ballots.
961.5103.	Applicability of provisions.
961.5104.	Appropriations.
961.5105.	Severability.
961.5106.	Repeals.
961.5107.	Applicability.
961.5108.	Retroactivity.
961.5109.	Effective date.

## CHAPTER 1. PRELIMINARY PROVISIONS

## § 961.101. Short title

This act shall be known and may be cited as the Pennsylvania Voter Registration Act. 1995, June 30, P.L. 170, No. 25, § 101, imd. effective.

## Historical and Statutory Notes

<p><b>Title of Act:</b> An Act providing for voter registration, for registration commissions, for remedies and for</p>	<p>absentee ballots; imposing penalties; making appropriations; and making repeals. 1995, June 30, P.L. 170, No. 25.</p>
---	--

## United States Supreme Court

<p>Voter registration, federal preclearance requirements, preclearance of original unitary plan, revised plan for separate state and federal voter</p>	<p>registration, see <i>Young v. Fordice</i> (U.S. Miss. 1997) 117 S.Ct. 1228, 520 U.S. 273, 146 A.L.R. Fed. 791, 137 L.Ed.2d 448.</p>
--	--

## § 961.102. Definitions

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**"Calendar year."** The period commencing January 1 and ending December 31 next following.

**"Commission."** A registration commission established under section 303.

**"Commissioner."** A member of a registration commission.

**"County."** Any county of this Commonwealth. The term includes a county within which is located a city of the first class or with which a city of the first class is coextensive.

**"County election board."** The board of elections of a county.

**"Department."** The Department of State of the Commonwealth.

**"District."** An election district or precinct of a municipality.

**"District register."** The registration cards or digitized signature list containing the list of qualified electors:

- (1) arranged, by election district, alphabetically by last name of the registrant; and
- (2) prepared by the commission under section 702.

**"Election."** A general, special, municipal or primary election.

**"General election."** The election which the Constitution of Pennsylvania requires to be held in even-numbered years.

**"In military service."** Serving in the uniformed services as defined in section 102 of the Career Compensation Act of 1949 (Public Law 81-350, 63 Stat. 801) or serving in the Pennsylvania National Guard.

**"Members of the merchant marine of the United States."** Any of the following:

(1) Individuals employed as officers or members of crews of vessels documented under the law of the United States or of vessels owned by the United States or of vessels of foreign-flag registry under charter to or control of the United States. This paragraph does not include individuals in military service.

(2) Individuals enrolled with the United States for employment or for training for employment or maintained by the United States for emergency relief service as officers or members of crews of vessels referred to in paragraph (1). The term does not include individuals in military service or individuals employed or enrolled for employment or for training for employment or maintained for emergency relief on the Great Lakes or the inland waterways.

**"Military elector."** Any of the following:

- (1) An individual in military service and the individual's spouse and dependents.
- (2) An individual in the merchant marine and the individual's spouse and dependents.

(3) An individual in a religious or welfare group officially attached to and serving with the armed forces of the United States and the individual's spouse and dependents.

(4) An individual who is a civilian employee of the United States outside the territorial limits of the United States, whether or not the individual is subject to the civil service laws and the Classification Act of 1949 (Public Law 81-429, 63 Stat. 954) and whether or not the individual is paid from funds appropriated by Congress, and the individual's spouse and dependents.

**"Municipal election."** The election which the Constitution of Pennsylvania requires to be held in odd-numbered years.

**"Municipality."** A city, borough, town or township.

**"November election."** Either the general or the municipal election, or both, according to the context.

**"Overseas citizen."** An individual who resides outside the territorial limits of the United States and who, but for such residence, would be a qualified elector. The term does not include a military elector.

**"Party."** Any of the following:

(1) A party or political body, one of whose candidates at the general election immediately preceding the primary:

(i) polled, in each of at least ten counties, at least 2% of the largest entire vote cast in the county for any elected candidate; and

(ii) polled a total vote in this Commonwealth equal to at least 2% of the largest entire vote cast in this Commonwealth for any elected candidate.

(2) A party or political body, one of whose candidates at either the general or municipal election preceding the primary polled at least 5% of the largest entire vote cast for any elected candidate in any county.

**"Person authorized to administer oaths."** The term includes an individual who is a commissioned officer in military service or a member of the merchant marine of the United States designated for this purpose by the United States Secretary of Commerce.

**"Person in military service."** The term shall mean a qualified elector who is by enlistment, enrollment or draft in actual military service.

**"Political body."** A political body not recognized as a political party which has filed proper nomination papers as required by law.

**"Primary election."** An election for the nomination of candidates.

**"Public office."** Any Federal, State or political subdivision, office or position of employment requiring the individual elected or appointed to render public service for a fixed fee or compensation. The term does not include the office of notary public or commissioner of deeds.

**"Qualified elector."** An individual who possesses all of the qualifications for voting prescribed by the Constitution of Pennsylvania and the laws of this Commonwealth or who, being otherwise qualified by continued residence in the election district, obtains such qualifications before the next ensuing election. The term does not include a military elector.

**"Registration card."** A registration record containing all information required on the registration application, including the elector's signature, and suitable space for the insertion by the appropriate official of the following information:

- (1) The ward and election district of residence.
- (2) The registrant's street address.
- (3) Data required to be given upon removal from the registrant's residence.
- (4) The date of each election at which the registrant votes.
- (5) The number and letter of the stub of the ballot issued to the registrant or the registrant's number in the order of admission to the voting machines.

(6) The initials of the election officer who enters the record of voting in the district register.

(7) Whether the registrant needs assistance to vote and, if so, the nature of the disability.

“Secretary.” The Secretary of the Commonwealth.

1995, June 30, P.L. 170, No. 25, § 102, imd. effective.

### § 961.103. Applicability

This act applies to all counties.

1995, June 30, P.L. 170, No. 25, § 103, imd. effective.

### § 961.104. Construction

No part of any day fixed for the performance of duties by any person or official under this act shall be deemed a Sunday or a legal holiday so as to affect the legality of work done for the purpose of carrying out this act or the right of a person to compensation provided for rendering any service required by this act or so as to relieve any person from doing on such day whatever is necessary for the purpose of carrying out this act. Such services are declared to be necessary public services.

1995, June 30, P.L. 170, No. 25, § 104, imd. effective.

## CHAPTER 3. REGISTRATION SYSTEM

### § 961.301. Regulations

The secretary shall promulgate regulations necessary to administer this act. The regulations shall include, but not be limited to, provisions which do all of the following:

(1) Provide for applicants to submit their voter registration application to the commission, the Department of Transportation and other agencies designated in section 525.

(2) Prescribe a procedure for the return of completed voter registration applications from the Department of Transportation, the Department of Public Welfare, armed forces recruitment centers, Offices of the Clerk of Orphan's Court and all other offices under this act to the secretary or the appropriate commission.

(3) Prescribe a procedure to conduct a study of the technological needs and other aspects of the development and implementation of a Statewide central registry of registered qualified voters, and the study shall be completed by July 1, 1996.

1995, June 30, P.L. 170, No. 25, § 301, imd. effective.

### § 961.302. Existing electors

All electors registered to vote in this Commonwealth on the effective date of this act remain registered under this act, and all electors registered for Federal elections shall, upon the effective date of this act, become registered for State and local elections.

1995, June 30, P.L. 170, No. 25, § 302, imd. effective.

### § 961.303. Commissions

(a) **Establishment.**—A registration commission is established in each county. The commission has jurisdiction over the registration of electors of the county under this act.

(b) **Membership.**—

(1) Except as provided in paragraphs (2) and (3), the county commissioners of each county shall act as a registration commission for the county.

(2) In a city of the first class, the commission shall consist of the three elected commissioners of the city. Each commissioner shall be elected for a term of four years, in the year that the mayor is elected.

(3) In counties which have adopted home rule charters or optional plans, the commission shall consist of the members of the county body which performs legislative functions unless the county charter or optional plan provides for the appointment of the commission. In either case, there must be minority representation on the commission. The county body which performs legislative functions shall, if the commission does not contain minority representation, appoint such representation from a list submitted by the county chair of the minority party.

(c) **Compensation.**—Commissioners shall receive no compensation in addition to their compensation as county or city commissioners.

(d) **Majority vote required.**—Actions of a commission must be decided by a majority vote of all members except as otherwise provided in this act.

(e) **Records.**—A commission shall keep a permanent record of its proceedings.

(f) **Regulations.**—A commission may make regulations, not inconsistent with this act, to do all of the following:

(1) Govern the public sessions of the commission.

(2) Perform the duties imposed by this act.

(3) Carry into effect the provisions of this act and permit the efficient administration of this act, including the designation of duties to be performed and functions to be exercised under this act at its respective offices.

(g) **Enforcement.**—A commission may enforce regulations, orders and subpoenas as provided in section 1101 and, if necessary, shall have the assistance of the appropriate court of common pleas and of all public officers subservient to the court in enforcing the regulations, orders and subpoenas.

(h) **Errors.**—A commission has the power to correct an error or irregularity in registration and to cancel the registration of an individual whom it finds to be improperly registered, subject only to this act. Written notice must be mailed or delivered to each individual whose registration is canceled. Whenever a registered elector's name is changed for any reason, the initial registration number shall remain the same, and the file shall reflect the former name change to the new name.

(i) **Investigation.**—A commission or a commissioner has the power to do any of the following:

(1) Summon and interrogate any person concerning the registration of electors or any matter related thereto.

(2) Investigate irregularities in registration.

(3) Summon and examine witnesses.

(4) Require the production of relevant documents.

(j) **Oaths and affirmations.**—Each commissioner has the power to administer oaths and affirmations. Each individual testifying before a commission or commissioner must be sworn or affirmed.

(k) **Correction of errors.**—

(1) A commission has the power to correct its records without requiring action of a registered elector in any of the following cases:

(i) If the mailing address of the registered elector has been changed by the renaming of a street, the renumbering of a house or the changing of a post office.

(ii) If the election district of the registered elector has been changed through a change in the boundaries of an election district.

(2) Notice of action under paragraph (1) shall be mailed promptly to the affected registered elector.

1995, June 30, P.L. 170, No. 25, § 303, imd. effective.

### § 961.304. Commission staff

(a) **Counties of the first class.**—

(1) A commissioner may act as registrar or inspector of registration.

(2) The commission has the power to assign assistants, employees or clerks to act as registrars or inspectors of registration. Individuals assigned under this paragraph shall not receive additional compensation for service as registrars or inspectors.

(3) Appointments shall be as follows:

(i) The commission shall annually appoint at least two registrars for each registration place. Not more than one-half of the number of registrars appointed annually for each registration place may be members of the same political party.

(ii) Registrars appointed must be qualified electors of the election district or ward for which they have been appointed, must be of good moral character, must not have been convicted of a crime and must be familiar with the qualifications of electors and the duties of the registrars. No individual who holds or is a candidate for public office or party office may be appointed to or hold any office or employment under any commission, except as otherwise provided by this act.

(iii) Appointments shall be as follows:

(A) The commission shall provide 15 days' notice for submission of candidates.

(B) The city chairs of the party having polled the highest and the second highest vote in this Commonwealth at the last preceding gubernatorial election may file with the commission a written list of names of members of the party whom the chair recommends for appointment as registrars. Lists must contain the name, address, qualifications and occupation of each individual recommended and shall be open to public inspection in the office of the commission.

(C) The commission shall appoint individuals from the list as registrars representing the parties. If more candidates are recommended by a chair than the party is entitled to have appointed, the commission shall appoint those candidates from the list whom the commission finds to be qualified under this section. If there are not sufficient candidates qualified to serve recommended by a chair, the commission may appoint other individuals whom the commission believes qualified.

(D) If a vacancy occurs in the office of registrar, the commission shall fill the vacancy by appointing an elector of the district or ward, as the case may be, who is qualified under subparagraph (ii) and who is a registered and enrolled member of the same political party as the registrar whose office was vacated. The vacancy appointment shall be made in the same manner as the initial appointment.

(iv) Registrars appointed have the power to register the qualified electors of the election district or ward and, in so doing, to administer oaths and affirmations. Registrars appointed shall perform all other duties imposed on registrars by this act and by the commission.

(v) Nothing in this subsection shall prevent a registrar from serving as a registrar in a ward or division of the city or prevent the commission from assigning a registrar to register voters in a ward or division of the city.

(vi) Except as provided in paragraph (1), each registrar shall receive compensation set by the commission for each day during which the registrar is engaged in the active performance of duties as registrar.

(vii) The commission shall designate the duties to be performed by appointed registrars.

(4) Any insertion or removal of names or other information in registers or an amendment of records done by any employee, registrar or inspector by order of the commission shall be construed to be an action of the commission. It is the duty of the commission to correct any error in such action.

(5) Before exercising a power of office, a registrar or inspector of registration assigned under paragraph (2) or appointed under paragraph (3) must comply with all of the following:

(i) Take an oath or affirmation of office, as prescribed by the commission.

(ii) Receive from the commission a certificate of appointment, setting forth name and address, date of appointment and the length of appointment.

(6) The commission may annually designate registration places in the wards.

(7) The commission may appoint employees necessary to perform the functions of the office and to register the voters of the city. Employees shall be paid compensation as set by the commission.

(8) Removal shall be as follows:

(i) The commission has the power to remove any employee, inspector, registrar or other officer appointed or employed by it. No registrar appointed under paragraph (3) may be removed except for cause.

(ii) A qualified elector of the city may appear before the commission and show that a registrar assigned under paragraph (2) or appointed under paragraph (3) does not possess the qualifications requisite for the performance of duties of office or has violated this act. If, after public hearing, the commission finds the charges brought to be true, the commission shall remove the registrar.

(9) An inspector of registration has the authority to investigate all matters regarding voter registration and to make recommendations to the commission.

(10) The commission may employ counsel. Counsel shall advise the commission regarding its powers and duties, the rights of electors and the best methods of legal procedure for carrying out this act and shall appear for and represent the commission on all appeals under Chapter 13. The amount of compensation for counsel shall be set by the city commissioners.

(11) Employees and clerks of the commission shall be privileged from arrest while acting as registrars. Commissioners and inspectors of registration shall be privileged from arrest while performing their duties, except upon warrant of a court of record for a felony, for wanton breach of the peace or for a criminal violation of this act.

**(b) Counties of the second through eighth classes.—**

(1) The registration commission shall appoint a chief clerk who may be the chief clerk of the county commissioners. The chief clerk has authority to administer oaths and to sign vouchers.

(2) Registrars and inspectors of registration must be qualified electors of the county. Registrars and inspectors of registration shall receive compensation, either on a per diem basis for time actually employed or on the basis of work actually done, as fixed by the salary board of the county. No registrar or inspector of registration may exercise any power of office until taking an oath or affirmation of office prescribed by the commission and receiving from the commission a certificate of appointment, setting forth name and address, date of appointment and length of appointment.

(3) Other staff shall be as follows:

(i) A commission may appoint assistants and employees as necessary to carry out this act and may remove them. The number and compensation of assistants and employees shall be fixed by the salary board of the county. A commission may appoint employees of the county to act for the commission without additional compensation.

(ii) The employees to be appointed by a commission include:

(A) Registrars or clerks who are empowered to register the qualified electors of the county and, in so doing, to administer oaths and affirmations.

(B) Inspectors of registration who have authority to investigate all matters regarding voter registration and to make recommendations to the commission.

(4) The county solicitor shall be counsel for the commission and shall receive no compensation in addition to compensation as county solicitor. Counsel shall advise the commission regarding its powers and duties and the rights of electors and concerning the best methods of legal procedure for carrying out this act and shall appear for and represent the commission on appeals taken from its decisions or orders.

(5) Any insertion or removal of names or other information in registers and the amendment of records done by any employee of a commission or by order of a commission shall be construed to have been done by the commission. The commission shall be responsible for the correction of errors.

(6) No individual who holds or is a candidate for public or party office may be appointed to or hold any office or employment under any commission except as otherwise provided by this act.

(7) Commissioners, registrars and inspectors of registration shall be privileged from arrest while performing their duties except upon warrant of a court of record for a felony, for wanton breach of the peace or for a criminal violation of this act.



(8) A commissioner or the chief clerk may act as registrar or inspector of registration. When acting under this subsection, the commissioner or chief clerk has the powers and duties conferred by law upon registrars and inspectors of registration. 1995, June 30, P.L. 170, No. 25, § 304, imd. effective.

#### § 961.305. Police assistance

A commission may call on police officers of the appropriate municipality to maintain the peace at a place of registration.

1995, June 30, P.L. 170, No. 25, § 305, imd. effective.

#### § 961.306. Unexpended balance; source of funds

(a) **Unexpended balance.**—Unexpended balances of appropriations made by the county commissioners prior to the effective date of this act for the purpose of carrying out the act of March 30, 1937 (P.L. 115, No. 40), known as The First Class City Permanent Registration Act,<sup>1</sup> and the act of April 29, 1937 (P.L. 487, No. 115), known as The Permanent Registration Act for Cities of the Second Class, Cities of the Second Class A, Cities of the Third Class, Boroughs, Towns, and Townships,<sup>2</sup> are transferred to and made available for commissions under this act.

(b) **Source of funds.**—A commission may accept and use in the performance of its duties funds received from the Federal Government, the Commonwealth or any other source.

1995, June 30, P.L. 170, No. 25, § 306, imd. effective.

<sup>1</sup> 25 P.S. § 623-1 et seq.

<sup>2</sup> 25 P.S. § 951-1 et seq.

#### § 961.307. Open records and documents

(a) **Scope.**—The following documents under this act are open to public inspection except as otherwise provided in this section:

- (1) Records of a registration commission and of district registers.
- (2) Street lists.
- (3) Official voter registration applications.
- (4) Petitions and appeals.
- (5) Witness lists.
- (6) Accounts and contracts.
- (7) Reports.

(b) **Use.**—Open material under subsection (a) may be inspected during ordinary business hours subject to the efficient operation of the commission. Public inspection shall only be in the presence of a commissioner or authorized commission employee and shall be subject to proper regulation for safekeeping of the material and subject to this act. Upon request, a photocopy of the record or computer-generated data record shall be provided at cost. The material may not be used for commercial or improper purposes.

1995, June 30, P.L. 170, No. 25, § 307, imd. effective.

### Notes of Decisions

#### In general 1

##### 1. In general

Even if chairman of County Democratic Committee had made request for voter registration information as a member of the general public, county commissioners would have been obligated to grant his request under Voter Registration Act, stating that county's "street list," which is list of names and addresses of all registered

electors, is open to public inspection and, upon request, photocopy of record or computer-generated data record shall be provided to the public at cost. *Hessley v. Campbell*, 751 A.2d 1211, Cmwlth.2000.

County commissioners did not have just and proper cause for charging member of general public \$300 to copy county's voter registration information to member's computer diskettes for purposes of Voter Registration Act, stating that county's "street list" of names and addresses of

all registered electors is open to public inspection and, upon request, data record shall be provided to public at cost; it would have cost commissioners practically nothing to copy county's data to

member's diskettes, and time required to copy county's data to diskettes was minimal. *Hessley v. Campbell*, 751 A.2d 1211, Cmwth.2000.

## CHAPTER 5. VOTER REGISTRATION

### SUBCHAPTER A. QUALIFICATIONS

#### § 961.501. Qualifications to register

(a) **Eligibility.**—A qualified elector who will be at least 18 years of age on the day of the next election, who has been a citizen of the United States for at least one month prior to the next election and who has resided in this Commonwealth and the election district where the qualified elector offers to vote for at least 30 days prior to the next ensuing election and has not been confined in a penal institution for a conviction of a felony within the last five years shall be entitled to be registered as provided in this chapter. If an individual is qualified to vote in an election district prior to removal of residence, the individual may, if a resident of this Commonwealth, vote in the election district from which residence was removed within the 30 days preceding the election.

(b) **Effect.**—No individual shall be permitted to vote at any election unless the individual is registered under this subsection, except as provided by law or by order of a court of common pleas. No registered elector shall be required to register again for any election while the elector continues to reside at the same address.

1995, June 30, P.L. 170, No. 25, § 501, imd. effective.

### Notes of Decisions

#### Validity 1

##### 1. Validity

Voter Registration Act section barring a felon released from a penal institution for less than five years from registering to vote impermissibly

deprived those ex-felons who were incarcerated within past five years of right to register to vote; there was no rational basis to preclude the registration of those who were incarcerated within last five years and who were not registered previously, when those who were legally registered prior to incarceration could vote upon their release. *Mixon v. Com.*, 759 A.2d 442, Cmwth.2000.

#### § 961.502. Residence of electors

##### (a) General rule.—

(1) For the purpose of registration and voting, no individual shall be deemed to have gained a residence by reason of presence or lost a residence by reason of absence in any of the following circumstances:

(i) Being employed in the service, either civil or military, of this Commonwealth or of the United States.

(ii) Being engaged in the navigation of the waters of this Commonwealth or of the United States or on the high seas.

(iii) Being in an institution at public expense. This subparagraph does not apply to a veteran who resides in a home for disabled and indigent soldiers and sailors maintained by the Commonwealth. Such a veteran may elect to utilize that residence for registration and voting or elect to vote as an absentee elector by the use of an absentee ballot.

(2) Nothing in paragraph (1) shall preclude any elector eligible under section 501 from establishing the district of residence as the election district of residence pursuant to subsection (b).

(3) Except as otherwise provided in this subsection, no individual who is confined in a penal institution shall be deemed a resident of the election district where the institution is located. The individual shall be deemed to reside where the individual was last registered before being confined in the penal institution, or if there was no registration prior to confinement, the individual shall be deemed to reside at the last known address before confinement.

(4) An individual who resides at an institution for the mentally ill or the mentally retarded, if otherwise qualified under section 501, shall be deemed, at the individual's option, a resident in one of the following:

(i) The district where the institution is located.

(ii) The district where the individual was last registered to vote before entering the institution. For purposes of this subparagraph, if the individual was not registered before entering the institution, the individual shall be deemed to reside at the last known address before entering the institution.

(b) **Rules for determination.**—The following apply:

(1) That the place shall be considered the residence of an individual in which habitation is fixed and to which, whenever the individual is absent, the individual has the intention of returning.

(2) An individual shall not be considered to have lost residence if the individual leaves home and goes into another state or another election district for temporary purposes only, with the intention of returning.

(3) An individual shall not be considered to have gained a residence in an election district if the individual comes into that district for temporary purposes only without the intention of making that election district a permanent place of abode.

(4) If an individual removes to another state with the intention of making that state the permanent residence, the individual shall be considered to have lost residence in this Commonwealth.

(5) If an individual removes to another state with the intention of remaining there an indefinite time and making that state the place of residence, the individual shall be considered to have lost residence in this Commonwealth, notwithstanding an intention to return at some indefinite future period.

(6) If an individual goes into another state and, while there, votes in an election held by that state, the individual shall be considered to have lost residence in this Commonwealth.

(7) An individual employed in the service of the Federal Government or of the Commonwealth and required thereby to be absent from the municipality where the individual resided when entering that employment, and the spouse of the individual, may remain registered in the district where the individual resided immediately prior to entering that employment; and the individual and the spouse shall be enrolled in the political party designated by the individual or spouse without declaring a residence by street and number.

(i) An individual who registers under this paragraph for Commonwealth employment must produce a certificate from the head of the State agency, under the seal of office, setting forth that the individual or the individual's spouse is actually employed in the service of the Commonwealth and setting forth the nature of the employment and the time when the employee first entered the employment. The commission shall retain certificates under this subparagraph.

(ii) The commission shall note on the registration card of each individual registered under this paragraph the fact of Federal or State employment.

(iii) At least once every two years the commission shall verify the employment of the individuals registered under this paragraph at the proper Federal or State office. If an individual is found to be no longer a Federal or State employee, the individual's registration shall be canceled under Chapter 9.

1995, June 30, P.L. 170, No. 25, § 502, imd. effective.

#### *SUBCHAPTER B. PROCEDURE*

### § 961.521. Methods of voter registration

An individual qualified to register to vote under section 501(a) may apply to register as follows:

(1) In person under section 522.

(2) In conjunction with an application for a motor vehicle driver's license under section 523.

(3) By mail application under section 524.

(4) In conjunction with certain government agency services under section 525. 1995, June 30, P.L. 170, No. 25, § 521, imd. effective.

### § 961.522. In-person voter registration

(a) **General rule.**—Applications may be submitted to register to vote or change party enrollment or name or address on current registration record in person before the registration commission or a commissioner, a registrar or a clerk at the office of the commission or at a place designated by the commission. The applicant shall be advised that any intentional false statement on the application constitutes perjury and will be punishable as such. The applicant shall provide the information required on the registration application and sign the registration declaration. The commission shall prepare and provide voter registration applications for the purpose of registering qualified electors in accordance with this section. Notwithstanding any other provision of this act, the commission may use a mail registration application for in-person registration. The commission shall mail the voter's identification card in accordance with section 527(a)(4)(v).

(b) **Notice.**—The commission shall, within a reasonable time, publicly announce the address of each place of registration, the address of each office of the commission established for the registration of electors other than its main office and the days and hours when the place or office is open for the registration of electors. The announcement shall be made by posting notice at the place or office and at the commission's main office and by other means as the commission deems advisable.

(c) **Polls.**—The election board of each county shall cause any polling place to be open, in proper order for use, as a place of registration on each day when the polling place is desired by the commission or required by the provisions of this act for use as a place of registration. The appropriating authority of the county shall provide for the payment of rentals for such polling places and other places of registration.

(d) **Schools.**—The board of public education or the board of school directors shall furnish suitable space in any public school building under its jurisdiction or control and shall cause the space to be open and in proper order for use as a place of registration on each day when the space is desired by the commission for use as a place of registration in accordance with the provisions of this act. Use under this subsection may not interfere with school instruction.

(e) **Municipal buildings.**—The proper authority in the county or municipality shall furnish suitable space in a building under its jurisdiction or control and shall cause the space to be open and in proper order for use as a place of registration on each day when the space is desired by the commission for use as a place of registration. Use under this subsection may not interfere with the use for which the space is primarily designed. 1995, June 30, P.L. 170, No. 25, § 522, imd. effective.

### § 961.523. Application with driver's license application

#### (a) **General rule.**—

(1) The Department of Transportation shall provide for simultaneous application for voter registration in conjunction with the process under 75 Pa.C.S. § 1510 (relating to issuance and content of driver's license). An application under this subsection shall serve as an application to register to vote unless the applicant fails to sign the voter registration application. The secretary has the primary responsibility for implementing and enforcing the driver's license voter registration system created under this section. The secretary, in consultation with the Secretary of Transportation, may promulgate regulations for implementing this section.

(2) An application for voter registration submitted to the Department of Transportation under this subsection shall be considered as updating any previous voter registration information by the applicant.

(3) Any change of address submitted to the Department of Transportation for the purposes of driver licensing shall serve as notification of change of address for voter registration for the registrant involved unless the registrant indicates that the change of address is not for voter registration purposes.

(b) Process.—

(1) The Department of Transportation shall provide for an application for voter registration as part of a driver's license application.

(2) The format of the driver's license/voter registration application shall be determined and prescribed by the secretary and the Secretary of Transportation.

(3) The voter registration application portion of the application shall contain all the requirements of an official voter registration application specified in section 527. The voter registration portion of the application:

(i) may not require any information that duplicates information required in the driver's license portion of the form, other than a second signature; and

(ii) may require only the minimum amount of information necessary to prevent duplicate voter registration, to enable the registration commission to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.

(c) Transmission.—

(1) The Department of Transportation shall forward completed applications or contents of the completed voter registration applications in machine-readable format to the department.

(2) The department shall transmit the material to the appropriate commission within ten days after the date of its receipt by the Department of Transportation. If a voter registration application is received by the Department of Transportation within five days before the last day to register before an election, the application shall be transmitted to the appropriate commission not later than five days after the date of its receipt by the Department of Transportation.

(3) Upon receipt of the completed voter registration information from the department, the commission shall make a record of the date of the receipt of the application and process the application. No applicant shall be deemed eligible to vote until the commission has received and approved the application.

(4) Changes of address shall comply with the following:

(i) The Department of Transportation shall notify the secretary of changes of address received under subsection (a)(3). The secretary shall notify the commission of the county of the registrant's prior residence. Except as provided in subparagraph (ii), if the registrant has moved outside of the county, the commission shall forward the registrant's registration card to the commission of the registrant's new county of residence. Except as provided in subparagraph (ii), if the registrant has moved to an address within the commission's jurisdiction, the commission shall update the registration record of the registrant.

(ii) In the case of changes of address received by the Department of Transportation which do not contain a signature of the registrant, the commission receiving the change of address notification shall mail a notice to the registrant at the new residence address requesting verification of the address change. The verification notice shall be in substantially the following form:

Date .....

Office of the Registration Commission  
..... County, Pennsylvania

..... (Address and Telephone No. of County)

We have been notified by the Department of Transportation that you recently moved from ..... (old residence address) to ..... (new residence address) and that this change of address is to serve as a change of address for voter registration purposes. Unless you notify this office within ten days from the date of this notice that this information is not correct, your voter registration will be transferred to ..... County. You may notify this office by calling the telephone number appearing on this form or by mailing this notice to this office. You need not notify this office if this information is correct.

.....  
Chief Clerk

If the address change is within the commission's jurisdiction, the county shall notify the registrant what precinct the new address is in using the following form:

Date.....

Office of the Registration Commission  
..... County, Pennsylvania

..... (Address and Telephone No. of County)

We have been notified by the Department of Transportation that you recently moved from ..... (old residence address) to (new residence address) and that this change of address is to serve as a change of address for voter registration purposes. Unless you notify this office within ten days from the date of this notice that this information is not correct, your voter registration will be transferred to ..... (new precinct) in this county. You may notify this office by calling the telephone number appearing on this form or by mailing this notice to this office. You need not notify this office if this information is correct.

.....  
Chief Clerk

Such notices must be sent by first class nonforwardable mail, return postage guaranteed, and must be in a form approved by the secretary and designed in such a manner to allow the registrant to indicate that the address change is incorrect, the reason why such discrepancy exists and for return to the county commission. Such notice must be signed by the registrant and dated.

(iii) If the registrant does not return the notice under subparagraph (ii) within the ten-day period, the commission shall process the change of address according to subparagraph (i). If the registrant notifies the commission that the information is incorrect and the commission is satisfied with the registrant's explanation of the discrepancy, the address of the registrant's registration shall remain unchanged. If the verification notification is returned by the post office, the commission shall direct a confirmation notice to the registrant's address of former residence in accordance with section 1901(d)(2).

(d) **Prohibition.**—An individual who is not a qualified elector is ineligible to register to vote under this section.

(e) **Effect.**—Failure to properly complete a voter registration application shall not affect the validity of an application for a driver's license, a renewal application or an identification card application.

(f) **Use of information.**—No information regarding a declination to register to vote in connection with an application made under this section may be used for any purpose other than voter registration.

(g) **Staff.**—Agents and employees working on behalf of the Department of Transportation assisting in the completion of voter registration applications shall conduct themselves in a manner consistent with the following principles:

(1) They shall not seek to influence an applicant's political preference or party registration or display political preference or party allegiance.

(2) They shall not make a statement to an applicant or take an action the purpose or effect of which is to discourage the applicant from registering to vote.

(3) Applicants wishing to register to vote under this section shall be given the same degree of assistance with the voter registration application as with all other Department of Transportation forms.

Agency employees who violate this subsection shall be removed from employment, provided that the agency at its discretion may impose a penalty of suspension without pay for at least 30 days, but not more than 120 days, if it finds that the violation does not warrant termination.

1995, June 30, P.L. 170, No. 25, § 523, imd. effective.

### § 961.524. Application by mail

(a) **General rule.**—An application to register to vote or to change party enrollment or name or address on a current registration may be submitted by voter registration mail application in the manner set forth in this section. An application may be submitted by mail or by representative to the registration commission on an official mail

registration application, the form of which shall be determined and prescribed by the secretary or the Federal Election Commission pursuant to the National Voter Registration Act (Public Law 103-31, 42 U.S.C. § 1973gg et seq.). The applicant must complete the information required on the registration application and sign the registration declaration.

(b) **Time.**—Registration under this section may be made at any time. If a registration application is received by a commission beyond the deadline for registration provided in section 526, the application shall be retained by the commission until the beginning of the next period during which registration can be made.

(c) **Military electors.**—

(1) A military elector may apply at any time for registration on an official registration application or any form prescribed by the Federal Government for such purpose.

(2) The status of a military elector to register under this section with respect to residence shall remain as the same home residence status from which the elector is qualified to register. If, at the time of leaving that home address, the elector had not resided in this Commonwealth or in a particular election district for a sufficient time to have been entitled to be registered but, by continued residence, would have become entitled to be registered, the elector shall be entitled to be registered at the time the elector would have been entitled to register had the elector not left that home address but continued to reside there.

(3) The commission is authorized to consider a request for an absentee ballot as a request for an official registration application and to forward to the requester all of the following:

- (i) An absentee ballot and balloting material.
- (ii) An official registration application.

(4) The military elector must complete and file these documents in accordance with the applicable provisions of the act of June 3, 1937 (P.L. 1333, No. 320), known as the Pennsylvania Election Code.<sup>1</sup>

(5) The right to be registered pursuant to this subsection shall not be subject to challenge for any reason other than failure to have furnished the commission a properly completed registration application.

1995, June 30, P.L. 170, No. 25, § 524, imd. effective.

<sup>1</sup> 25 P.S. § 2600 et seq.

## § 961.525. Government agencies

(a) **General rule.**—The secretary shall administer a system whereby all offices in this Commonwealth that provide public assistance, each county clerk of Orphan's Court, including each marriage license bureau, all offices in this Commonwealth that provide State-funded programs primarily engaged in providing services to persons with disabilities and all armed forces recruitment centers do all of the following:

- (1) Distribute voter registration applications with each application; reapplication; and application for recertification, renewal or change of address.
- (2) Assist applicants with completion of the registration application unless assistance is refused.
- (3) Accept completed registration applications.
- (4) Transmit completed applications to the appropriate registration commission.

(b) **Forms.**—An agency designated in subsection (a) shall provide a form for office visits or, if the agency provides services to persons with disabilities, for home visits which contains all of the following:

- (1) The question, "If you are not registered to vote where you live now, would you like to apply to register to vote today?"
- (2) If the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency."
- (3) Boxes for the applicant to check to indicate whether the applicant would like to register or decline to register to vote. In close proximity to the boxes the following

words shall appear in prominent type: "IF YOU DO NOT CHECK EITHER BOX; YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME."

(4) The statement, "In order to be qualified to register to vote, you must be at least 18 years of age on the day of the next election, you must have been a citizen of the United States for at least one month prior to the next election and have resided in Pennsylvania and the election district where you plan to vote for at least 30 days prior to the next election, and you must not have been confined to a penal institution for a conviction of a felony within the last five years."

(5) The statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek help is yours. You may fill out the form in private."

(6) The statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote or your right to choose your own political party or other political preference, you may file a complaint with the Secretary of the Commonwealth, Pennsylvania Department of State, Harrisburg, PA 17120." The secretary shall establish and publish a toll-free telephone number for the purpose of receiving complaints.

(c) **Effect.**—Failure to check either box under subsection (b)(3) shall be considered a declination to register to vote.

(d) **Staff.**—Agency employees assisting in the completion of voter registration applications shall conduct themselves in a manner consistent with the following principles:

(1) They shall not seek to influence an applicant's political preference or party registration or display political preference or party allegiance.

(2) They shall not make any statement to an applicant or take any action the purpose of or effect of which is to discourage the applicant from registering to vote.

(3) They shall not make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

Agency employees who violate this subsection shall be removed from employment, provided that the agency at its discretion may impose a penalty of suspension without pay for at least 30 days, but not more than 120 days, if it finds that the violation does not warrant termination.

(e) **Encouraging registration.**—An agency designated in subsection (a) shall provide reasonable space for nonpartisan signs or posters encouraging voter registration. The signs and posters shall be provided by the secretary.

(f) **Transmission.**—An agency designated in subsection (a) shall forward all completed registration applications to the appropriate registration commission within ten days after the date of receipt. If a voter registration application is received within five days before the last day to register before an election, the application shall be transmitted to the appropriate commission not later than five days after the date of its receipt by the agency.

(g) **Confidentiality.**—The identity of the voter registration agency through which any particular voter is registered in accordance with this section shall not be disclosed to the public.

(h) **Use of information.**—No information relating to a declination to register to vote in connection with an application made at an office described in this section may be used for any purpose other than voter registration.

(i) **Assistance.**—Each agency shall provide to each applicant who chooses to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses such assistance.

(j) **Regulation.**—The secretary shall promulgate regulations regarding the maintenance and destruction of forms used pursuant to this section.

1995, June 30, P.L. 170, No. 25, § 525, imd. effective.



## § 961.526. Time

(a) **General rule.**—Except as provided in subsection (b), each registration commission, commissioners and registrars or clerks appointed by the commission shall receive, during ordinary business hours and during additional hours as the commission prescribes, at the office of the commission and at additional places as the commission designates, applications from individuals who appear and claim that they are entitled to be registered as electors of a municipality.

(b) **Deadlines.**—In the administration of voter registration, each commission shall ensure that any eligible applicant is registered to vote in an election when the applicant has met any of the following conditions:

(1) In the case of voter registration with a motor vehicle driver's license application under section 523, if the valid voter registration application is submitted to the appropriate Department of Transportation office not later than 30 days before the date of the election.

(2) In the case of registration by mail under section 524, if the valid voter registration mail application is postmarked not later than the deadline to register for the ensuing election or, in the case of an illegible or missing postmark, it is received not later than five days after the deadline to register for the ensuing election.

(3) In the case of voter registration at a voter registration agency under section 525, if the valid voter registration application is accepted at the voter registration agency not later than 30 days before the date of the election.

(4) In any other case, if the valid voter registration application of the applicant is received by the appropriate commission not later than 30 days before the election.

(c) **Special rules.**—

(1) In the case of a special election within a congressional, senatorial or representative district held on a day other than the day of a primary, general or municipal election, the registration application forms shall not be processed in the wards and election districts comprising the district for the 30 days prior to the special election for such election.

(2) No applications shall be received as follows:

(i) On Sundays.

(ii) On holidays.

(iii) On the day of the election.

(iv) During the 30 days next preceding each general, municipal and primary election, except as provided in subsection (b).

1995, June 30, P.L. 170, No. 25, § 526, imd. effective.

## § 961.527. Preparation and distribution of applications

(a) **Form.**—

(1) The secretary shall prescribe the form of official voter registration application. The official voter registration application shall provide space for the following information about the applicant:

(i) Full name.

(ii) Address of residence. If the residence is a portion only of the house, the location or number of the room, apartment or floor which is occupied.

(iii) Mailing address if different than address of residence.

(iv) Name and residence address on previous registration and the year of that registration.

(v) Designation of political party, for the purpose of voting at a primary election.

(vi) Date of birth.

(vii) Telephone number. An application shall not be rejected because of noncompliance with this subparagraph.

(viii) Race. An application shall not be rejected because of noncompliance with this subparagraph.

(2) Data required on the voter registration application shall not be more nor less than the minimum data elements permissible for Federal voter registration.

(3) Any person who assists in the completion of the registration application shall sign the application and indicate the person's address. In the case of those registering under sections 523 and 525, the person providing assistance shall insert the person's initials or employee or agent identification number on a separate or detachable portion of the application or computer data file.

(4) A voter registration application shall be printed on stock of good quality and shall be of suitable uniform size. Nothing in this act shall prohibit the design and use of an electronic voter registration application which includes the applicant's digitized signature. The registration application shall contain the following information; however, the information may be provided on a separate form for voter registration made under section 523 or 525:

(i) Notice that an individual currently registered does not need to reregister unless the individual has moved.

(ii) Instructions on how to fill out and submit the application and notification of when the application must be submitted to a voter registration office in order to be registered for the ensuing election.

(iii) Notice that the registrant must be a citizen of the United States for at least one month prior to the next election and a resident of this Commonwealth and the election district for at least 30 days and must be at least 18 years of age by the day of the next ensuing election and has not been confined in a penal institution for a conviction of a felony within the last five years. The notice required in this subparagraph shall be in print identical to the declaration under subsection (b).

(iv) Notice that political party enrollment is mandatory to vote in a primary election of a political party.

(v) Notice that the commission will mail by nonforwardable mail to the applicant a voter's identification card upon acceptance of the application and that the registrant should contact the commission if the identification card is not received within 14 days from the date the application is sent to the registration office.

(vi) Notice that registration is not complete until the application is processed and accepted by the commission.

(vii) A warning to the registrant that making a false registration or furnishing false information is perjury. The notice required in this subparagraph shall be in print identical to the declaration under subsection (b).

(viii) Instructions to Federal or State employees who wish to retain voting residence in county of last residence to so indicate on the application.

(ix) Notice that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes. The notice required in this subparagraph shall be in print identical to the declaration under subsection (b).

(x) Notice that, if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used for voter registration purposes only. The notices required in this subparagraph shall be in print identical to the declaration in subsection (b).

(5) The official voter registration application may be designed in a manner to be inserted in the district register or for transfer to a registration card to be placed in the district register.

(6) In jurisdictions where there is a single language minority, the secretary may print a bilingual application.

(7) In jurisdictions where a single language minority exceeds 5% of the population, the secretary shall:

(i) print a bilingual application; and

(ii) conduct a public educational program among that language group alerting both organizations and individuals of that group of the availability of the bilingual application and encouraging unregistered voters to register.

(8) To implement section 524, the secretary shall print an official voter registration mail application designed to preserve the confidentiality of the information required to be submitted. The application shall contain information required by this section and shall include the name of each county seat, its post office mailing address and zip code

and its telephone number. Voter registration mail applications shall contain information indicating whether the application is a new registration, change of party enrollment, change of address or change of name.

(9) Nothing in this act shall prohibit a private organization or individual from printing blank voter registration applications or shall prohibit the use of such applications by any other individual, provided that the form, content and paper quality of such voter registration application complies with department regulations for the forms or has received prior approval from the secretary.

**(b) Registration declaration.—**

(1) The official voter registration application shall contain a registration declaration. On the declaration, the applicant shall state all of the following:

(i) The applicant has been a citizen of the United States for at least one month prior to the next election.

(ii) On the day of the next ensuing election, the applicant shall be at least 18 years of age.

(iii) On the day of the next ensuing election, the applicant shall have resided in this Commonwealth and in the election district for at least 30 days.

(iv) The applicant has not been confined in a penal institution for a conviction of a felony within the last five years.

(v) The applicant is legally qualified to vote.

(2) The applicant shall affirm all of the following:

(i) The information provided in the registration declaration is true.

(ii) The applicant understands that:

(A) the registration declaration will be accepted for all purposes as the equivalent of an affidavit; and

(B) if the registration contains a material false statement, the applicant shall be subject to penalties for perjury.

(3) The registration declaration shall contain the printed name and signature of the applicant and the date of signing. An applicant unable to sign the voter registration application shall make a mark before a person of the applicant's choice other than the applicant's employer or an agent of the applicant's union. Such person shall insert the person's name, address and telephone number. If such person is an employee or agent of the Department of Transportation or another agency, as provided under section 525, and is assisting the applicant in an official capacity, such employee or agent shall insert the initials and identification number of the employee or agent. In the case of applicants registering under section 523 or 525, the person providing assistance shall insert initials or employee or agent identification number on a separate or detachable portion of the application or computer data file.

(4) The official registration application shall contain a notice entitled "PENALTY FOR FALSIFYING DECLARATION." The notice shall advise the applicant that, if a person signs an official registration application knowing a statement declared in the application to be false, the person commits perjury. The notice shall specify the penalty for perjury.

**(c) Distribution.—**

(1) The secretary shall supply official registration applications to commissions.

(2) The secretary shall make available for distribution official voter registration applications to public libraries, public schools, State-related institutions of higher education, offices operated by the Department of Revenue, offices operated by the Department of Aging, area agencies on aging, offices operated by the Pennsylvania Game Commission or any of its authorized license-issuing agents, offices operated by the Pennsylvania Fish and Boat Commission or any of its issuing agents, and offices that provide unemployment compensation.

(3) Each participating agency identified under paragraph (2) shall:

(i) Provide that official voter registration mail applications are available on the premises and displayed prominently in a conspicuous location during normal business hours.

(ii) Provide an official voter registration mail application to any individual requesting one.

(iii) Provide reasonable space for nonpartisan signs or posters indicating the availability of official voter registration mail applications on the premises.

(4) The secretary may provide technical assistance to commissions upon request and agencies designated under paragraph (2).

(5) The secretary shall print and distribute mail registration applications which are not postage paid and which shall not be specific to any county registration office. Along with the distribution of such applications, the secretary shall also include instructions to inform the applicant where the application is to be sent.

(6) The secretary and commissions shall supply applications to all of the following:

- (i) Persons and organizations who request applications.
- (ii) Federal, State and political subdivision offices.
- (iii) Political parties and political bodies.
- (iv) Candidates.

(d) **Staff.**—Agency employees assisting in the distribution of voter registration applications under subsection (c) shall conduct themselves in a manner consistent with the following principles:

(1) They shall not seek to influence an applicant's political preference or party registration or display political preference or party allegiance.

(2) They shall not make any statement to an applicant or take any action the purpose of or effect of which is to discourage the applicant from registering to vote.

(3) They shall not make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

Agency employees who violate this subsection shall be removed from employment, provided that the agency at its discretion may impose a penalty of suspension without pay for at least 30 days, but not more than 120 days, if it finds that the violation does not warrant termination.

1995, June 30, P.L. 170, No. 25, § 527, imd. effective.

## § 961.528. Approval of registration applications

### (a) Examination.—

(1) Official registration applications submitted to a registration commission shall be examined by the commissioner or a clerk or registrar upon receipt.

(2) If the official voter registration application submission is in person, the application shall be attested and dated by the commissioner, clerk or registrar.

(3) Upon receipt of any other voter registration application, the commission shall make an entry of the date received on the application. If the applicant does not reside within the commission's county but resides elsewhere in this Commonwealth, the commission shall forward the application card to the proper commission and make a record of the forwarding.

### (b) Decision.—

(1) If the commission finds the official registration application not properly completed, the application shall be rejected. The commission should make reasonable efforts to complete the registration before rejecting it for omissions and inconsistencies. If the commission rejects an application under this paragraph, it shall indicate "REJECTED" on the application and state there the reason for rejection and notify the applicant by first class nonforwardable mail, return postage guaranteed.

(2) If the official registration application contains the required information indicating that the applicant is legally qualified to register as stated in the application, the commission shall mail to the applicant a voter's identification card in accordance with subsection (d)(1).

(3) For an application for a transfer of registration or a change in address or name, if the application contains the required information and the applicant is legally qualified to transfer registration or change name or address as stated in the application, the commission shall make the transfer or change. If the commission suspects that the applicant is not entitled to transfer registration or to change name or address, the commission may investigate. If the commission finds that the

applicant is not entitled to the transfer or change, the application shall be rejected. The applicant shall be notified of the rejection and the reason for it. Rejection shall be made no later than ten days before the election succeeding the filing of the application.

(c) **Result.**—If an application is designed to serve as a registration card, the accepted application of an elector may serve as the elector's official registration card, if it was so designed, and shall be filed in the office of the commission in accordance with Chapter 7. If the application is not designed to serve as a registration card, the information contained on the application, including the elector's signature, shall be transferred to the registration card. If a commission utilizes a signature digitization list, it shall transfer all information contained on the application, including the signature, to the registry or, until the registry is established, to a computer file. Applicants for registration shall be challenged under section 529.

(d) **Disposition.**—

(1) When the registration of an elector has been finally processed under subsection (b)(2), the commission shall transmit to the applicant by first class nonforwardable mail a wallet-sized voter's identification card, which shall serve as notice to the applicant of the disposition of the application. The card shall contain all of the following:

- (i) Name and address of the elector.
- (ii) Name of municipality.
- (iii) Identification of elector's ward and district.
- (iv) Effective date of registration.
- (v) Designation of party enrollment and date of enrollment.
- (vi) A space for the elector's signature or mark.

(vii) A statement that the card relates only to the time of issuance of the card and is not of itself evidence or proof of the qualifications of the elector to vote at an election or proof of identification for purposes of applying for or receiving general assistance and that it is not necessary to present the card when voting. The statements required by this subparagraph shall be placed on the reverse side of the card from where all of the other information required by this paragraph is placed.

(2) The carrier envelope in which the identification card is enclosed shall contain on the outside a request to the postmaster to return it within five days if it cannot be delivered to the addressee at the address given.

(3) No registration application shall be deemed to be accepted until ten days after the voter's identification card has been mailed. Upon return by the post office of an identification card under paragraph (2) which the post office is unable to deliver at the given address, the commission shall investigate. If the commission finds that the applicant is not qualified to register from such address, the commission shall reject the application of the applicant and shall notify the applicant by first class forwardable mail of this action.

(4) If the applicant discloses that the elector's last residence address upon registration was a location within another county, the commission shall direct a cancellation notice to the commission of that county. This cancellation notice shall be in a form approved by the secretary in substantially the following form:

Date .....

Office of the Registration Commission

.....County, Pennsylvania

Cancellation of Previous Registration

Name ....., whose date of birth is ....., has now registered as an elector in ..... County, Pennsylvania. Our records indicate that this registrant was previously registered in the County of ....., Pennsylvania, at the following address .....

\_\_\_\_\_  
Chief Clerk

## § 961.529. Challenges

(a) **Standing.**—An individual claiming the right to be registered may be challenged by a commissioner, registrar or clerk or by a qualified elector of the municipality.

(b) **Complaint.**—To make a challenge, a complainant must file a challenge affidavit in a form prescribed by the secretary containing the following information:

- (1) Name of challenged individual.
- (2) Address of challenged individual.
- (3) Name of complainant.
- (4) Address of complainant.
- (5) Date of affidavit.
- (6) Reason for challenge.

(c) **Response.**—An individual who is challenged must respond to the challenge affidavit as set forth in subsection (b) in a written statement sworn or affirmed by the individual. The challenged individual must produce such other evidence as may be required to satisfy the registrar or commissioner as to the individual's qualifications as an elector.

(d) **Resolution.**—If the challenged individual establishes, to the satisfaction of the commission, the right to be registered as required by this act, the challenged individual shall be registered.

1995, June 30, P.L. 170, No. 25, § 529, imd. effective.

## § 961.530. Appeals

(a) **Right.**—An individual whose application to be registered has been denied may file with the registration commission a petition to be registered, setting forth the grounds of the petition under oath or affirmation. The petition must be filed by the 15th day prior to an election.

(b) **Hearing.**—

(1) The commission shall fix a time for a public hearing at its office not later than the tenth day prior to the election.

(2) The commission shall give the person responsible for the rejection 48 hours' notice of the hearing.

(3) At the hearing, a clerk, inspector of registration or qualified elector of the county may offer evidence as to why the petitioner should not be registered.

(4) The commission, if satisfied that the petitioner is entitled to be registered, shall direct registration.

1995, June 30, P.L. 170, No. 25, § 530, imd. effective.

## CHAPTER 7. RECORDS

## § 961.701. General register

(a) **Original registration cards.**—If a commission uses the original registration cards for registered electors in the county as the district register, the duplicate registration cards or photocopies of the original registration cards shall be placed in exact alphabetical order by last name of the registrant, shall be indexed and shall be kept at the office of the registration commission in a manner as to be properly safeguarded. These cards constitute the general register of the county. They may not be removed from the office of the commission except upon order of a court of record. Nothing in this act shall preclude the use of duplicate registration cards from applications provided under the act of March 30, 1937 (P.L. 115, No. 40), known as The First Class City Permanent Registration Act,<sup>1</sup> or the act of April 29, 1937 (P.L. 487, No. 115), known as The Permanent Registration Act for Cities of the Second Class, Cities of the Second Class A, Cities of the Third Class, Boroughs, Towns, and Townships.<sup>2</sup>

(b) **Digitized signature lists.**—If a commission uses digitized signature lists as the district register, the original registration cards shall be placed in exact alphabetical order by last name of the registrant, indexed and kept at the office of the commission in

a manner as to be properly safeguarded. These original cards constitute the general register of the county. They may not be removed from the office of the commission except upon order of a court of record. The commission shall safely retain all registration cards used in the registration of electors or in conducting an election. If a commission has the capability to accept an electronic application, the secretary may require the commission to produce a computer-generated card to file in the general register. If the commission finds a record for a registrant on the computer data base which is not contained in the general register, it shall replace the original card with a computer-generated duplicate card upon written permission from the registrant or upon order of a court of record.

(c) Duplicate files.—If the commission deems a duplicate file of registration cards necessary for administrative purposes, the commission may prepare a reproduction in compliance with the following:

(1) The registration form shall be photographed, microphotographed or reproduced in a manner approved for permanent records by the secretary.

(2) The device used to reproduce the card is one which accurately reproduces the original in all details.

(3) The photographs, microphotographs or other reproductions are open to public inspection and provision is made for preserving, examining and using them.

1995, June 30, P.L. 170, No. 25, § 701, imd. effective.

1 25 P.S. § 623-1 et seq.

2 25 P.S. § 951-1 et seq.

## § 961.702. District registers

### (a) Registration card file.—

(1) Except as provided in subsection (b) and in section 701(b), the original registration cards shall be filed by election districts in exact alphabetical order by last name of the registrant and shall be indexed.

(2) The cards constitute the district register.

(3) The commission shall provide binders, which are capable of being locked, for filing and indexing the registration cards. The keys to the binders shall at all times be retained by the commission.

(4) The district register shall be kept at the office of the commission, except as provided in subsection (b), and shall be open to public inspection, subject to reasonable safeguards and regulations.

### (b) Computer lists.—

(1) Instead of using registration cards as the district register as provided in subsection (a), a commission may use a computer list or computer-generated cards containing the registered electors arranged by election district, alphabetically by last name of the registrant.

(2) The computer list or computer-generated cards must be in a form prescribed by the secretary and must contain necessary information that would otherwise be available on the registration cards, including a legible digitized signature of the registrant copied from the signature on the registration card. The district election officials shall have computer printouts at the polling places containing the necessary information needed to verify the identity of the elector. The digitized signature list shall be open to public inspection, subject to reasonable safeguards, rules and regulations.

(3) A commission may, during systems conversion periods or emergency conditions, provide for a district register containing the original registration cards. The following apply:

(i) The original registration cards shall be filed by election district, in one of the following orders, as determined by the commission:

(A) Exact alphabetical order by last name of registrant.

(B) Order in which registrants' residences appear upon the streets of the election district, in exact alphabetical order by last name of registrant for each residence.

(ii) The district register containing registration cards shall be kept at the office of the commission and shall be open for public inspection, subject to reasonable safeguards and regulations and to the provisions of this act.

(c) **Currency.**—It is the duty of the commission to compare and correct the general register and district registers to ensure their accuracy. By noon of the third day preceding an election, the commission shall have the district register for each election district and the registry accurately corrected to date.

(d) **Delivery.**—The commission shall deliver, in the manner required by law for delivery of election materials, the district register to the election officers for use on election day.

(e) **Form.**—District registers shall be enclosed within a case or container and shall be locked and sealed by the commission before delivery. The district register shall have printed or written thereon the words "District Register of Voters" and the district and ward, if any.

(f) **Examination.**—Immediately following each election, the commission shall cause each district register to be examined. The commission specifically shall compare the signature of each elector on each voter's certificate with his signature in the district register and shall report in writing to the district attorney any evidence or indication of probable fraud, impersonation or forgery which may appear to the commission by reason of the comparison. In the case of any elector whom the election officers shall have recorded as removed, deceased, or challenged and prevented from voting, the commission shall ascertain the facts and shall correct the general and district registers in accordance with Chapter 9.

1995, June 30, P.L. 170, No. 25, § 702, imd. effective.

### § 961.703. Street lists

(a) **Preparation.**—Commencing not later than the 15th day prior to each election, the registration commission shall prepare for each election district a list of the names and addresses of all registered electors as of that date resident in the district. The list may not include the digitized signature of a registered voter. The list shall be arranged in one of the following manners:

- (1) By streets and house numbers.
- (2) Alphabetically by last name of registrant.
- (3) In a manner whereby the location of the elector's residence can be identified.

(b) **Copies.**—The commission shall retain two copies of the list under subsection (a) on file at its office. These copies shall be available for public inspection during business hours, subject to reasonable safeguards and regulations.

(c) **Distribution.**—The commission shall distribute the list under subsection (a) upon request as follows:

- (1) To officials concerned with the conduct of elections.
- (2) To political parties and political bodies.
- (3) To candidates.

(d) **Organizations.**—The commission may, for a reasonable fee approved by the secretary, distribute the list under subsection (a), to organized bodies of citizens.

1995, June 30, P.L. 170, No. 25, § 703, imd. effective.

### Notes of Decisions

#### In general 1

##### 1. In general

Where county maintained computerized "street list" of names and addresses of registered electors, county was obligated to distribute that list to political entity, such as chairman of County Democratic Committee, on computer diskettes

when so requested, at no charge. *Hessley v. Campbell*, 751 A.2d 1211, Cmwlth.2000.

Because chairman of County Democratic Committee made his request for county's voter registration information as a political entity, not as a member of the general public, county commissioners had a duty under Voter Registration Act to provide county's "street list," which is list of names and addresses of all registered electors, to chairman at no charge; Voter Registration Act



## Note 1

stated that, upon request, commissioners shall distribute "street list" to political parties, political bodies and candidates (political entities) at no

charge. *Hessley v. Campbell*, 751 A.2d 1211, Cmwith.2000.

## § 961.704. Public information lists

## (a) Establishment.—

(1) The registration commission shall provide for computer inquiries concerning individual registered voters. With respect to each voter who is the subject of an inquiry, the information provided shall contain the name, address, date of birth and voting history. Upon request, the commission shall supply a printed record for each such voter subject to the provisions of this act. In addition, the commission may make available for inspection a printed or computerized public information list containing the name, address, date of birth and voting history of each registered voter in the county.

(2) The list may also include information on voting districts.

(3) The list may not contain the digitized signature of the elector.

## (b) Access.—

(1) The secretary may promulgate reasonable regulations governing access to the list.

(2) No individual inspecting the list may tamper with or alter it.

(3) No individual who inspects the list or who acquires names of registered voters from the list may use information contained in the list for purposes unrelated to elections, political activities or law enforcement. Before inspecting the list or obtaining names of voters or other information from the list, the individual must provide identification to the public official having custody of the public information list and must state in writing that any information obtained from the list will not be used for purposes unrelated to elections, political activities or law enforcement.

## (c) Copies.—

(1) The commission shall provide paper copies of the public information lists and may provide copies in some other form to any voter registered in this Commonwealth within ten days of receiving a written request accompanied by payment of the cost of reproduction and postage. The cost of the copies shall be determined by the office providing copies.

(2) An individual who inspects or acquires a copy of a public information list may not use any information contained in it for purposes unrelated to elections, political activities or law enforcement.

1995, June 30, P.L. 170, No. 25, § 704, imd. effective.

## § 961.705. Retention of records

(a) **Computer lists.**—Each commission shall preserve computer lists used as district registers for five years.

## (b) Records.—

(1) The department and each commission shall preserve for two years and shall make available for public inspection and, where available, photocopying at a reasonable cost all records concerning the implementation of programs and activities conducted for the purposes of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that the records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

(2) The records preserved under paragraph (1) shall include lists of the names and addresses of all individuals to whom notices described in section 901 are sent, and information concerning whether or not the individual has responded to the notice as of the date that inspection of the record is made.

1995, June 30, P.L. 170, No. 25, § 705, imd. effective.

**§ 961.706. Reports**

(a) **Commission.**—By March 1, the commission shall submit to the secretary an annual report setting forth the number of electors registered under sections 522, 523, 524 and 525. The report shall specify the number of electors whose registration has been canceled under Chapter 9 and any other information required by the secretary.

(b) **Secretary.**—The secretary shall submit an annual report to the General Assembly by June 30 assessing the impact of this act on the administration of elections during the preceding year and including recommendations for improvements to procedures, forms and other matters affected by this act.

1995, June 30, P.L. 170, No. 25, § 706, imd. effective.

*CHAPTER 9. CHANGES IN RECORDS***§ 961.901. Removal notices****(a) Form.**—

(1) The commission shall make removal notices available to electors who are registered in the county.

(2) The notice shall be printed upon cards suitable for mailing, addressed to the office of the commission. The notice shall provide the following information:

- (i) The address of present residence, including municipality.
- (ii) The address of last registration, including municipality.
- (iii) Date of removal to present residence.
- (iv) Signature.

(3) The notice shall contain a statement that the elector may, by filling out properly and signing a removal notice and returning it to the office of the commission, secure the transfer of registration effective as to elections at least 30 days after the date of removal into the new district.

(4) The notice shall contain a warning to the elector that the notice will not be accepted as an application for transfer of the elector's registration unless the signature thereon can be identified by the commission as the elector's signature as it appears on file with the commission.

(5) The notice shall contain a warning to the elector that the notice must be received by the commission not later than 30 days before the election. If mailed, the notice must be postmarked not later than the deadline for registration or, in the case of an illegible or missing postmark, received within five days of the close of registration.

(b) **Use.**—An elector who removes residence from one place to another within the same county must notify the commission by filing a removal notice under subsection (a), or a signed request for renewal that contains the information required in subsection (a), with the commission not later than the registration deadline before the election. If mailed, the notice or request must be postmarked not later than the deadline for registration or, in the case of an illegible or missing postmark, received within five days of the close of registration. The following apply:

(1) An official registration application of an elector who has registered by mail qualifies as a removal notice.

(2) An elector who removes residence from one place to another within the same county and who has not yet filed a removal notice with the commission shall be permitted to vote at the election next following removal if, at the time of signing voter's certificate, the elector files with the judge of election a signed removal notice properly filled out. Removal notices under this paragraph shall be returned to the commission with the voting check list, and the commission shall proceed to transfer the registration of the electors under section 902.

1995, June 30, P.L. 170, No. 25, § 901, imd. effective.

**§ 961.902. Transfer of registration**

(a) **General rule.**—Upon timely receipt of notification of removal under section 901(b), the registration commission shall proceed as follows:

(1) The signature on the notification document shall be compared with the signature of the elector as it appears on file with the commission.

(2) If the signature appears authentic, the commission shall enter the change of residence on the registration card of the elector in the general register and district register and shall transfer the registration card of the elector from the district register of the election district of previous residence to the district register of the election district of new residence.

(3) If a request for transfer which is determined to be authentic under paragraph (2) shows a removal within the period of 30 days preceding an election, the commission, after such election, shall enter the change of residence on the registration card of the elector in the general register and district register and shall transfer the registration card of the elector from the district register of the election district of previous residence. The commission shall advise the elector promptly in writing of its action.

(b) **Electors unable to write.**—An elector who is unable to sign the notification document may affix a mark to the notification document. The mark must be affixed in the presence of a witness, who must sign the notification document.

1995, June 30, P.L. 170, No. 25, § 902, imd. effective.

**§ 961.903. Change of enrollment of political party**

By the deadline for registration, a registered voter who desires to change the enrollment of political designation or who, although registered, has not previously enrolled as a member of a party may appear before a commissioner, registrar or clerk or may submit an application by mail under section 524 and state in a signed writing the political party in which the voter desires to be enrolled. If the signature of the elector is verified by comparison with the elector's signature as it appears on file with the commission, the commissioner, registrar or clerk shall make the change in the general register and district register. If supported by other evidence of identity, a mark may be made in lieu of a signature by an elector who is unable to write. The mark must be made in the presence of a witness who must sign the registration application.

1995, June 30, P.L. 170, No. 25, § 903, imd. effective.

**§ 961.904. Physical disability**

(a) **Eligibility.**—If an elector is unable to see or mark the ballot or operate the voting machine or to enter the voting compartment or voting machine booth without assistance, the following apply:

(1) The elector may, at least ten days prior to the next election, personally make application to the commission or a registrar or a clerk.

(2) The application must request the entry of the exact nature of the disability on the elector's registration card.

(3) The commission shall make the entry as appropriate.

(4) If the disability is not entered on the registration card, the elector may receive assistance if the elector completes a declaration in the polling place.

(b) **Termination.**—If the commission ascertains that an elector who has declared need for assistance is no longer in need of assistance, it shall cancel on the registration card the entry relating to illiteracy or physical disability which authorized assistance. The commission shall notify the elector by mail of its action.

1995, June 30, P.L. 170, No. 25, § 904, imd. effective.

**§ 961.905. Department of Health**

The registration commission shall cancel the registration of a registered elector reported dead by the Department of Health. The Department of Health shall, within 60 days of receiving notice of the death of an individual 18 years of age or older, send the

name and address of residence of that individual to the commission on a form prescribed by the department. An individual incorrectly reported deceased by the Department of Health may appear in person before a commissioner, registrar or clerk at the office of the commission and prove identity. The commission, upon such proof, shall correct its records.

1995, June 30, P.L. 170, No. 25, § 905, imd. effective.

### § 961.906. Checkup of registers

(a) **General rule.**—At any time prior to the 30th day preceding an election, the commission may mail to any qualified elector whose name appears in any district register a notice setting forth the elector's name and address as it appears in the register and requesting the elector in case of any error to present the notice within ten days at the office of the commission to have the error corrected and warning that any discrepancy between the qualified elector's actual name and address and his name and address as recorded in the original register will constitute ground for challenging the elector's vote. The notice shall contain on the outside, "Do not forward, return to board of elections," and a request of the postal service to return it within five days if it cannot be delivered to the addressee at the address given.

(b) **Checkup by postal service.**—At any time prior to the 30th day preceding an election, the commission may cause a checkup to be made by the postal service of any qualified elector whose name appears in any district register.

(c) **Quadrennial checkups.**—At least once in each four years the commission may conduct a checkup of each registered elector by either of the methods provided for in subsections (a) and (b).

(d) **Failure to deliver notice.**—Upon the return by the postal service of any notice which it has been unable to deliver at the given address because the addressee cannot be found there or upon report by the postal service that any registered elector does not reside at the address given on the registration card, the commission shall do one of the following:

(1) Direct an authorized employee to visit in person the address of the qualified elector and, if the employee finds that the qualified elector does not reside at the address, to leave at the address the notice prescribed by subsection (e).

(2) Mail to the registered qualified elector at the address given on the registration card the notice prescribed by subsection (e). The notice shall be sent as first class mail and shall contain on the outside a request to the postmaster to forward it if the addressee does not reside at the address given thereon.

(e) **Communication with commission.**—The notice stipulated by subsection (d) shall require the registered qualified elector to communicate with the commission by a date designated by the commission, which (date) shall be not less than ten days nor more than 30 days from the service or mailing of the notice and, in any case, not later than the 15th day preceding the election, and satisfy the commission of qualifications as a qualified elector. At the expiration of the time specified in the notice, the commission shall cancel the registration of a person who has not communicated with the commission and proved qualifications as a qualified elector, except that, if a registered qualified elector who has been mailed the notice prescribed by this subsection communicates with the commission claiming the right to remain registered at the address to which the original notice was mailed, the commission shall investigate and, if not satisfied of the right of the qualified elector to remain registered at the address, shall cancel the registration of the elector. Every elector whose registration is canceled under this section must register in the manner provided by this act in order to be eligible to vote at any election.

(f) **Elector in military service.**—The registration of a person in military service shall not be canceled by reason of the failure of the person to reside at the address appearing upon the district register if the person resided at the address on the date of entering military service.

1995, June 30, P.L. 170, No. 25, § 906, imd. effective.

### Suspension

*Section 5103 of the 1995 act (25 P.S. § 961.5103) provides:*

(a) **Suspension.**—To the extent that the Secretary of the Commonwealth determines that the National Voter Registration Act (Public Law 103-31, 42 U.S.C. § 1973gg et seq.) prohibits the cancellation of registration for elections for Federal office because of a failure to vote as provided in section 910 (25 P.S. § 961.910), the provisions of sections 906 through 912 (25 P.S. §§ 961.906 to 961.912) are suspended. The suspension shall become effective upon publication of notice of the determination in the Pennsylvania Bulletin.

(b) **Effect on Chapter 19.**—Should the provisions of sections 906 through 912 be suspended as provided in subsection (a), the provisions of Chapter 19 (25 P.S. § 961 et seq.) shall be effective during the period of suspension.

The notice required for suspension of §§ 961.906 to 961.912 was published as Pa.B. Doc. No. 95-1174 in 25 Pa.B. 2844 on July 15, 1995.

### § 961.907. Canvass of registered electors

(a) **Verification.**—The commission may, by individual commissioners or by inspectors of registration, verify the registration in an election district by visiting each building from which an elector is registered and other buildings as the commission deems necessary. The commission shall make a record of the name and address of each person registered who is not found to reside at the address from which the person is registered or who for any other reason appears to be not qualified to vote in the election district from which the person is registered. The commission shall leave at the address of each such person the notice prescribed by section 906(e).

(b) **Action.**—At the expiration of the time specified in the notice under section 906(e), the commission shall cancel or suspend the registration of each such person who has not communicated with the commission and proved qualifications as an elector.

(c) **Special inspectors.**—For the purpose of facilitating a canvass, the commission may, when necessary, appoint special inspectors of registration in number not exceeding double the number of election districts which the commission determines to canvass. They must be qualified electors of the county. They shall be appointed without reference to residence in election districts or to their political affiliations or beliefs. The commission shall instruct each special inspector in discharging duties.

1995, June 30, P.L. 170, No. 25, § 907, imd. effective.

### Suspension

*Section 5103 of the 1995 act (25 P.S. § 961.5103) provides:*

(a) **Suspension.**—To the extent that the Secretary of the Commonwealth determines that the National Voter Registration Act (Public Law 103-31, 42 U.S.C. § 1973gg et seq.) prohibits the cancellation of registration for elections for Federal office because of a failure to vote as provided in section 910 (25 P.S. § 961.910), the provisions of sections 906 through 912 (25 P.S. §§ 961.906 to 961.912) are suspended. The suspension shall become effective upon publication of notice of the determination in the Pennsylvania Bulletin.

(b) **Effect on Chapter 19.**—Should the provisions of sections 906 through 912 be suspended as provided in subsection (a), the provisions of Chapter 19 (25 P.S. § 961 et seq.) shall be effective during the period of suspension.

The notice required for suspension of §§ 961.906 to 961.912 was published as Pa.B. Doc. No. 95-1174 in 25 Pa.B. 2844 on July 15, 1995.

### § 961.908. Comparison and correction of registers

Commencing 30 days prior to each election, the commission shall compare and correct the general and district registers.

1995, June 30, P.L. 170, No. 25, § 908, imd. effective.

**Suspension**

*Section 5103 of the 1995 act (25 P.S. § 961.5103) provides:*

*(a) Suspension.—To the extent that the Secretary of the Commonwealth determines that the National Voter Registration Act (Public Law 103-31, 42 U.S.C. § 1973gg et seq.) prohibits the cancellation of registration for elections for Federal office because of a failure to vote as provided in section 910 (25 P.S. § 961.910), the provisions of sections 906 through 912 (25 P.S. §§ 961.906 to 961.912) are suspended. The suspension shall become effective upon publication of notice of the determination in the Pennsylvania Bulletin.*

*(b) Effect on Chapter 19.—Should the provisions of sections 906 through 912 be suspended as provided in subsection (a), the provisions of Chapter 19 (25 P.S. § 961 et seq.) shall be effective during the period of suspension.*

*The notice required for suspension of §§ 961.906 to 961.912 was published as Pa.B. Doc. No. 95-1174 in 25 Pa.B. 2844 on July 15, 1995.*

**§ 961.909. Petition to strike off names**

**(a) Initiation.**—At any time not later than the tenth day preceding an election, a qualified elector, including any watcher and any registrar or inspector of registration, may petition the commission to cancel or suspend the registration of a registered qualified elector. The petition must set forth, under oath or affirmation, all of the following:

(1) Sufficient grounds for the cancellation or suspension.

(2) That:

(i) notice of the time and place when the petition would be presented has been given personally to the registered qualified elector at least 24 hours prior to the presentation of the petition; or

(ii) the registered qualified elector could not be found at the place given in the district register as residence and the person in charge of that place, whose name must be given in the petition, has declared that the person was well acquainted with the names of all individuals residing at the place and that the registered qualified elector had never been or was no longer one of them or that no such individual is residing at the address.

**(b) Action.**—Upon receipt of a petition under subsection (a), the commission shall cancel or suspend the registration of the qualified elector and amend accordingly the general and district registers and other records affected unless the qualified elector so registered appears and shows cause why this action should not be taken.

1995, June 30, P.L. 170, No. 25, § 909, imd. effective.

**Suspension**

*Section 5103 of the 1995 act (25 P.S. § 961.5103) provides:*

*(a) Suspension.—To the extent that the Secretary of the Commonwealth determines that the National Voter Registration Act (Public Law 103-31, 42 U.S.C. § 1973gg et seq.) prohibits the cancellation of registration for elections for Federal office because of a failure to vote as provided in section 910 (25 P.S. § 961.910), the provisions of sections 906 through 912 (25 P.S. §§ 961.906 to 961.912) are suspended. The suspension shall become effective upon publication of notice of the determination in the Pennsylvania Bulletin.*

*(b) Effect on Chapter 19.—Should the provisions of sections 906 through 912 be suspended as provided in subsection (a), the provisions of Chapter 19 (25 P.S. § 961 et seq.) shall be effective during the period of suspension.*

*The notice required for suspension of §§ 961.906 to 961.912 was published as Pa.B. Doc. No. 95-1174 in 25 Pa.B. 2844 on July 15, 1995.*

**§ 961.910. Failure to vote**

**(a) Check of electors.**—By April 1 of each year except in a year in which the commission conducts a check of electors under section 906(c), the commission shall examine all of the district registers.

(b) **Suspension.**—A qualified elector who has been registered for a period of at least two immediately preceding calendar years but who is not recorded as having voted at an election during that period is subject to suspension of registration in accordance with the following procedure:

(1) If a qualified elector who has been registered for a period of at least two immediately preceding calendar years is not recorded as having voted at an election during that period, the commission shall send to the qualified elector by mail, at the address appearing upon the registration card, a notice setting forth that the records of the commission indicate that the qualified elector has not voted during the two immediately preceding calendar years and that the qualified elector's registration will be canceled at the expiration of 30 days from the date of mailing the notice unless the qualified elector, within that period, files with the commission, either personally or by mail, a written request for reinstatement of registration or a removal notice properly executed setting forth the qualified elector's place of residence and signed by the qualified elector.

(2) Within 30 days from the date of mailing of the notice under paragraph (1), the qualified elector must file with the commission, either personally or by mail, a written request for reinstatement of registration or a properly executed removal notice which sets forth the qualified elector's place of residence and which is signed by the qualified elector. The official registration application card of a qualified elector who has registered by mail qualifies as a request for reinstatement of registration or a removal notice under this paragraph.

(3) Within 30 days from the date of mailing of the notice under paragraph (1), the commission shall cancel the registration of a qualified elector who has not complied with paragraph (2).

(c) **Effect.**—Cancellation of registration under this section shall not affect the right of a qualified elector to subsequently register in the manner provided by this act.

1995, June 30, P.L. 170, No. 25, § 910, imd. effective.

### Suspension

*Section 5103 of the 1995 act (25 P.S. § 961.5103) provides:*

(a) **Suspension.**—To the extent that the Secretary of the Commonwealth determines that the National Voter Registration Act (Public Law 103-31, 42 U.S.C. § 1973gg et seq.) prohibits the cancellation of registration for elections for Federal office because of a failure to vote as provided in section 910 (25 P.S. § 961.910), the provisions of sections 906 through 912 (25 P.S. §§ 961.906 to 961.912) are suspended. The suspension shall become effective upon publication of notice of the determination in the Pennsylvania Bulletin.

(b) **Effect on Chapter 19.**—Should the provisions of sections 906 through 912 be suspended as provided in subsection (a), the provisions of Chapter 19 (25 P.S. § 961 et seq.) shall be effective during the period of suspension.

The notice required for suspension of §§ 961.906 to 961.912 was published as Pa.B. Doc. No. 95-1174 in 25 Pa.B. 2844 on July 15, 1995.

### § 961.911. Cancellation, removal and preservation of registration cards

(a) **General rule.**—If the registration of a qualified elector is canceled for any cause, the commission shall mark on the registration cards of the elector the word "canceled" and the date and cause of cancellation and shall remove them from the general and district registers. Each such card shall be kept for five years, after which the commission may destroy it.

(b) **Nonessential records.**—All records which are not essential for maintaining the current status of a qualified elector may be destroyed by the commission after three years.

1995, June 30, P.L. 170, No. 25, § 911, imd. effective.

### Suspension

*Section 5103 of the 1995 act (25 P.S. § 961.5103) provides:*

(a) **Suspension.**—To the extent that the Secretary of the Commonwealth determines that the National Voter Registration Act (Public Law 103-31, 42

*U.S.C. § 1973gg et seq.) prohibits the cancellation of registration for elections for Federal office because of a failure to vote as provided in section 910 (25 P.S. § 961.910), the provisions of sections 906 through 912 (25 P.S. §§ 961.906 to 961.912) are suspended. The suspension shall become effective upon publication of notice of the determination in the Pennsylvania Bulletin.*

*(b) Effect on Chapter 19.—Should the provisions of sections 906 through 912 be suspended as provided in subsection (a), the provisions of Chapter 19 (25 P.S. § 961 et seq.) shall be effective during the period of suspension.*

*The notice required for suspension of §§ 961.906 to 961.912 was published as Pa.B. Doc. No. 95-1174 in 25 Pa.B. 2844 on July 15, 1995.*

### § 961.912. Correction of errors in cancellation or suspension

If the registration of a qualified elector has been canceled or suspended through error, the qualified elector may petition the commission for reinstatement of registration not later than the tenth day preceding an election. After a hearing on the application, if error on the part of the commission is proved, the commission shall reinstate the registration.

1995, June 30, P.L. 170, No. 25, § 912, imd. effective.

### Suspension

*Section 5103 of the 1995 act (25 P.S. § 961.5103) provides:*

*(a) Suspension.—To the extent that the Secretary of the Commonwealth determines that the National Voter Registration Act (Public Law 103-31, 42 U.S.C. § 1973gg et seq.) prohibits the cancellation of registration for elections for Federal office because of a failure to vote as provided in section 910 (25 P.S. § 961.910), the provisions of sections 906 through 912 (25 P.S. §§ 961.906 to 961.912) are suspended. The suspension shall become effective upon publication of notice of the determination in the Pennsylvania Bulletin.*

*(b) Effect on Chapter 19.—Should the provisions of sections 906 through 912 be suspended as provided in subsection (a), the provisions of Chapter 19 (25 P.S. § 961 et seq.) shall be effective during the period of suspension.*

*The notice required for suspension of §§ 961.906 to 961.912 was published as Pa.B. Doc. No. 95-1174 in 25 Pa.B. 2844 on July 15, 1995.*

## CHAPTER 11. COMMISSION PROCEEDINGS

### § 961.1101. Subpoenas and witness fees

(a) Authorization.—The commission may issue a subpoena.

(b) Form and effect.—A subpoena under subsection (a) shall be in substantially the same form and have the same force and effect as a subpoena issued by a court of common pleas. The commission shall have the benefit of the process of the appropriate court of common pleas if necessary to enforce a subpoena.

(c) Benefit.—A subpoena may be issued as follows:

(1) Upon the motion of the commission.

(2) Upon motion of a party before the commission. A subpoena under this paragraph is only valid for one day. It must be renewed by 4 p.m. for the next day.

(d) Fees.—

(1) Witnesses subpoenaed under this section shall be compensated under 42 Pa.C.S. § 5903 (relating to compensation and expenses of witnesses).

(2) Witnesses subpoenaed under subsection (c)(1) shall be paid by commission funds.

(3) Witnesses subpoenaed under subsection (c)(2) shall be paid by the party. No subpoena shall be issued under subsection (c)(2) until the party pays the commission a fee of \$10 for issuing the same and deposits with the commission one day's witness fees for each witness to be summoned.



(4) As soon as convenient after a hearing is concluded or continued, the commission shall pay witnesses under paragraphs (2) and (3). Unearned fees deposited under paragraph (3) shall be refunded to the depositing party.

(5) If the petition of the elector is sustained, the commission shall pay to the elector all costs paid on the elector's behalf.

(e) **Commission funds.**—The commission shall pay over to the county treasurer fees received under subsection (d)(3). The accounts of the commission respecting payments under subsection (d)(2) shall be subject to audit by the county controller.

1995, June 30, P.L. 170, No. 25, § 1101, imd. effective.

### CHAPTER 13. JUDICIAL REVIEW

#### § 961.1301. Court of common pleas

(a) **Standing.**—The following have standing to appeal an action of a registration commission to the appropriate court of common pleas:

(1) An individual whose claim for registration has been denied.

(2) An individual whose registration has been canceled by the commission.

(3) A qualified elector of a municipality whose rights are impaired by any general order made by the commission.

(b) **Time.**—An appeal under subsection (a) must be made by the seventh day preceding an election.

(c) **Grounds.**—The appeal must request relief and set forth the grounds for relief.

(d) **Hearing.**—Upon timely receipt of an appeal under this section, the court shall conduct a hearing.

(e) **Order.**—If the court finds that an injustice has been done, it shall reverse or modify the ruling of the commission and issue appropriate injunctive relief.

(f) **Costs.**—

(1) Except as provided in paragraph (2), the court may award costs for the appeal to the prevailing party.

(2) Costs may not be assessed against a commission or a county.

1995, June 30, P.L. 170, No. 25, § 1301, imd. effective.

#### § 961.1302. Commission duties

In an appeal under section 1301, the registration commission shall produce any petition, register or other record in its custody relevant to the issue involved.

1995, June 30, P.L. 170, No. 25, § 1302, imd. effective.

### CHAPTER 15. PENALTIES

#### § 961.1501. Lawful orders

A person who intentionally disobeys a lawful order of a registration commission or a commissioner commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$2,500.

1995, June 30, P.L. 170, No. 25, § 1501, imd. effective.

#### § 961.1502. Registration

(a) **Improper.**—A registrar, commissioner or clerk who knowingly registers or permits the registration of an individual not lawfully entitled to be registered commits a misdemeanor of the first degree and shall, upon conviction, be sentenced to pay a fine of not more than \$10,000 or to imprisonment for not more than five years, or both.

(b) **Denial.**—A registrar, commissioner or clerk who, without reasonable cause, refuses to register an individual lawfully entitled to be registered commits a misdemeanor

or of the first degree and shall, upon conviction, be sentenced to pay a fine of not more than \$10,000 or to imprisonment for not more than five years, or both.

1995, June 30, P.L. 170, No. 25, § 1502, imd. effective.

### § 961.1503. Application

(a) **Prohibition.**—An individual may not do any of the following:

(1) Apply for registration with knowledge or reason to know that the individual is not entitled to registration.

(2) Apply for a change of residence with knowledge or reason to know that the individual is not entitled to the change.

(3) Declare as residence a place or address which the individual knows is not the individual's legal residence.

(4) Intentionally impersonate another in an application for registration.

(b) **Penalty.**—A person who violates subsection (a) commits a misdemeanor of the first degree and shall, upon conviction, be sentenced to pay a fine of not more than \$10,000 or to imprisonment for not more than five years, or both, and to forfeit the right of suffrage for ten years.

1995, June 30, P.L. 170, No. 25, § 1503, imd. effective.

### § 961.1504. Altering registration

(a) **Prohibition.**—No registrar, commissioner, clerk or assistant or commission employee may do any of the following:

(1) Intentionally insert or permit to be inserted an entry in a registration card without a proper application under this act or without requiring the proper evidence of the right of the applicant to be registered.

(2) Intentionally materially alter a registration card after the entries have been made. This paragraph does not apply to an alteration pursuant to an order of a court of common pleas or of the commission.

(b) **Penalty.**—A person who violates subsection (a) commits a misdemeanor of the first degree and shall, upon conviction, be sentenced to pay a fine of not more than \$10,000 or to imprisonment for not more than five years, or both.

1995, June 30, P.L. 170, No. 25, § 1504, imd. effective.

### § 961.1505. Votes

(a) **Prohibition.**—An election officer may not do any of the following:

(1) Knowingly refuse the vote of a registered and qualified elector.

(2) Knowingly accept the vote of a person not registered under this act. This paragraph does not apply to a person in actual military service or a person having an order of court.

(3) Knowingly receive a vote from a person falsely claiming to be a registered voter.

(b) **Penalty.**—A person who violates subsection (a) commits a misdemeanor of the first degree and shall, upon conviction, be sentenced to pay a fine of not more than \$10,000 or to imprisonment for not more than five years, or both.

1995, June 30, P.L. 170, No. 25, § 1505, imd. effective.

### § 961.1506. Duties under act

Any commissioner, registrar, clerk, inspector of registration, commission officer, commission assistant, commission employee, individual, partnership or corporation that intentionally delays, neglects or refuses to perform a duty imposed by this act commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not more than \$5,000 or to imprisonment for not more than two years, or both.

1995, June 30, P.L. 170, No. 25, § 1506, imd. effective.

**§ 961.1507. Official documents**

(a) **Prohibition.**—A person may not do any of the following:

(1) Intentionally insert or permit to be inserted a material entry in any registration card, street list, affidavit, petition, subpoena, certificate, report or other record, authorized or required by this act to be made or prepared for a purpose set forth in this act, which entry is not in accordance with this act.

(2) Intentionally materially alter or intentionally destroy an entry which has been made in any registration card, street list, affidavit, petition, subpoena, certificate, report or other record, authorized or required by this act to be made or prepared for a purpose set forth in this act, which alteration or destruction is not in accordance with this act.

(3) Remove a record from lawful custody with the intent to prevent the record from being used, inspected or copied.

(b) **Penalty.**—A person who violates subsection (a) commits a misdemeanor of the first degree and shall, upon conviction, be sentenced to pay a fine of not more than \$6,000 or to imprisonment for not more than three years, or both.

1995, June 30, P.L. 170, No. 25, § 1507, imd. effective.

**§ 961.1508. Withholding information**

A person who intentionally refuses to furnish to a commissioner or an inspector of registration information or documents which the commissioner or inspector is authorized to have under this act commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not more than \$5,000 or to imprisonment for not more than two years, or both.

1995, June 30, P.L. 170, No. 25, § 1508, imd. effective.

**§ 961.1509. Law enforcement assistance**

A law enforcement officer who, upon demand of any commissioner or inspector of registration, fails to render demanded assistance in the maintenance of peace and in the making of arrests without warrant as provided in this act or who intentionally hinders or attempts to hinder any commissioner or inspector of registration in the performance of a duty commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not more than \$5,000 or to imprisonment for not more than two years, or both.

1995, June 30, P.L. 170, No. 25, § 1509, imd. effective.

**§ 961.1510. Interference**

A person who intentionally interferes with any other person in the performance of any act or duty authorized or imposed by this act commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not more than \$5,000 or to imprisonment for not more than two years, or both.

1995, June 30, P.L. 170, No. 25, § 1510, imd. effective.

**§ 961.1511. Preventing registration**

(a) **Prohibition.**—No person may do any of the following:

(1) Knowingly and intentionally prevent an individual from being registered.

(2) By coercion, threats of bodily injury or intimidation, intentionally prevent or attempt to prevent an individual from being registered or from changing political enrollment in accordance with the provisions of this act.

(3) Intentionally give or promise or offer to give money or goods to an individual as an inducement for the individual to enroll in a particular party or to change political enrollment.

(4) Prevent a record from being used, inspected or copied.

(b) **Penalty.**—A person who violates subsection (a) commits a misdemeanor of the first degree and shall, upon conviction, be sentenced to pay a fine of not more than \$10,000 or to imprisonment for not more than five years, or both.

1995, June 30, P.L. 170, No. 25, § 1511, imd. effective.

### § 961.1512. Approval of registration

(a) **Prohibition.**—A person may not do any of the following:

(1) Intentionally alter a party designation on a registration card under section 528(c).

(2) Intentionally fail to make a transmission under section 528(d).

(b) **Penalty.**—A person who violates subsection (a) commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$2,500 or to imprisonment for not more than one year, or both.

1995, June 30, P.L. 170, No. 25, § 1512, imd. effective.

### § 961.1513. Solicitation of registrations

(a) **Prohibition.**—A person may not give, solicit or accept payment or financial incentive to obtain a voter registration if the payment or incentive is based upon the number of registrations or applications obtained.

(b) **Penalty.**—A person who violates subsection (a) commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not less than \$500 nor more than \$2,500 or to imprisonment for not less than one month nor more than one year, or both.

1995, June 30, P.L. 170, No. 25, § 1513, imd. effective.

### § 961.1514. Crimes Code

The provisions of 18 Pa.C.S. §§ 4902 (relating to perjury), 4903 (relating to false swearing) and 4904 (relating to unsworn falsification to authorities) apply to violations of this act.

1995, June 30, P.L. 170, No. 25, § 1514, imd. effective.

## CHAPTER 17. ENFORCEMENT

### § 961.1701. Attorney General

(a) **Investigation.**—The secretary shall investigate alleged violations of sections 523 and 525 and report apparent violations to the Attorney General.

(b) **Prosecution.**—Under section 205(a)(6) of the act of October 15, 1980 (P.L. 950, No. 164), known as the Commonwealth Attorneys Act,<sup>1</sup> the Attorney General shall have prosecutorial jurisdiction over violations reported under subsection (a).

1995, June 30, P.L. 170, No. 25, § 1701, imd. effective.

<sup>1</sup> 71 P.S. § 732-205(a)(6).

### § 961.1702. District attorneys

(a) **Investigation.**—Except as provided in section 1701, each commission shall investigate alleged violations of this act within its county and report apparent violations to the district attorney of the county.

(b) **Prosecution.**—Subject to section 205(a)(3) through (5) of the act of October 15, 1980 (P.L. 950, No. 164), known as the Commonwealth Attorneys Act,<sup>1</sup> the district attorney shall have prosecutorial jurisdiction over violations reported under subsection (a).

1995, June 30, P.L. 170, No. 25, § 1702, imd. effective.

<sup>1</sup> 71 P.S. § 732-205(a)(3) through (5).

## CHAPTER 19. PROVISIONS CONTINGENT ON FEDERAL LAW

## § 961.1901. Removal of voters

(a) **Removal of elector's registration record.**—Commissions shall institute a program to protect the integrity of the electoral process and to ensure the maintenance of accurate and current voter registration records. The program shall be uniform, nondiscriminatory and in compliance with the Voting Rights Act of 1965 (Public Law 89 110, 42 U.S.C. § 1973 et seq.). An elector's registration shall not be canceled except as follows:

- (1) At the request of the elector.
- (2) Upon the death of the elector under section 905.
- (3) Upon confirmation that the elector has moved to a residence outside the county.
- (4) Under a voter removal program as provided for under subsection (b).

(b) **Voter removal program.**—

(1) The commission shall establish a program to identify electors whose address may have changed by establishing one of the following programs:

(i) **National change of address.** The secretary shall establish by regulation a program whereby information supplied by the United States Postal Service through its licensees is used on a periodic basis, but not less than once every calendar year, to identify electors who may have changed addresses. The information shall be incorporated in the administration of the Statewide central registry and shall be forwarded to the commissions in a manner determined by the secretary by regulation.

(A) If it appears from the information provided through the United States Postal Service that an elector has moved to a different residence address within the same county as the elector is currently registered, the commission shall change the registration records to show the new address and shall send the elector, to the address recorded on the elector's registration, a notice of the change of address by forwardable mail and a postage prepaid, preaddressed return form by which the elector may verify or correct the address information.

(B) If it appears from the information provided through the United States Postal Service that an elector has moved to a different residence address outside the county, the commission shall use the notice procedure described in clause (A).

(ii) **Confirmation mailing:**

(A) A commission may establish a program by sending a direct, nonforwardable first class "return if undeliverable—address correction requested" mailing to all registered electors in the county.

(B) If this program is established, the commission shall use the notice procedure described in subparagraph (i)(A) for any elector whose mailing is returned undeliverable.

(2) In conjunction with and not as an alternative to a program established under paragraph (1), a canvass may be used as follows:

(i) The registration commission may, by commissioners or by inspectors of registration, verify the registration in an election district by visiting the building from which an elector is registered and other buildings as the commission deems necessary.

(ii) The commission shall make a record of the name and address of each registered elector who is found not to reside at the registered address or who for any other reason appears to be not qualified to vote in the registered election district.

(iii) The commission shall leave at the address of each person referred to in subparagraph (ii) a notice requiring him to communicate with the commission on or before a date which the commission shall designate, and which shall be not less than seven days and not more than 15 days from the date of the notice and in any case not later than the 15th day preceding the election next ensuing, and satisfy the commission of his qualifications as an elector. The commission shall cause a confirmation of each such notice to be sent by mail promptly to such person at the address from which he is registered. The envelope containing such information is to be plainly marked that it is not to be forwarded. At the expiration of the time

specified in the notice, the commission shall cancel the registration of such person who has not communicated with the commission and proved his qualifications as an elector.

(iv) To facilitate the canvass under this section, the commission may, when necessary, appoint special inspectors of registration, in number not exceeding double the number of election districts being canvassed.

(v) Special inspectors must be qualified electors of the county. They shall be appointed without reference to residence in election districts or to political affiliations or beliefs. The commission shall instruct special inspectors in their duties. Special inspectors have the powers conferred by this act upon inspectors of registration.

(3) In conjunction with and not as an alternative to a program established under paragraph (1), the commission shall send a notice pursuant to subsection (d) to any elector who has not voted nor appeared to vote during the period beginning five years before the date of the notice and ending on the date of the notice and for whom the board of elections did not during that period in any other way receive any information that the voter still resides in the registered election district.

(4) Commissions shall complete, not later than 90 days before each primary, at least once per year the voter removal programs under this section. This paragraph shall not be construed to preclude any of the following:

(i) Cancellation of an elector's registration as provided for under subsection (a)(1) or (2).

(ii) Correction of registration records in accordance with this act.

(c) **Identification of inactive voters.**—A commission shall mark an "I" on the registration card of each elector who has been mailed a form under subsection (b)(1) or (3) and has failed to respond, which shall be included with all other registration cards for that polling site and located at the individual's polling site on the day of the election.

(d) **Cancellation of registration.**—

(1) A commission shall not cancel the registration of an elector on the ground that the elector has changed residence unless any of the following apply:

(i) The elector confirms in writing that the elector has changed residence to a location outside the county in which the elector is registered.

(ii) The elector:

(A) has failed to respond to a notice described in paragraph (2); and

(B) has not voted nor appeared to vote and, if necessary, corrected the commission's record of the elector's address, in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

(2) A notice, as required in paragraph (1)(ii), is acceptable if it is a postage prepaid and preaddressed return card, sent by forwardable mail, on which the elector may state the elector's current address, if it contains a notice as follows:

(i) The notice must state all of the following:

(A) If the elector did not change residence or changed residence but still resides in the county, the elector must return the card not later than 30 days prior to the next election. If the card is not returned, affirmation or confirmation of the elector's address may be required before the elector is permitted to vote in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice. If the elector does not vote in an election during that period, the elector's registration shall be canceled.

(B) If the elector has changed residence to a place outside the county in which the elector is registered, information shall be provided concerning how the elector can register in the new county of residence.

(ii) The notice must state the date of the notice, the date of the next election and the date of the second general election for Federal office occurring after the date of the notice.

(3) The commission shall correct registration records in accordance with change of residence information obtained in conformance with this subsection.

**§ 961.1902. Procedure for voting following failure to return notification card****(a) Same county.—**

(1) An elector who has moved from an address in the county covered by a polling place to an address covered by the same polling place shall, notwithstanding failure to notify the commission prior to the date of an election, be permitted to vote in that polling place upon written affirmation by the elector of the change of address before an election official at that polling place.

(2) An elector who has moved from one address in the county to another address in the same county covered by a different polling place and who has failed to notify the commission of the change of address prior to the date of an election shall be permitted to correct the voting records and vote at the elector's former polling place upon written affirmation by the elector of the new address before an election official at the former polling place.

**(b) Different county.—**An elector who has moved from one county to another county and who has failed to notify the commission of the change of address prior to the date of the election shall be permitted to correct the voting records and vote at the elector's former polling place upon written affirmation by the elector of the new address before an election official at the former polling place.

1995, June 30, P.L. 170, No. 25, § 1902, imd. effective.

**§ 961.1903. Incorrect records**

If registration records incorrectly indicate that an elector has moved from an address in the area covered by a polling place, the elector shall, upon written affirmation before an election official at that polling place, be permitted to vote at that polling place.

1995, June 30, P.L. 170, No. 25, § 1903, imd. effective.

**§ 961.1904. Files**

**(a) Cancellation.—**If the registration of an elector is canceled, the registration commission shall mark on the registration cards of the elector the word "canceled" and the date and cause of cancellation. The commission shall remove the card from the general register and the district register. Removed cards shall be retained for five years.

**(b) Nonessential records.—**Records which are not essential for maintaining the current status of a qualified elector may be destroyed by the commission three years from the date the commission marks them as nonessential.

1995, June 30, P.L. 170, No. 25, § 1904, imd. effective.

**§ 961.1905. Errors in cancellation**

**(a) Petition.—**If the registration of an elector has been canceled through error, the elector may petition the registration commission for reinstatement.

**(b) Time.—**The petition must be filed by the tenth day preceding an election.

**(c) Action.—**

(1) The commission shall hold a hearing on the petition.

(2) If the commission finds that there was an error, the commission shall reinstate the registration.

1995, June 30, P.L. 170, No. 25, § 1905, imd. effective.

**CHAPTER 51. MISCELLANEOUS PROVISIONS****§ 961.5101. Standardized forms**

**(a) General rule.—**Whenever possible, the secretary shall prescribe by regulation standardized voter registration or absentee ballot application forms which may be used,

with prior approval by the secretary, by political bodies, candidates and organized bodies of citizens in compliance with both the provisions of this act and the act of June 3, 1937 (P.L. 1333, No. 320), known as the Pennsylvania Election Code.<sup>1</sup>

(b) **Prior approval.**—The secretary shall develop a system whereby political bodies, candidates and organized bodies of citizens may receive prior approval of standardized forms developed pursuant to subsection (a).

1995, June 30, P.L. 170, No. 25, § 5101, imd. effective.

<sup>1</sup> 25 P.S. § 2600 et seq.

### § 961.5102. Application for absentee ballots

(a) **General rule.**—Notwithstanding the provisions of this act or the act of June 3, 1937 (P.L. 1333, No. 320), known as the Pennsylvania Election Code,<sup>1</sup> the following persons may make application for an absentee ballot by sending a letter or other signed document to the county board of elections in the county in which the person's voting address is located:

(1) Any qualified elector who is unable to attend his polling place on the day of any primary or election because of illness or physical disability.

(2) Any qualified elector who expects to be absent from this Commonwealth or the county of residence because duties, occupation or business require him to be elsewhere the day of any primary or election.

(3) A county employee who cannot vote due to duties relating to the conduct of elections.

(4) A person who will not attend a polling place because of an observance of a religious holiday.

(b) **Contents of letter or document.**—The letter or document under subsection (a) shall provide the same information as is provided on forms prescribed by the secretary.

(c) **Review and processing.**—The letter or document shall be subject to the same schedule as other applications for absentee ballots and upon receipt by the county board of elections shall be reviewed and processed in the same fashion as other applications for absentee ballots.

(d) **Application prepared by political party.**—An absentee ballot application form containing the same information as that contained on the form prescribed by the secretary, which was prepared or distributed by a political party and signed by a qualified elector, shall be deemed for all purposes as valid and shall be reviewed and processed by the county board of elections in the same manner as applications on forms prescribed by the secretary and supplied by the county board of elections.

1995, June 30, P.L. 170, No. 25, § 5102, imd. effective.

<sup>1</sup> 25 P.S. § 2600 et seq.

### § 961.5103. Applicability of provisions

(a) **Suspension.**—To the extent that the Secretary of the Commonwealth determines that the National Voter Registration Act (Public Law 103-31, 42 U.S.C. § 1973gg et seq.) prohibits the cancellation of registration for elections for Federal office because of a failure to vote as provided in section 910<sup>1</sup>, the provisions of sections 906 through 912<sup>2</sup> are suspended. The suspension shall become effective upon publication of notice of the determination in the Pennsylvania Bulletin.

(b) **Effect on Chapter 19.**—Should the provisions of sections 906 through 912 be suspended as provided in subsection (a), the provisions of Chapter 19 shall be effective during the period of suspension.

1995, June 30, P.L. 170, No. 25, § 5103, imd. effective.

<sup>1</sup> 25 P.S. § 961.910.

<sup>2</sup> 25 P.S. §§ 961.906 to 961.912.



### Historical and Statutory Notes

The notice required for suspension of Doc. No. 95-1174 in 25 Pa.B.: 2844 on July 15, §§ 961.906 to 961.912 was published as Pa.B. 1995.

#### § 961.5104. Appropriations

(a) **Department of State.**—The sum of \$500,000, or as much thereof as may be necessary, is hereby appropriated to the Department of State for the fiscal year July 1, 1994, to June 30, 1995, for expenses incurred to implement the requirements of the National Voter Registration Act of 1992 (Public Law 103-31, 42 U.S.C. § 1973gg et seq.).

(b) **Department of Transportation.**—The sum of \$740,000, or as much thereof as may be necessary, is hereby appropriated to the Department of Transportation for the fiscal year July 1, 1994, to June 30, 1995, for expenses incurred to integrate voter registration with driver licensing to implement the requirements of the National Voter Registration Act of 1993.

(c) **Appropriation not to lapse.**—The funds appropriated to the Department of State in subsection (a) are a continuing appropriation and shall not lapse until June 30, 1996. Any funds not used to meet expenses of implementing the provisions of this act during fiscal year 1994-1995 may be used to meet the costs of a study of the technological needs and other aspects of the development and implementation of a Statewide central registry system.

1995, June 30, P.L. 170, No. 25, § 5104, imd. effective.

#### § 961.5105. Severability

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

1995, June 30, P.L. 170, No. 25, § 5105, imd. effective.

#### § 961.5106. Repeals

(a) **Substantive provisions.**—The following acts and parts of acts are repealed:

Act of March 30, 1937 (P.L. 115, No. 40), known as The First Class City Permanent Registration Act.<sup>1</sup>

Act of April 29, 1937 (P.L. 487, No. 115), known as The Permanent Registration Act for Cities of the Second Class, Cities of the Second Class A, Cities of the Third Class, Boroughs, Towns, and Townships.<sup>2</sup>

(b) **Appropriations.**—The following acts and parts of acts are repealed:

The appropriation for costs to implement National Voter Registration Requirements in section 221 of the act of June 16, 1994 (P.L. 1473, No. 6A), known as the General Appropriation Act of 1994.

The appropriation for costs to integrate voter registration with driver licensing in section 222 of the General Appropriation Act of 1994.

(c) **General repeal.**—All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

1995, June 30, P.L. 170, No. 25, § 5106, imd. effective.

<sup>1</sup> 25 P.S. §§ 623-1 to 623-46 Rep.

<sup>2</sup> 25 P.S. §§ 951-1 to 951-46 Rep.

#### § 961.5107. Applicability

(a) **Registration application.**—Voter registration applications printed prior to the effective date of this act may be used to apply for registration under this act until June 30, 1997.

## ELECTIONS

(b) **Notice.**—In the event that the five-year period for notice to electors provided for under section 1901(b)(3)<sup>1</sup> has been declared invalid or rejected by a court of competent jurisdiction or by the United States Department of Justice, after all appeals have been exhausted and upon certification to the Secretary of the Commonwealth and publication in the Pennsylvania Bulletin, notice shall be given in accordance with section 1901(b)(3) after a period of ten years. In the event that a ten-year period has been certified to the Secretary of the Commonwealth as invalid and upon publication in the Pennsylvania Bulletin, notice shall be given in accordance with section 1901(b)(3) after a period of 20 years.

(c) **Election Code.**—Nothing in the act of June 3, 1937 (P.L. 1333, No. 320), known as the Pennsylvania Election Code,<sup>2</sup> shall be deemed inconsistent with this act.

1995, June 30, P.L. 170, No. 25, § 5107, imd. effective.

<sup>1</sup> 25 P.S. § 961.1901(b)(3).

<sup>2</sup> 25 P.S. § 2600 et seq.

### § 961.5108. Retroactivity

Sections 5104 and 5106(b) shall apply retroactively to July 1, 1994.

1995, June 30, P.L. 170, No. 25, § 5108, imd. effective.

### § 961.5109. Effective date

This act shall take effect as follows:

(1) The provisions of Chapter 19 shall take effect only after the publication of the notice under section 5103(a) and shall only be effective during such time that the National Voter Registration Act of 1993 (Public Law 103-31, 42 U.S.C. § 1973gg et seq.) prohibits cancellation of registration of electors for Federal offense because of failure to vote.

(2) The remainder of this act shall take effect immediately.

1995, June 30, P.L. 170, No. 25, § 5109, imd. effective.

## CHAPTER 6

### QUALIFICATIONS OF VOTERS

#### Cross References

Qualification of electors, see Const. Art. 7,  
§ 1; 25 P.S. § 2811 et seq.

## CHAPTER 9

### COUNT AND RETURN OF VOTE

#### Cross References

Count and return of votes under Pennsylvania  
Election Code, see 25 P.S. §§ 3061 et seq., 3151  
et seq.

## CHAPTER 14

### ELECTION CODE

#### ARTICLE I. PRELIMINARY PROVISIONS

##### Section

2602. Definitions.

##### Section

#### ARTICLE III. COUNTY BOARDS OF ELECTIONS

##### 2642.

Powers and duties of county  
boards.

Section  
ARTICLE IV. DISTRICT ELECTION OFFICERS

- 2682.1. Repealed.
- ARTICLE V. ELECTION DISTRICTS AND POLLING PLACES
2702. Court to create new election districts.
2703. Petitions for new election districts; reference to county board of elections; report.
2704. Petitions by county board; action by court on petition or report.
2730. Equipment and arrangement of polling places; guard rail; number of voting compartments or voting machines.
2745. Definitions.
2746. Restrictions on Alteration.
2747. Alterations after Period of Restriction.
2748. Reports.
2749. Election Results; Registration.
2750. Regulations.

ARTICLE VI. DATES OF ELECTIONS AND PRIMARIES AND SPECIAL ELECTIONS

2753. General Primary; Candidates to Be Nominated and Party Officers to Be Elected.
2778. Special elections for Senator and Representative in the General Assembly.
- 2780.1. Affidavits of candidates.
2782. Objections to certificate of nomination and nomination papers filed for a special election; hearing; determination.

ARTICLE IX. NOMINATION OF CANDIDATES

2870. Affidavits of candidates.
2911. Nominations by political bodies.
2937. Objections to nomination petitions and papers.
- 2941.1. Affidavits of candidates.
2942. Objections to substituted nomination certificates.

ARTICLE X. BALLOTS

2967. Number of ballots to be printed; specimen ballots.

ARTICLE XI. VOTING MACHINES

3004. Installation of voting machines.

Section  
ARTICLE XIII. VOTING BY QUALIFIED ABSENTEE ELECTORS

- 3146.1. Qualified absentee electors.
- 3146.2. Applications for official absentee ballots.
- 3146.2a. Date of application for absentee ballot.
- 3146.6. Voting by absentee electors.
- 3146.8. Canvassing of official absentee ballots.

ARTICLE XVI. PRIMARY AND ELECTION EXPENSES

3248. Late contributions and independent expenditures.

ARTICLE XVII. RECOUNTS AND CONTESTS

3459. Bond by petitioners.

ARTICLE XVIII. PENALTIES

3502. Perjury.
3516. Unlawful possession of ballots: counterfeiting ballots.
3517. Forging and destroying ballots.
3518. Tampering with voting machines.
3523. Election officers permitting unregistered electors to vote; challenges; refusing to permit qualified electors to vote.
3524. Election officers refusing to permit elector to vote in proper party at primaries.
3525. Frauds by election officers.
3527. Interference with primaries and elections; frauds; conspiracy.
3528. Persons interfering in other districts.
3529. Assault and battery at polls.
3533. Unlawful voting.
3534. Elector voting ballot of wrong party at primary.
3535. Repeat voting at elections.
3536. Removing ballots.
3539. Bribery at elections.
3547. Prohibiting duress and intimidation of voters and interference with the free exercise of the elective franchise.
3553. Violations of provisions relating to absentee electors ballots.

ARTICLE XVIII-A. CONGRESSIONAL DISTRICTS

- 3571 to 3573. Repealed.

§ 2600. Election laws codified

Notes of Decisions

Construction with other law 2

2. Construction with other law

1. Validity

Patriot Party of Pennsylvania v. Mitchell, E.D.Pa.1993, 826 F.Supp. 926, [main volume] as amended, affirmed 9 F.3d 1540.

Although Public Official and Employee Ethics Act does not preempt Election Code, inasmuch as both relate to same subject matter, these Acts are in pari materia and must be construed together. In re Olshefski, 692 A.2d 1168, Cmwth. 1997.

ARTICLE I. PRELIMINARY PROVISIONS

§ 2601. Short title

Notes of Decisions

In general 1

of Philadelphia, 666 A.2d 1132, Cmwth.1995, appeal granted 672 A.2d 311, 543 Pa. 718, affirmed 673 A.2d 905, 543 Pa. 591.

1. In general

Election Code is liberally interpreted in order to facilitate the right to vote. Dipietrae v. City

§ 2602. Definitions

The following words, when used in this act, shall have the following meanings, unless otherwise clearly apparent from the context:

(a) The word "candidate" shall, unless the context otherwise requires, include both candidates for nomination and election.

(a.1) "Canvass" includes gathering the ballots after the election and counting, computing and tallying the votes.

(b) The word "county" shall mean any county of this Commonwealth.

(c) The words "county board" or "board" shall mean the county board of elections of any county herein provided for.

(d) The words "district election board" or "election board" shall mean the election officers required to conduct primaries and elections in any election district in accordance with the provisions of this act.

(e) The words "district register" shall mean the cards containing all or any part of the registry list of qualified electors of the same election district, as prepared by the registration commissions.

(f) The word "election" shall mean any general, municipal, special or primary election, unless otherwise specified.

(g) The words "election district" shall mean a district, division or precinct, established in accordance with the provisions of this act, within which all qualified electors vote at one polling place.

(h) The words "general election" shall mean the election which the Constitution of this Commonwealth requires to be held in even-numbered years.

(i) The words "independent nomination" shall mean the selection by an independent political body, in accordance with the provisions of this act, of a candidate for a public office authorized to be voted for at an election.

(j) The words "municipal election" shall mean the election which the Constitution of this Commonwealth requires to be held in odd-numbered years.

(k) The word "nomination" shall mean the selection, in accordance with the provisions of this act, of a candidate for a public office authorized to be voted for at an election.

(l) The words "November election" shall mean either the general or municipal election, or both, according to the context.

(m) The word "oath" shall include affirmation and the word "swear" shall include affirm.

(n) The word "party" shall mean a political party, as defined in section 801 of this act.<sup>1</sup>

(o) The words "party nomination" shall mean the selection by a political party, in accordance with the provisions of this act, of a candidate for a public office authorized to be voted for at an election.

(p) The words "political body" shall mean an independent body of electors, as defined in section 801 of this act.

(q) The words "polling place" shall mean the room provided in each election district for voting at a primary or election.

(r) The words "primary" or "primary election" shall mean any election held for the purpose of electing party officers and nominating candidates for public offices to be voted for at an election.

(r.1) "Public institution" means institutions primarily maintained by the Federal, State or local governments and includes but is not limited to veterans' hospitals and homes, State hospitals, poor houses and county homes.

(s) The words "public office" shall include every public office to which persons can be elected by a vote of the electors under the laws of this State.

(t) The words "qualified elector" shall mean any person who shall possess all of the qualifications for voting now or hereafter prescribed by the Constitution of this Commonwealth, or who, being otherwise qualified by continued residence in his election district, shall obtain such qualifications before the next ensuing election.

(u) The words "registered and enrolled member of a political party" shall mean any qualified elector who shall be registered according to political designation, in accordance with the provisions of the registration acts.

(v) The words "special election" shall mean any election other than a regular general, municipal or primary election.

(w) The words "qualified absentee elector" shall mean:

(1) Any qualified elector who is or who may be in the military service of the United States regardless of whether at the time of voting he is present in the election district of his residence or is within or without this Commonwealth and regardless of whether he is registered or enrolled; or

(2) Any qualified elector who is a spouse or dependent residing with or accompanying a person in the military service of the United States if at the time of voting such spouse or dependent is absent from the municipality of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(3) Any qualified elector who is or who may be in the service of the Merchant Marine of the United States if at the time of voting he is absent from the municipality of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(4) Any qualified elector who is a spouse or dependent residing with or accompanying a person who is in the service of the Merchant Marine of the United States if at the time of voting such spouse or dependent is absent from the municipality of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(5) Any qualified elector who is or who may be in a religious or welfare group officially attached to and serving with the armed forces if at the time of voting he is absent from the municipality of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(6) Any qualified elector who is a spouse or dependent residing with or accompanying a person in a religious or welfare group officially attached to and serving with the armed forces if at the time of voting such spouse or dependent is absent from the municipality of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(7) Any qualified elector who expects to be or is outside the territorial limits of the several States of the United States and the District of Columbia because his duties, occupation or business require him to be elsewhere during the entire period the polls are open for voting on the day of any primary or election or who is or who may be a civilian employee of the United States outside the territorial limits of the several States of the United States and the District of Columbia, whether or not such elector is subject to civil-service laws and the Classification Act of 1949 and whether or not paid from funds appropriated by the Congress, if at the time of voting he is absent from the municipality of his residence: Provided, however, That said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(8) Any qualified elector who is a spouse or dependent residing with or accompanying a person who expects to be or is outside the territorial limits of the several States of the United States and the District of Columbia because his duties, occupation or business require him to be elsewhere during the entire period the polls are open for voting on the day of any primary or election or who is a spouse or dependent residing with or accompanying a person who is a civilian employee of the United States outside the territorial limits of the several States of the United States and the District of Columbia whether or not such person is subject to civil-service laws and the Classification Act of 1949 and whether or not paid from funds appropriated by the Congress if at the time of voting such spouse or dependent is absent from the municipality of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(9) Any qualified war veteran elector who is bedridden or hospitalized due to illness or physical disability if he is absent from the municipality of his residence and unable to attend his polling place because of such illness or physical disability regardless of whether he is registered and enrolled; or

(10) Any qualified, registered and enrolled elector who expects to be or is absent from the municipality of his residence because his duties, occupation or business require him to be elsewhere during the entire period the polls are open for voting on the day of any primary or election; or

(11) Any qualified, registered and enrolled elector who is unable to attend his polling place because of illness or physical disability; or

(12) Any qualified, registered and enrolled elector who is a spouse or dependent accompanying a person employed in the service of this Commonwealth or in the service of the Federal Government within the territorial limits of the several States of the United States and the District of Columbia in the event the duties, profession or occupation of such person require him to be absent from the municipality of his residence; or

(13) Any qualified elector who is a county employe who cannot vote due to duties on election day relating to the conduct of the election; or

(14) Any qualified elector who will not attend a polling place because of the observance of a religious holiday:

Provided, however, That the words "qualified absentee elector" shall in nowise be construed to include persons confined in a penal institution or a mental institution nor shall it in anywise be construed to include a person not otherwise qualified as a qualified elector in accordance with the definition set forth in section 102(t) of this act.

(x) The words "members of the merchant marine of the United States" mean persons (other than persons in military service) employed as officers or members of crews of vessels documented under the laws of the United States or of vessels owned by the United States or of vessels of foreign flag registry under charter to or control of the United States, and persons (other than persons in military service) enrolled with the United States for employment or for training for employment or maintained by the United States for emergency relief service as officers or members of crews of any such vessels, but does not include persons so employed or enrolled for such employment or for training for employment or maintained for such emergency relief on the Great Lakes or the Inland waterways.

(y) The word "dependent" means any person who is in fact a dependent.

(z) The words "person authorized to administer oaths" shall mean any person who is a commissioned officer in military service or any member of the merchant marine of the United States designated for this purpose by the United States Secretary of Commerce or any civilian official empowered by any State or Federal law to administer oaths.

(z-1) The words "in military service" shall mean the uniformed services as defined in section 102 of the Career Compensation Act of 1949 (68 Stat. 804, U.S. Code, Title 37 Par. 281).<sup>2</sup>

(z-2) Repealed. 1968, Dec. 11, P.L. 1183, No. 375, § 2.

(z-3) The words "duties, occupation or business" shall include leaves of absence for teaching or education, vacations, sabbatical leaves, and all other absences associated with the elector's duties, occupation or business, and also include an elector's spouse who accompanies the elector.

(z-4) The word "municipality" shall mean a city, borough, incorporated town, township or any similar general purpose unit of government which may be created by the General Assembly.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 1, imd. effective.

1 25 P.S. § 2831.

2 37 U.S.C.A. § 101.

## Historical and Statutory Notes

### 1998 Legislation

The 1998 amendment, in subsec. (w), substituted "municipality" for "State or county" and

"Commonwealth or county" throughout the section, and added subsec. (z.4).

## United States Supreme Court

Convicted felons, disenfranchisement, equal protection, see *Richardson v. Ramirez*, U.S. Cal. 1974, 94 S.Ct. 2655, 418 U.S. 24, 41 L.Ed.2d 551,

72 O.O.2d 232, on remand 528 P.2d 378, 117 Cal.Rptr. 562, 12 Cal.3d 912.

## Notes of Decisions

### 2. Special election

"Special election," which is defined as any election other than a regular general, municipal, or primary election, is separate and apart from "primary" or "primary election," which is defined as any election held for purpose of electing party officer and nominating candidates for public office to be voted for at election. In re Nomination Papers of Adams, 648 A.2d 1350, 168 Pa. Cmwlth. 20, Cmwlth.1994.

### 4. Absentee electors

Election Code sections excluding incarcerated felons from definition of "qualified absentee

elector" do not violate state constitutional provisions mandating that elections be free and equal and that every citizen who meets certain age and residency requirements is entitled to vote at all elections subject to laws requiring and regulating registration of electors as General Assembly may enact. *Mixon v. Com.*, 759 A.2d 442, Cmwlth. 2000.

Registered black female elector who was not a convicted felon but who resided in voting district in which majority of voters were black or Hispanic, frequently combining to vote in a block-type fashion, did not have standing to challenge con-

stitutionality of Election Code sections excluding incarcerated felons from definition of "qualified absentee electors" and Voter Registration Act section barring a felon released from penal insti-

tution less than five years from registering to vote. *Mixon v. Com.*, 759 A.2d 442, Cmwth. 2000.

§ 2603. Construction

Notes of Decisions

1. In general

Election Code is liberally interpreted in order to facilitate the right to vote. *Dipietrae v. City*

of Philadelphia, 666 A.2d 1132, Cmwth.1995, appeal granted 672 A.2d 311, 543 Pa. 718, affirmed 673 A.2d 905, 543 Pa. 591.

ARTICLE II. THE SECRETARY OF THE COMMONWEALTH

§ 2621. Powers and duties of the secretary of the commonwealth

Pennsylvania Code References

Political contributions, see 4 Pa. Code § 174.1 et seq.

§ 2621.1. Explanation of ballot question

Notes of Decisions

Construction and application 1

1. Construction and application

Attorney General's "plain English statement" regarding proposed amendments to constitutional provision governing Board of Pardons was inadequate, where it confused the purpose of the changes with a description of the actual changes, and only cursorily described the effects and limitations. *Pennsylvania Prison Soc. v. Com.*, 727 A.2d 632, Cmwth.1998.

Attorney General complied with statutory duties and properly informed public in connec-

tion with proposed amendment to confrontation clause of State Constitution which would be voted on in election, and thus, political party which sought delay of vote on proposed amendment so that public could be adequately informed as to effects of amendment did not present cause of action on which requested mandamus relief could be granted; ballot question was clear and unambiguous, and electorate had twice been given opportunity to question amendment through required notification process. *Lincoln Party by Robinson v. General Assembly*, 682 A.2d 1326, Cmwth.1996.

ARTICLE III. COUNTY BOARDS OF ELECTIONS

§ 2642. Powers and duties of county boards

The county boards of elections, within their respective counties, shall exercise, in the manner provided by this act, all powers granted to them by this act, and shall perform all the duties imposed upon them by this act, which shall include the following:

(a) To investigate and report to the court of quarter sessions their recommendations on all petitions presented to the court by electors for the division, redivision, alteration, change or consolidation of election districts, and to present to the court petitions for the division, redivision, alteration, change or consolidation of election districts in proper cases.

(b) To select and equip polling places.

(c) To purchase, preserve, store and maintain primary and election equipment of all kinds, including voting booths, ballot boxes and voting machines, and to procure ballots and all other supplies for elections.

(d) To appoint their own employes, voting machine custodians, and machine inspectors.

(e) To issue certificates of appointment to watchers at primaries and elections.

(f) To make and issue such rules, regulations and instructions, not inconsistent with law, as they may deem necessary for the guidance of voting machine custodians, elections officers<sup>1</sup> and electors.



(g) To instruct election officers in their duties, calling them together in meeting whenever deemed advisable, and to inspect systematically and thoroughly the conduct of primaries and elections in the several election districts of the county to the end that primaries and elections may be honestly, efficiently, and uniformly conducted.

(h) To prepare and publish, in the manner provided by this act, all notices and advertisements in connection with the conduct of primaries and elections, which may be required by law.

(i) To investigate election frauds, irregularities and violations of this act, and to report all suspicious circumstances to the district attorney.

(j) To receive and determine, as hereinafter provided, the sufficiency of nomination petitions, certificates and papers of candidates for county, city, borough, township, ward, school district, poor district, election offices, and local party offices required by law or by party rules to be filed with the board.

(k) To receive from district election officers the returns of all primaries and elections, to canvass and compute the same, and to certify, no later than the third Monday following the primary or election, the results thereof to the Secretary of the Commonwealth, as may be provided by law, and to such other authorities as may be provided by law. The certification shall include the number of votes received in each election district by each candidate for the General Assembly.

(l) To publicly announce by posting at its office the results of primaries and elections for county, city, borough, township, ward, school district, poor district, election offices, and party offices, if any, and to issue certificates of election to the successful candidates for said offices.

(m) To prepare and submit, within twenty days after the last day to register to vote in each primary, municipal and general election, a report to the Secretary of the Commonwealth in the form prescribed by him, which shall contain a statement of the total number of electors registered in each election district, together with a breakdown of registration by each political party or other designation. Copies of said statement shall be furnished, upon request, to the county chairman of each political party and political body. The Secretary of the Commonwealth shall forthwith submit such information to the Legislative Data Processing Center and shall publicly report the total number of registered electors for each political party or other designation in each county not later than five days prior to the primary, municipal or general election.

(n) To annually prepare and submit to the county commissioners or other appropriating authorities of the county an estimate of the cost of primaries and elections and of the expenses of the board for the ensuing fiscal year.

(o) To perform such other duties as may be prescribed by law.

1 So in enrolled bill.

## Historical and Statutory Notes

### 1998 Legislation

The 1998 amendment rewrote subsec. (m), which formerly read:

"To prepare and submit, not less than twenty days prior to each primary, municipal and general election, a report to the Secretary of the

Commonwealth in the form prescribed by him, which shall contain a statement of the total number of electors registered in each election district, together with a breakdown by party registration. Copies of said statement shall be furnished, upon request, to the county chairman of each political party and political body".

## Notes of Decisions

### 1. Governmental functions

*Gilthou v. Chairman and Com'rs, Philadelphia County Bd. of Elections*, E.D.Pa.1969, 306 F.Supp. 1202, [main volume] affirmed 90 S.Ct. 996, 397 U.S. 147, 25 L.Ed.2d 182.

Under Pennsylvania law, county could invoke doctrine of nullum tempus occurrit regi to avoid statute of limitations defense to its claim based

upon performance bond issued by surety in connection with county's purchase of electronic voting machines; since county was required by law to purchase electronic machines, claim arising out of contract to purchase the machines accrued to county in its governmental capacity and would be brought to enforce an obligation imposed by law. *Montgomery County v. MicroVote Corp.*, E.D.Pa.1998, 23 F.Supp.2d 553.

## ARTICLE IV. DISTRICT ELECTION OFFICERS

§ 2682.1. Repealed. 1997, Oct. 31, 1997, P.L. 482, No. 48, § 3, effective Jan. 1, 1998

## Historical and Statutory Notes

For subject matter of the repealed section, see, now, 16 P.S. § 11011-10.2.

## ARTICLE V. ELECTION DISTRICTS AND POLLING PLACES

## Law Review and Journal Commentaries

Rediscovering the sovereignty of the people:  
The case for senate districts. Terry Smith, 75  
N.C.L.Rev. 1 (1996).

## (A) ELECTION DISTRICTS

## § 2702. Court to create new election districts

Subject to the provisions of section 501 of this act,<sup>1</sup> the court of common pleas of the county in which the same are located, may form or create new election districts by dividing or redividing any borough, township, ward or election district into two or more election districts of compact and contiguous territory, having boundaries with clearly visible physical features and wholly contained within any larger district from which any Federal, State, county, municipal or school district officers are elected, or alter the bounds of any election district, or form an election district out of two or more adjacent districts or parts of districts, or consolidate adjoining election districts or form an election district out of two or more adjacent wards, so as to suit the convenience of the electors and to promote the public interests. Except for good cause shown, election districts so formed shall not contain more than one thousand two hundred (1,200) registered electors. No election district shall be formed that shall contain less than one hundred (100) registered electors. When a school district crosses county lines, the regions of the school district shall be composed of contiguous election districts.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 3, imd. effective.

<sup>1</sup> 25 P.S. § 2701.

## Historical and Statutory Notes

<p><b>1998 Legislation</b> The 1998 amendment rewrote the second sentence, which formerly read: "Election districts so</p>	<p>formed shall contain between six hundred (600) and eight hundred (800) registered electors as nearly as may be."</p>
--	---

§ 2703. Petitions for new election districts; reference to county board of elections; report

Upon the petition of twenty registered electors of any township, borough, ward or election district, to the court of the proper county, praying for the division or redivision of such township, borough, ward or election district into two or more election districts, or for the alteration of the bounds of any election district, or for the formation of one or more election districts out of two or more existing election districts, or parts thereof, or for the consolidation of adjoining election districts, the said court shall refer the said petition to the county board of elections, which shall make a full investigation of the facts, and shall report to the court its findings and recommendations as to the division, redivision, alteration, formation or consolidation of election districts prayed for. If the county board shall find that a division, redivision, alteration, formation or consolidation of election districts will promote the convenience of the electors and the public interests, it shall recommend a proper division, redivision, alteration, formation or consolidation of election districts, which must have clearly visible physical boundaries, and shall accompany its report with a map and a verbal description of the boundaries, as well as a certification of the number of electors registered in each of the resulting election

districts for the immediately preceding general or municipal election. Such petitions may specify the boundaries desired by the petitioners, and may be accompanied by a map setting forth such boundaries. When petitioners request specific boundaries, their petition shall include a certification from the county board of elections of the electors registered in each proposed election district for the immediately preceding general or municipal election.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 3, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment in the second sentence, added ", as well as a certification of the number of electors registered in each of the resulting

election districts for the immediately preceding general or municipal election", and added the fourth sentence.

### § 2704. Petitions by county board; action by court on petition or report

The county board of elections may also petition the court for the division or redivision of any township, borough, ward or election district into two or more election districts, or for the alteration of the bounds of any election district, or for the formation of one or more election districts out of two or more existing election districts, or parts thereof, or for the consolidation of adjoining election districts, accompanying its petition with a map and a verbal description of the boundaries of the proposed new election districts which must have clearly visible physical features. The petition must also include a certification of the number of electors registered in each of the resulting election districts for the immediately preceding general or municipal election. Upon the presentation of any such petition by the county board, or upon the filing by the board of its report and recommendations as to any petition presented by qualified electors under the provisions of section 503 of this act,<sup>1</sup> the court may make such order for the division, redivision, alteration, formation or consolidation of election districts, as will, in its opinion, promote the convenience of electors and the public interests: Provided, however, That the court shall not make any final order for the division, redivision, alteration, formation or consolidation of election districts until at least ten days after notice shall have been posted in at least five public and conspicuous places in the district or districts to be affected thereby, one of which notices shall be posted on or in the immediate vicinity of the polling place in each such district. Such notice shall state in brief form the division, redivision, alteration, formation or consolidation of election districts recommended by the county board, the number of electors registered in each district at the immediately preceding general or municipal election, and the date upon which the same will be considered by the court, and shall contain a warning that any person objecting thereto must file his objections with the clerk of the court prior to such date. Upon the making of any such final order by the court, a copy thereof shall be certified by the clerk to the county board of elections.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 3, imd. effective.

<sup>1</sup> 25 P.S. § 2703.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment inserted the second sentence, and in the fourth sentence, inserted "the

number of electors registered in each district at the immediately preceding general or municipal election".

#### (B) POLLING PLACES

### § 2730. Equipment and arrangement of polling places; guard rail; number of voting compartments or voting machines

(a) The county board of elections shall cause all rooms used as polling places to be suitably provided with heat and light, and, in districts in which ballots are used, with a sufficient number of voting compartments or booths with proper supplies, in which electors may conveniently mark their ballots, with a curtain, screen or door in the upper part of the front of each compartment or booth so that in the marking thereof they may be screened from the observation of others. Every polling place shall consist of a single

room, every part of which is within the unobstructed view of those present therein, and shall be furnished with a guard rail or barrier enclosing the inner portion of the said room, which guard rail or barrier shall be so constructed and placed that only such persons as are inside said rail or barrier can approach within six feet of the ballot box and voting compartments, or booths, or voting machines, as the case may be. The ballot box and voting compartments or booths shall be so arranged in the voting room within the enclosed space as to be in full view of those persons in the room outside the said guard rail or barrier. The voting machine or machines shall be so placed in the voting room within the enclosed space that, unless its construction shall otherwise require, the ballot labels on the face of the machine can be plainly seen by the election officers, overseers and watchers when the machine is not occupied by an elector.

(b) The number of voting compartments to be furnished to each polling place shall not be less than one for every two hundred (200) registered qualified electors, or fraction thereof in the election district. The number of voting machines to be furnished to polling places in which voting machines are used shall be not more than one machine for each three hundred and fifty (350) registered electors, or fraction thereof, nor less than one machine for each six hundred (600) registered electors, or fraction thereof, in such election district: Provided, however, That the court of common pleas having jurisdiction, upon petition presented by either the county election board or by ten (10) or more registered qualified electors of an election district, may order that additional voting machines or voting compartments be provided for any such election district if the court shall be of the opinion that such additional voting machines or voting compartments shall be necessary in such district for the convenience of the electors and the public interests. The county shall provide equal distribution of voting machines or voting compartments in election districts containing a similar number of electors.

(c) The county board may make such arrangements as it deems proper for the storage of election equipment in the various election districts of the county at such times of the year that it will not be used for election purposes, and may fix reasonable compensation therefor.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 4, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment rewrote subsec. (b), which formerly read:

"The number of voting compartments to be furnished to each polling place shall not be less than one for every 100 voters, or fraction thereof, and in no case less than three. The number of

voting machines to be furnished in districts in which voting machines are used shall be not more than one machine for each three hundred and fifty (350) registered voters, or fraction thereof, nor less than one machine for each six hundred (600) registered voters, or fraction thereof, in such election district."

#### (D) ELECTION DISTRICT ALTERATION AND DATA REPORTING

### § 2745. Definitions

The following words and phrases when used in this subdivision shall have the meanings unless otherwise clearly apparent from the context:

The word "bureau" shall mean the Bureau of Commissions, Elections and Legislation of the Department of State.

The word "secretary" shall mean the Secretary of the Commonwealth.

1937, June 3, P.L. 1333, No. 320, art. V, § 535, added 1999, Nov. 24, P.L. 543, No. 51, § 1, imd. effective.

### § 2746. Restrictions on Alteration

(a) Except as provided in subsection (b), there shall be no power to establish, abolish, divide or consolidate an election district during the period June 1, 2000, through April 30, 2002.

(b) During the period from June 1, 2000, through December 31, 2000, an election district may be divided or election districts may be combined if the following are met:

(1) In the case of the division of an election district, the boundary of each resulting district is composed entirely of clearly visible physical features conforming with the census block lines or portions of the original boundary of the election district which was divided.

(2) In the case of the combination of election districts, the boundary of each resulting district is composed entirely of portions of the original boundaries of the election districts which were combined.

(c) If an alteration of an election district under subsection (b) is sought, the following shall apply:

(1) The county board of elections shall notify the bureau, in writing, of the proposed alteration. The notice shall include a map and a description of the proposed boundary of any new or altered district or districts. The bureau shall forward a copy of any notice of proposed alteration to the Legislative Data Processing Center within seven (7) days of receipt.

(2) Before a county board of elections may petition the court for a change in the boundary of an election district under this act, the secretary must make a determination that the board has complied with subsection (b). Any of the following constitute evidence of the determination under this clause:

(i) A certification by the secretary that the determination has been made.

(ii) A certification by the board that notice under this clause has been given to the bureau and that the secretary has not acted within forty-five (45) days of the notice.

(3) The board shall forward a copy of the order approving any alteration to the secretary and the Legislative Data Processing Center within seven (7) days of the issuance of that order.

1987, June 3, P.L. 1838, No. 320, art. V, § 536, added 1999, Nov. 24, P.L. 543, No. 51, § 1, imd. effective.

### § 2747. Alterations after Period of Restriction

(a) Unless otherwise provided in this act, an election district may be established, abolished, divided or consolidated if the boundary of each resulting district is composed entirely of clearly visible physical features conforming with census block lines from the most recently completed Federal decennial census.

(b) Within thirty (30) days of an alteration under subsection (a), the county board of elections shall submit to the bureau a report, including a map and a verbal description, of the boundaries of each resulting district.

1987, June 3, P.L. 1333, No. 320, art. V, § 537, added 1999, Nov. 24, P.L. 543, No. 51, § 1, imd. effective.

### § 2748. Reports

(a) Within six (6) months of the effective date of this subdivision, each county board of elections shall submit to the bureau a report, including maps and verbal descriptions, of the boundaries of every election district within the county. All reports filed under section 536 or 537<sup>1</sup> shall be filed as amendments to this initial report.

(b) The bureau shall retain at all times the reports of the current boundaries of all election districts, including maps and verbal descriptions. Copies of such reports shall be made available to the General Assembly, on request, and to the public for a fee, as established by the department.

1987, June 3, P.L. 1333, No. 320, art. V, § 538, added 1999, Nov. 24, P.L. 543, No. 51, § 1, imd. effective.

<sup>1</sup> 25 P.S. §§ 2746 or 2747.

### § 2749. Election Results; Registration

In addition to any other reports, returns or certifications required by any other law, within thirty (30) days after a primary, municipal, special or general election, the county

board of elections shall submit to the bureau a report stating the total number of votes cast in each voting district for each candidate for the following offices:

- (1) A Statewide office.
- (2) State Senator.
- (3) State Representative.
- (4) United States Representative.

1937, June 3, P.L. 1333, No. 320, art. V, § 539, 1999, Nov. 24, P.L. 543, No. 51, § 1, imd. effective.

### § 2750. Regulations

The secretary may promulgate regulations to administer this subdivision.

1937, June 3, P.L. 1333, No. 320, art. V, § 540, 1999, Nov. 24, P.L. 543, No. 51, § 1, imd. effective.

## ARTICLE VI. DATES OF ELECTIONS AND PRIMARIES AND SPECIAL ELECTIONS

### (A) NOVEMBER ELECTIONS AND PRECEDING PRIMARIES

### § 2752. Municipal election; officers to be elected

#### Notes of Decisions

#### 2. Vacancies

Court of Common Pleas had authority under County Code and Election Code to appoint interim county district attorney to serve remainder of resigning district attorney's term, though statutory appointment authority conflicted with home

rule charter of fourth class county; statutes took precedence over county charter, as uniformity throughout the commonwealth in filling such vacancies was required. In re District Attorney, 756 A.2d 711, Cmwlth.2000.

### § 2753. General Primary; Candidates to Be Nominated and Party Officers to Be Elected

(a) There shall be a General primary preceding each general election which shall be held on the third Tuesday of May in all even-numbered years, except in the year of the nomination of a President of the United States, in which year the General primary shall be held on the fourth Tuesday of April. Candidates for all offices to be filled at the ensuing general election shall be nominated at the General primary. The vote for candidates for the office of President of the United States, as provided for by this act, shall be cast at the General primary.

(b) Deleted by amendment. 1990, Oct. 12, P.L. 534, No. 131, § 1, eff. in 60 days.

(b.1) Notwithstanding subsection (a), the General primary for 2000 shall be held on April 4, 2000.

Amended 1999, Nov. 24, P.L. 543, No. 51, § 2, imd. effective.

### Historical and Statutory Notes

#### 1999 Legislation

Act 1999-51 in subsec. (b.1), substituted "2000" for "1999" and substituted "April 4, 2000" for "May 10, 1994".

### (B) SPECIAL ELECTIONS

### § 2778. Special elections for Senator and Representative in the General Assembly

Whenever a vacancy shall occur in either house of the General Assembly whether or not it then be in session, the presiding officer of such house shall, within ten (10) days

after the happening of the vacancy, issue a writ of election to the proper county board or boards of election and to the Secretary of the Commonwealth, for a special election to fill said vacancy, which election shall be held at the next ensuing primary, municipal or general election scheduled at least sixty (60) days after the issuance of the writ or such other earlier date which is at least sixty (60) days following the issuance of the writ as the presiding officer may deem appropriate: Provided, however, That should the Governor after the issuance of the said writ of election advise the presiding officer that the General Assembly will be called into extraordinary session prior to the date set for such special election, the presiding officer may countermand the writ theretofore issued and shall issue a new writ of election, fixing therein such earlier date therefor as is deemed expedient, but which shall not be less than sixty (60) days after the issuance of said writ: Provided further, That if the vacancy shall occur less than seven (7) months prior to the expiration of the term, a special election shall be held only if, in the opinion of the presiding officer, the election is in the public interest.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 5, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment rewrote the section, which formerly read:

"Whenever a vacancy shall occur in either house of the General Assembly whether or not it then be in session, the presiding officer of such house shall issue a writ of election to the proper county board or boards of election and to the Secretary of the Commonwealth, for a special election to fill said vacancy, which election shall be held on a date named in the writ, which shall be not less than sixty (60) days after the issuance of said writ. The presiding officer may fix, in such writ of election, the date of the next ensuing

primary, municipal or general election as the date for holding any such special election: Provided, however, That should the Governor after the issuance of the said writ of election advise the presiding officer that the General Assembly will be called into extraordinary session prior to the date set for such special election, the presiding officer may countermand the writ theretofore issued and shall issue a new writ of election, fixing therein such earlier date therefor as is deemed expedient, but which shall not be less than sixty (60) days after the issuance of said writ."

### § 2780.1. Affidavits of candidates

Each candidate for any State, county, city, borough, incorporated town, township, school district or poor district office, or for the office of United States Senator or Representative in Congress, selected as provided in section 630 of this act,<sup>1</sup> shall file with the nomination certificate an affidavit stating—(a) his residence, with street and number, if any, and his post-office address; (b) his election district, giving city, borough, town or township; (c) the name of the office for which he consents to be a candidate; (d) that he is eligible for such office; (e) that he will not knowingly violate any provision of this act, or of any law regulating and limiting election expenses and prohibiting corrupt practices in connection therewith; (f) unless he is a candidate for judge of a court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia, or for the office of school board in a district where that office is elective or for the office of justice of the peace, that he is not a candidate for the same office of any party or political body other than the one designated in such certificate; and (g) that he is aware of the provisions of section 1626 of this act<sup>2</sup> requiring election and post-election reporting of campaign contributions and expenditures.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 6, imd. effective.

<sup>1</sup> 25 P.S. § 2780.

<sup>2</sup> 25 P.S. § 3246.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment deleted the second sentence, which formerly read:

"In cases of certificates for candidates for the General Assembly, the candidate's affidavit shall state (1) that the candidate will satisfy the eligibility requirements contained in sections 5 and 7 of Article II of the Constitution of Pennsylvania; (2)(i) that, in the case of a candidate for the

office of Senator in the General Assembly, the candidate will be twenty-five (25) years of age on or before the first day of the term for which the candidate seeks election or (ii) that, in the case of a candidate for the office of Representative in the General Assembly, the candidate will be twenty-one (21) years of age on or before the first day of the term for which the candidate seeks election; (3) that the candidate shall have

been a citizen and an inhabitant of Pennsylvania four (4) years and an inhabitant of the respective district one (1) year next before the election (unless absent on the public business of the

United States or of this State); and (4) that the candidate has not been convicted of embezzlement of public moneys, bribery, perjury or other infamous crime."

### § 2782. Objections to certificate of nomination and nomination papers filed for a special election; hearing; determination

All certificates of nomination and nomination papers to fill a vacancy as herein provided, which have been accepted and filed shall be deemed to be valid, unless objections thereto are duly made in writing and filed in the court and with the officer or board with whom said nomination certificates or papers were filed, and within three (3) days next succeeding the last day for filing such certificates or papers. Any objections shall set forth specifically the matters objected to. Upon the filing of the objections, the court shall make an order fixing a time for hearing, which shall not be later than seven (7) days after the last day for filing nomination certificates or papers, and specifying the time and manner of notice that shall be given to the candidate named in the nomination certificate or paper objected to. On the day fixed for said hearing, the court shall proceed without delay to hear said objections, and shall give such hearing precedence over any other business before it, and shall finally determine said matter not later than twelve (12) days after the last day for filing said nomination certificates or papers. In determining such matter, the court shall be governed in its order or decree by the provisions of section 977 of this act.<sup>1</sup>

Amended 1998, Feb. 13, P.L. 72, No. 18, § 7, imd. effective.

<sup>1</sup> 25 P.S. § 2937.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment deleted the second sentence, which formerly read: "For purposes of

this section, a certificate shall include all affidavits required to be filed with such certificate under this act."

## ARTICLE VII. QUALIFICATIONS OF ELECTORS

### § 2811. Qualifications of electors

#### United States Supreme Court

Convicted felons, disenfranchisement, equal protection, see *Richardson v. Ramirez*, U.S. Cal. 1974, 94 S.Ct. 2655, 418 U.S. 24, 41 L.Ed.2d 551,

72 O.O.2d 232, on remand 528 P.2d 378, 117 Cal.Rptr. 562, 12 Cal.3d 912.

### § 2812. Qualifications of electors at primaries

#### Notes of Decisions

#### 4. — Party membership, qualifications

Election code section limiting right to vote in any party's primary elections to those registered as members of such party did not violate registered nonpartisan voter's right of free association

or right to vote, and did not violate equal protection. In re *Barkman*, 726 A.2d 440, Cmwlth. 1999, appeal denied 740 A.2d 1149, 559 Pa. 722, certiorari denied 120 S.Ct. 499, 528 U.S. 1005, 145 L.Ed.2d 385.

### § 2814. Rules for determining residence

#### Notes of Decisions

#### 4. — Domicile, residence

Pennsylvania domiciliary established new domicile in Virginia, by registering her vehicle that state, registering to vote there and voting as Virginia citizen in several elections, and therefore, her candidate's affidavit for position of

representative in General Assembly was false, since she could not have been citizen of Pennsylvania for required four years immediately preceding election. In re *Prendergast*, 673 A.2d 324, 543 Pa. 498, Sup.1996.



## ARTICLE IX. NOMINATION OF CANDIDATES

## (A) NOMINATION OF PARTY CANDIDATES AT PRIMARIES

## § 2868. Manner of signing nomination petitions; time of circulating

## Pennsylvania Code References

Ethics affidavit, see 4 Pa. Code § 171.22.

## Notes of Decisions

## 1. In general

Candidate could circulate his nomination petitions on the day on which they should have been filed, although filing date was extended for one day due to state of emergency. In re Farrow, 754 A.2d 33, Cmwlt.2000.

Statute governing signing of nomination petitions required electors who sign nomination peti-

tion to write their occupation, place of residence and date on that petition; third person could not fill in address, occupation, and date of signature once elector signed petition. In re Silcox, 674 A.2d 224, 543 Pa. 647, Sup.1996.

## § 2869. Petition may consist of several sheets; affidavit of circulator

## Notes of Decisions

## 4. Circulators

Congressional primary election nomination petition circulator, who changed his name and moved following his prior voter registration and prior to acting as circulator and prior to his

subsequent voter registration, was not qualified as petition circulator and, thus, petition signatures obtained by circulator were invalid. In re Nomination Petition of Wesley, 640 A.2d 1247, 536 Pa. 609, Sup.1994.

## § 2870. Affidavits of candidates

Each candidate for any State, county, city, borough, incorporated town, township, ward, school district, poor district, election district, party office, party delegate or alternate, or for the office of United States Senator or Representative in Congress, shall file with his nomination petition his affidavit stating—(a) his residence, with street and number, if any, and his post-office address; (b) his election district, giving city, borough, town or township; (c) the name of the office for which he consents to be a candidate; (d) that he is eligible for such office; (e) that he will not knowingly violate any provision of this act, or of any law regulating and limiting nomination and election expenses and prohibiting corrupt practices in connection therewith; (f) unless he is a candidate for judge of a court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia, or for the office of school director in a district where that office is elective or for the office of justice of the peace that he is not a candidate for nomination for the same office of any party other than the one designated in such petition; (g) if he is a candidate for a delegate, or alternate delegate, member of State committee, National committee or party officer, that he is a registered and enrolled member of the designated party; (h) if he is a candidate for delegate or alternate delegate the presidential candidate to whom he is committed or the term “uncommitted”; and (i) that he is aware of the provisions of section 1626 of this act<sup>1</sup> requiring pre-election and post-election reporting of campaign contributions and expenditures. In cases of petitions for delegate and alternate delegate to National conventions, the candidate's affidavit shall state that his signature to the delegate's statement, as hereinafter set forth, if such statement is signed by said candidate, was affixed to the sheet or sheets of said petition prior to the circulation of same. In the case of a candidate for nomination as President of the United States, it shall not be necessary for such candidate to file the affidavit required in this section to be filed by candidates, but the post-office address of such candidate shall be stated in such nomination petition.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 8, imd. effective.

<sup>1</sup> 25 P.S. § 3246.

## Historical and Statutory Notes

## 1998 Legislation

The 1998 amendment deleted the second sentence, which formerly read:

"In the case of a candidate for nomination as President of the United States, it shall not be

necessary for such candidate to file the affidavit required in this section to be filed by candidates, but the post-office address of such candidate shall be stated in such nomination petition."

## Notes of Decisions

## 2. In general

Election Code governed action seeking to set aside General Assembly candidate's nomination petition on ground of false statement in accompanying affidavit; fact that candidate was now sitting member of Assembly did not convert action into nonjusticiable political question, and court could grant relief if proper under provisions of Code. Petition of Pippy, 711 A.2d 1048, Cmwlt.1998, affirmed 709 A.2d 905, 551 Pa. 210.

Commonwealth Court had jurisdiction, prior to General Assembly candidate's election, to consider objections to candidate's petition for nomi-

nation, where objections concerned claimed false statements in candidate's affidavit accompanying petition. Petition of Pippy, 711 A.2d 1048, Cmwlt.1998, affirmed 709 A.2d 905, 551 Pa. 210.

Court may set aside General Assembly candidate's nomination petition containing false statement regarding candidate's eligibility to hold office sought, and candidate may be liable for court costs, attorney fees and other similar fees flowing from that action. Petition of Pippy, 711 A.2d 1048, Cmwlt.1998, affirmed 709 A.2d 905, 551 Pa. 210.

## § 2872.1. Number of signers required for nomination petitions of candidates at primaries

## Historical and Statutory Notes

## 1999 Legislation

Section 3 of Act 1999-2 provides:

"Sections 912.1 and 913 of the act of June 3, 1937 (P.L. 1333, No. 320) [25 P.S. §§ 2872.1 and

2873], known as the Pennsylvania Election Code, are repealed to the extent that they are inconsistent with this act."

## Notes of Decisions

Challenge to nominating petition 6  
Notarization 8  
Standard of review 7

Berg, 713 A.2d 1106, 552 Pa. 126, Sup.1998, certiorari denied 119 S.Ct. 340, 525 U.S. 931, 142 L.Ed.2d 280, rehearing denied 119 S.Ct. 582, 525 U.S. 1035, 142 L.Ed.2d 486.

## 1. Validity

Candidate seeking preliminary injunction against Pennsylvania statute requiring gubernatorial candidates to obtain at least 100 signatures from party members in each of at least ten counties, regardless of county's population, failed to demonstrate reasonable probability of success on merits; state had interest in avoiding ballot clutter and confusion, and burden imposed on candidate was not severe. Berg v. Kane, E.D.Pa. 1998, 999 F.Supp. 633.

State's interest in managing the ballot size and ensuring statewide support for candidates provided a rational basis for the election code section requiring 100 signatures from ten counties for nomination petitions for gubernatorial primary election, and thus section survived candidate's equal protection, due process, and one person/one vote challenges based on unequal distribution of population in counties. Petition of Berg, 713 A.2d 1106, 552 Pa. 126, Sup.1998, certiorari denied 119 S.Ct. 340, 525 U.S. 931, 142 L.Ed.2d 280, rehearing denied 119 S.Ct. 582, 525 U.S. 1035, 142 L.Ed.2d 486.

Signature requirements of Pennsylvania's ballot access laws for senatorial and gubernatorial candidates of major political parties, which require the collection of 2000 signatures within 22 days, do not impose unreasonable burden on candidates of major political parties. Trinsey v. Mitchell, E.D.Pa.1994, 851 F.Supp. 167.

Election code section requiring gubernatorial candidate to obtain 100 signatures of party members from ten counties was rationally related to legitimate government interest, and was thus constitutional, despite claim that section diluted the signature of the elector in the more populous areas in violation of the one man-one vote principle; section ensured that the ballot would not be cluttered with candidates having only small, local support, and it was clear that the ten-county requirement was designed to ensure that candidates would not merely obtain signatures from the most populous counties of the Commonwealth. Petition of Berg, 713 A.2d 340, Cmwlt. 1998, affirmed 713 A.2d 1106, 552 Pa. 126, certiorari denied 119 S.Ct. 340, 525 U.S. 931, 142

Rational basis, rather than strict scrutiny, standard of review applied to claim that election code section requiring 100 signatures from ten counties for nomination petitions for gubernatorial primary election violated equal protection, due process, and one person/one vote principles; requiring candidate to obtain 100 signatures from at least ten counties did not have a real and appreciable impact on voter's rights. Petition of

## Note 1

L.Ed.2d 280, rehearing denied 119 S.Ct. 582, 525 U.S. 1035, 142 L.Ed.2d 486.

### 3. Number of signers

Defect in nominating petition putting Democratic candidate for Supreme Court Justice below 100 signature requirement for county could not be cured by amendment of petition. *Stuski v. Lauer*, 697 A.2d 235, 548 Pa. 338, Sup.1997.

### 4. Validation of signatures

Evidence supported trial court's decision that nominating petition for Democratic candidate for Supreme Court Justice contained 20 invalid signatures and thus failed to satisfy statutory requirement of at least 100 signatures from each of at least five counties. *Stuski v. Lauer*, 697 A.2d 235, 548 Pa. 338, Sup.1997.

### 6. Challenge to nominating petition

Candidate for political party nomination for office of representative in general assembly had standing to object to nomination petition of second candidate from same legislative district. Petition of *Petrone*, 713 A.2d 1175, Cmwth.1998.

To have standing to challenge nomination petition, one must be registered to vote in district holding primary election and be member of political party to which nomination pertains. Matter of *Samms*, 674 A.2d 240, 543 Pa. 681, Sup.1996.

Voter who was a registered Democrat in district holding primary election for office of Representative in General Assembly had standing to challenge nomination petition of district's Democratic candidate, despite claim that Republicans motivated and assisted voter. Matter of *Samms*, 674 A.2d 240, 543 Pa. 681, Sup.1996.

Voter who challenged nomination petition for office in General Assembly was not required to attend hearing concerning petition where voter made appearance through counsel of record, voter's political party registration and residence within district holding primary election was not contested, and candidate had not subpoenaed voter. Matter of *Samms*, 674 A.2d 240, 543 Pa. 681, Sup.1996.

Voter who challenged nomination petition for office in General Assembly adequately identified contested signatures even though voter did not

specify names of persons whose signatures were being challenged where voter set forth exact page and line number of every contested signature on nomination petition. Matter of *Samms*, 674 A.2d 240, 543 Pa. 681, Sup.1996.

### 7. Standard of review

One man-one vote principle did not apply to case involving election code section requiring gubernatorial candidate to obtain 100 signatures of party members from ten counties, and thus no fundamental rights were affected which would subject the section to strict scrutiny rather than rational basis standard of review. Petition of *Berg*, 712 A.2d 340, Cmwth.1998, affirmed 713 A.2d 1106, 552 Pa. 126, certiorari denied 119 S.Ct. 340, 525 U.S. 931, 142 L.Ed.2d 280, rehearing denied 119 S.Ct. 582, 525 U.S. 1035, 142 L.Ed.2d 486.

### 8. Notarization

Nomination petitions for office of representative in general assembly were valid, despite claim that two notaries that notarized petitions had a direct and pecuniary interest in candidate's re-election since notaries were aides in candidate's district office; notaries were employed by political party and could continue with party in the event that candidate was not re-elected, and thus notaries' employment status was determined not by outcome of primary election, but by political party leadership of house of representatives. Petition of *Petrone*, 713 A.2d 1175, Cmwth.1998.

Circulator of nomination petition for office of representative in general assembly may not notarize his own signature. Petition of *Petrone*, 713 A.2d 1175, Cmwth.1998.

Notary that acted as circulator of nomination petitions for office of representative in general assembly could notarize affidavit of another circulator for same candidate, absent allegations of fraud. Petition of *Petrone*, 713 A.2d 1175, Cmwth.1998.

Notarization of nomination petition for office of representative in general assembly was valid, even if member of notary's family signed petition as elector. Petition of *Petrone*, 713 A.2d 1175, Cmwth.1998.

## § 2872.2. Nominations by minor political parties

### United States Supreme Court

Party names, established political parties, affiliation, restrictions on use, see *Norman v. Reed*, U.S. Ill.1992, 112 S.Ct. 698, 502 U.S. 279, 116

L.Ed.2d 711, on remand 607 N.E.2d 1198, 180 Ill.Dec. 685, 154 Ill.2d 77.

## Notes of Decisions

### Primary elections 2

#### 1. Validity

*Patriot Party of Pennsylvania v. Mitchell*, E.D.Pa.1993, 826 F.Supp. 926, [main volume] as amended, affirmed 9 F.3d 1540.

#### 2. Primary elections

Minor political parties must nominate candidates by nomination papers, and are not entitled to participate at party primaries. *Heicklen v. Pennsylvania Bd. of Elections*, 751 A.2d 260, Cmwth.2000, affirmed 747 A.2d 894, 561 Pa. 33.

## § 2873. Place and time of filing nomination petitions; filing fees

## Historical and Statutory Notes

## 1999 Legislation

Section 3 of Act 1999-2 provides:

"Sections 912.1 and 913 of the act of June 3, 1937 (P.L. 1333, No. 320) [25 P.S. §§ 2872.1 and

2873], known as the Pennsylvania Election Code, are repealed to the extent that they are inconsistent with this act."

## Pennsylvania Code References

Bureau of elections fee schedule, see 4 Pa. Code § 173.1.

## United States Supreme Court

Ballot petitions, number of signatures required of new political parties in multidistrict political subdivisions, see *Norman v. Reed*, U.S. Ill. 1992,

112 S.Ct. 698, 502 U.S. 279, 116 L.Ed.2d 711, on remand 607 N.E.2d 1198, 180 Ill.Dec. 685, 154 Ill.2d 77.

## (B) NOMINATIONS OF CANDIDATES BY POLITICAL BODIES

## § 2911. Nominations by political bodies

(a) In addition to the party nominations made at primaries, nomination of candidates for any public office may also be made by nomination papers signed by qualified electors of the State, or of the electoral district for which the nomination is made, and filed in the manner herein provided. Such nomination papers shall be in form prescribed by the Secretary of the Commonwealth, and no other forms than the ones so prescribed shall be used for such purposes.

(b) Where the nomination is for any office to be filled by the electors of the State at large, the number of qualified electors of the State signing such nomination paper shall be at least equal to two per centum of the largest entire vote cast for any elected candidate in the State at large at the last preceding election at which State-wide candidates were voted for. In the case of all other nominations, the number of qualified electors of the electoral district signing such nomination papers shall be at least equal to two per centum of the largest entire vote cast for any officer, except a judge of a court of record, elected at the last preceding election in said electoral district for which said nomination papers are to be filed, and shall be not less than the number of signers required for nomination petitions for party candidates for the same office. In cases where a new electoral district shall have been created, the number of qualified electors signing such nomination papers, for candidates to be elected at the first election held after the creation of such district, shall be at least equal to two per centum of the largest vote cast in the several election districts, which are included in the district newly created, for any officer elected in the last preceding election.

(c) Each person signing a nomination paper shall declare therein that he is a qualified elector of the State or district, as the case may be, and shall add to his signature his occupation and residence, giving city, borough or township, with street and number, if any, and shall also add the date of signing, expressed in words or numbers: Provided, however, That if said political district named in the papers lies wholly within any city, borough or township, or is coextensive with same, it shall not be necessary for any signer of a paper to state therein the city, borough or township of his residence. No elector shall sign more than one nomination paper for each office to be filled, unless there are two or more persons to be elected to the same office, in which case he may sign nomination papers for as many candidates for such office as, and no more than, he could vote for at the succeeding election. More than one candidate may be nominated by one nomination paper and candidates for more than one office may be nominated by one nomination paper: Provided, That each political body nominating does not nominate more candidates than there are offices to be voted for at the ensuing election: And provided, That all the signers on each nomination paper are qualified to vote for all the candidates nominated therein.

(d) Nomination papers may be on one or more sheets and different sheets must be used for signers resident in different counties. If more than one sheet is used, they

shall be bound together when offered for filing if they are intended to constitute one nomination paper, and each sheet shall be numbered consecutively, beginning with number one (1) at the foot of each page. Each sheet shall have appended thereto the affidavit of some person, not necessarily a signer, and not necessarily the same person on each sheet, setting forth—(1) that the affiant is a qualified elector of the State, or of the electoral district, as the case may be, referred to in the nomination paper; (2) his residence, giving city, borough or township with street and number, if any; (3) that the signers signed with full knowledge of the contents of the nomination paper; (4) that their respective residences are correctly stated therein; (5) that they all reside in the county named in the affidavit; (6) that each signed on the date set opposite his name; and (7) that, to the best of affiant's knowledge and belief, the signers are qualified electors of the State, or of the electoral district, as the case may be.

(e) There shall be appended to each nomination paper offered for filing an affidavit of each candidate nominated therein, stating—(1) the election district in which he resides; (2) the name of the office for which he consents to be a candidate; (3) that he is eligible for such office; (4) that he will not knowingly violate any provision of this act, <sup>1</sup> or of any law regulating and limiting election expenses, and prohibiting corrupt practices in connection therewith; (5) that his name has not been presented as a candidate by nomination petitions for any public office to be voted for at the ensuing primary election, nor has he been nominated by any other nomination papers filed for any such office; (6) that in the case where he is a candidate for election at a general or municipal election, he was not a registered and enrolled member of a party thirty (30) days before the primary held prior to the general or municipal election in that same year; (7) that, in the case where he is a candidate for election at a special election, he is not a registered and enrolled member of a party.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 9, imd. effective.

1 25 P.S. § 2600 et seq.

## Historical and Statutory Notes

### 1998 Legislation

The 1998 amendment deleted the second sentence, which formerly read,

"In cases of papers for candidates for the General Assembly, the candidate's affidavit shall state (i) that the candidate will satisfy the eligibility requirements contained in sections 5 and 7 of Article II of the Constitution of Pennsylvania; (ii)(a) that in the case of a candidate for the office of Senator in the General Assembly that the candidate will be twenty-five (25) years of age on or before the first day of the term for which the candidate seeks election or (b) that in the

case of a candidate for the office of Representative in the General Assembly that the candidate will be twenty-one (21) years of age on or before the first day of the term for which the candidate seeks election; (iii) that the candidate shall have been a citizen and inhabitant of Pennsylvania four (4) years and an inhabitant of the respective district one (1) year next before the election (unless absent on the public business of the United States or of this State); and (iv) that the candidate has not been convicted of embezzlement of public moneys, bribery, perjury or other infamous crime."

## Notes of Decisions

### 1. Validity

Patriot Party of Pennsylvania v. Mitchell, E.D.Pa.1993, 826 F.Supp. 926, [main volume] as amended, affirmed 9 F.3d 1540.

State election laws which prevented minor political party from "cross-nominating" candidate for political office when that candidate was already nominated for same office by another political party severely burdened party's constitutional right to free association, as laws denied party right to choose its standard bearer and burdened party's ability to build effective political organization and demonstrate its electoral strength. Patriot Party of Allegheny County v. Allegheny County Dept. of Elections, C.A.3 (Pa.)1996, 95 F.3d 253, rehearing and suggestion for rehearing in banc denied.

Fact that laws which prevented minor political party from "cross-nominating" candidate for po-

litical office when that candidate was already nominated for same office by another political party prevented party from nominating only handful of candidates did not lessen laws' burden on party's right to free association; critical issue was laws' effect on ability of minor parties to participate meaningfully in political process. Patriot Party of Allegheny County v. Allegheny County Dept. of Elections, C.A.3 (Pa.)1996, 95 F.3d 253, rehearing and suggestion for rehearing in banc denied.

State laws which prevented minor political party from "cross-nominating" candidate for political office when that candidate was already nominated for same office by another political party were not justified by state's alleged interest in preventing "sore loser" candidates, who have lost major party primary, from carrying intraparty squabble into general election; in instant case, candidate which minor party sought to nominate

had won major party primary, so "sore loser" problem was not at issue, and laws were overbroad with respect to "sore loser" problem. Patriot Party of Allegheny County v. Allegheny County Dept. of Elections, C.A.3 (Pa.)1996, 95 F.3d 253, rehearing and suggestion for rehearing in banc denied.

State laws which prevented minor political party from "cross-nominating" candidate for political office when that candidate was already nominated for same office by another political party were not justified by state's alleged interest in preventing proliferation of minor parties on ballot from confusing voters and clogging state's election machinery; there was no evidence to support proposition that ballot would be clogged, state retained authority to set reasonable threshold requirements for parties seeking admission to ballot, and cross-nomination could in fact simplify ballot and clarify voter opinions. Patriot Party of Allegheny County v. Allegheny County Dept. of Elections, C.A.3 (Pa.)1996, 95 F.3d 253, rehearing and suggestion for rehearing in banc denied.

State laws which prevented minor political party from "cross-nominating" candidate for political office when that candidate was already nominated for same office by another political party were not justified by state's alleged interest in preventing candidate from bleeding off votes of independent voters to bolster candidate's major party endorsement; cross-nomination would not increase major party's share of minor party votes unless minor party voluntarily nominated major party candidate as its own, while, under current system, major party candidates could "bleed off" minor party votes due to voters' reluctance to "waste" votes on candidates unlikely to win. Patriot Party of Allegheny County v. Allegheny County Dept. of Elections, C.A.3 (Pa.)1996, 95 F.3d 253, rehearing and suggestion for rehearing in banc denied.

State laws which prevented minor political party from "cross-nominating" candidate for political office when that candidate was already nominated for same office by another political party were not justified by state's alleged interest in

encouraging new candidates to run as independents; challenged laws did not protect minor parties from external threats, minor party's cross-nomination of willing major party candidate did not threaten to disrupt political parties in any way, and major parties were already allowed to cross-nominate candidates. Patriot Party of Allegheny County v. Allegheny County Dept. of Elections, C.A.3 (Pa.)1996, 95 F.3d 253, rehearing and suggestion for rehearing in banc denied.

State laws which prevented minor political party from "cross-nominating" candidate for political office when that candidate was already nominated for same office by another political party, but did not prohibit major parties from engaging in cross-nomination, violated equal protection rights of minor political party and voters who wished to support that party. Patriot Party of Allegheny County v. Allegheny County Dept. of Elections, C.A.3 (Pa.)1996, 95 F.3d 253, rehearing and suggestion for rehearing in banc denied.

## 2. In general

Minor political parties must nominate candidates by nomination papers, and are not entitled to participate at party primaries. Heicklen v. Pennsylvania Bd. of Elections, 751 A.2d 260, Cmwlt.2000, affirmed 747 A.2d 894, 561 Pa. 33.

Candidate whose nomination petitions for primary election for office of representative in general assembly were judicially set aside for failure to contain sufficient number of valid signatures was not precluded from filing nomination papers as candidate of political body for ensuing general election. Matter of Gaines, 720 A.2d 159, Cmwlt.1998, affirmed 718 A.2d 296, 553 Pa. 139.

Because section of Election Code requiring affidavit to be attached to each nomination paper stating that name has not been presented as candidate for public office at ensuing primary election applied only to nominations regarding candidacies for ensuing primary elections, section was not requirement for nominee in special election. In re Nomination Papers of Adams, 648 A.2d 1350, 168 Pa.Cmwlt. 20, Cmwlt.1994.

## § 2911.1. Limitations on eligibility of candidates

### United States Supreme Court

Elections, antifusion laws prohibiting multiple-party candidates, associational rights under the First and Fourteenth Amendments, see Timmons

v. Twin Cities Area New Party, U.S.Minn.1997, 117 S.Ct. 1364, 520 U.S. 351, 137 L.Ed.2d 589, on remand 117 F.3d 1423.

### Notes of Decisions

#### 1. In general

Only limitation imposed by Election Code on political body candidate in special election is that candidate not be registered and enrolled as member of another political party at time of filing of his nomination papers. In re Nomination Papers of Adams, 648 A.2d 1350, 168 Pa.Cmwlt. 20, Cmwlt.1994.

Candidate for office of city council was eligible for certification in special election where he had

changed his party registration from Democrat to "Independent" and, at time he filed nomination papers, was not candidate seeking nomination of another political group; requirement that unsuccessful candidate in primary election not run again for office in subsequent general election did not apply to special election which was separate and apart from a primary. In re Nomination Papers of Adams, 648 A.2d 1350, 168 Pa. Cmwlt. 20, Cmwlt.1994.

## § 2913. Place and time of filing nomination papers

## Time for Filing

*For information regarding consent decrees affecting the time for filing nomination papers notwithstanding subsec. (c) of this section, see Historical and Statutory Notes, post.*

## Historical and Statutory Notes

By consent decrees entered into by the Secretary of the Commonwealth in the U.S. District Court for the Middle District of Pennsylvania on June 13, 1984 in the case of *The Libertarian Party of Pennsylvania v. Davis*, and in the U.S. District Court for the Eastern District of Pennsylvania on June 15, 1984 in the case of *Hall v.*

*Davis*, the Secretary of the Commonwealth agreed to accept nomination papers filed on or before August 1 "of this year and future election years" notwithstanding subsec. (c) of this section, with such consent decrees terminating upon amendment of subsec. (c).

## (C) OBJECTIONS; WITHDRAWALS; CERTIFICATIONS

## § 2936. Examination of nomination petitions, certificates and papers; return of rejected nomination petitions, certificates and papers

## Notes of Decisions

## I. Validity

State election laws which prevented minor political party from "cross-nominating" candidate for political office when that candidate was already nominated for same office by another political party severely burdened party's constitutional right to free association, as laws denied party right to choose its standard bearer and burdened party's ability to build effective political organization and demonstrate its electoral strength. *Patriot Party of Allegheny County v. Allegheny County Dept. of Elections, C.A.3 (Pa.)1996, 95 F.3d 253*, rehearing and suggestion for rehearing in banc denied.

Fact that laws which prevented minor political party from "cross-nominating" candidate for political office when that candidate was already nominated for same office by another political party prevented party from nominating only handful of candidates did not lessen laws' burden on party's right to free association; critical issue was laws' effect on ability of minor parties to participate meaningfully in political process. *Patriot Party of Allegheny County v. Allegheny County Dept. of Elections, C.A.3 (Pa.)1996, 95 F.3d 253*, rehearing and suggestion for rehearing in banc denied.

State laws which prevented minor political party from "cross-nominating" candidate for political office when that candidate was already nominated for same office by another political party were not justified by state's alleged interest in preventing "sore loser" candidates, who have lost major party primary, from carrying intraparty squabble into general election; in instant case, candidate which minor party sought to nominate had won major party primary, so "sore loser" problem was not at issue, and laws were overbroad with respect to "sore loser" problem. *Patriot Party of Allegheny County v. Allegheny County Dept. of Elections, C.A.3 (Pa.)1996, 95 F.3d 253*, rehearing and suggestion for rehearing in banc denied.

State laws which prevented minor political party from "cross-nominating" candidate for political office when that candidate was already nominated for same office by another political party were not justified by state's alleged interest in preventing proliferation of minor parties on ballot from confusing voters and clogging state's election machinery; there was no evidence to support proposition that ballot would be clogged, state retained authority to set reasonable threshold requirements for parties seeking admission to ballot, and cross-nomination could in fact simplify ballot and clarify voter opinions. *Patriot Party of Allegheny County v. Allegheny County Dept. of Elections, C.A.3 (Pa.)1996, 95 F.3d 253*, rehearing and suggestion for rehearing in banc denied.

State laws which prevented minor political party from "cross-nominating" candidate for political office when that candidate was already nominated for same office by another political party were not justified by state's alleged interest in preventing candidate from bleeding off votes of independent voters to bolster candidate's major party endorsement; cross-nomination would not increase major party's share of minor party votes unless minor party voluntarily nominated major party candidate as its own, while, under current system, major party candidates could "bleed off" minor party votes due to voters' reluctance to "waste" votes on candidates unlikely to win. *Patriot Party of Allegheny County v. Allegheny County Dept. of Elections, C.A.3 (Pa.)1996, 95 F.3d 253*, rehearing and suggestion for rehearing in banc denied.

State laws which prevented minor political party from "cross-nominating" candidate for political office when that candidate was already nominated for same office by another political party were not justified by state's alleged interest in encouraging new candidates to run as independents; challenged laws did not protect minor parties from external threats, minor party's cross-nomination of willing major party candidate did

not threaten to disrupt political parties in any way, and major parties were already allowed to cross-nominate candidates. Patriot Party of Allegheny County v. Allegheny County Dept. of Elections, C.A.3 (Pa.)1996, 95 F.3d 253, rehearing and suggestion for rehearing in banc denied.

State laws which prevented minor political party from "cross-nominating" candidate for political office when that candidate was already nominated for same office by another political party, but did not prohibit major parties from engaging in cross-nomination, violated equal protection rights of minor political party and voters who wished to support that party. Patriot Party of Allegheny County v. Allegheny County Dept. of Elections, C.A.3 (Pa.)1996, 95 F.3d 253, rehearing and suggestion for rehearing in banc denied.

## 2. In general

Court may set aside General Assembly candidate's nomination petition containing false statement regarding candidate's eligibility to hold office sought, and candidate may be liable for court costs, attorney fees and other similar fees flowing

from that action. Petition of Pippy, 711 A.2d 1048, Cmwlth.1998, affirmed 709 A.2d 905, 551 Pa. 210.

Election Code governed action seeking to set aside General Assembly candidate's nomination petition on ground of false statement in accompanying affidavit; fact that candidate was now sitting member of Assembly did not convert action into nonjusticiable political question, and court could grant relief if proper under provisions of Code. Petition of Pippy, 711 A.2d 1048, Cmwlth.1998, affirmed 709 A.2d 905, 551 Pa. 210.

## 8. Affidavits

Commonwealth Court had jurisdiction, prior to General Assembly candidate's election, to consider objections to candidate's petition for nomination, where objections concerned claimed false statements in candidate's affidavit accompanying petition. Petition of Pippy, 711 A.2d 1048, Cmwlth.1998, affirmed 709 A.2d 905, 551 Pa. 210.

## § 2937. Objections to nomination petitions and papers

All nomination petitions and papers received and filed within the periods limited by this act shall be deemed to be valid, unless, within seven days after the last day for filing said nomination petition or paper, a petition is presented to the court specifically setting forth the objections thereto, and praying that the said petition or paper be set aside. A copy of said petition shall, within said period, be served on the officer or board with whom said nomination petition or paper was filed. Upon the presentation of such a petition, the court shall make an order fixing a time for hearing which shall not be later than ten days after the last day for filing said nomination petition or paper, and specifying the time and manner of notice that shall be given to the candidate or candidates named in the nomination petition or paper sought to be set aside. On the day fixed for said hearing, the court shall proceed without delay to hear said objections, and shall give such hearing precedence over other business before it, and shall finally determine said matter not later than fifteen (15) days after the last day for filing said nomination petitions or papers. If the court shall find that said nomination petition or paper is defective under the provisions of section 976,<sup>1</sup> or does not contain a sufficient number of genuine signatures of electors entitled to sign the same under the provisions of this act, or was not filed by persons entitled to file the same, it shall be set aside. If the objections relate to material errors or defects apparent on the face of the nomination petition or paper, the court, after hearing, may, in its discretion, permit amendments within such time and upon such terms as to payment of costs, as the said court may specify. In case any such petition is dismissed, the court shall make such order as to the payment of the costs of the proceedings, including witness fees, as it shall deem just. If a person shall sign any nomination petitions or papers for a greater number of candidates than he is permitted under the provisions of this act, if said signatures bear the same date, they shall, upon objections filed thereto, not be counted on any petition or paper and if they bear different dates, they shall be counted in the order of their priority of date, for only so many persons as there are candidates to be nominated or elected. The office of the Prothonotary of the Commonwealth Court and the office of the Secretary of the Commonwealth and the various offices of prothonotary of the court of common pleas shall be open between the hours of eight-thirty o'clock A.M. and five o'clock P.M. on the last day to withdraw after filing nomination petitions and on the last day to file objections to nomination petitions.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 9, imd. effective.

<sup>1</sup> 25 P.S. § 2936.



## Historical and Statutory Notes

### 1998 Legislation

The 1998 amendment, in the fifth sentence, deleted "or if any accompanying or appended affidavit contains a material defect or error," deleted the sixth sentence, and in the seventh sentence, deleted "or on the face of the accompanying or appended affidavits".

The sixth sentence formerly read: "For purposes of this section, a nomination petition or paper shall include all affidavits required to be filed with such nomination petition or paper under this act."

## Notes of Decisions

### Court orders 20.5

### Scope of review 22

Certificate of Nomination for 143rd Legislative Dist., 634 A.2d 155, 535 Pa. 2, Sup.1993.

### 1. In general

The rules of civil and appellate procedure are not applicable to a challenge to a nomination petition or paper. In re McElhatton, 729 A.2d 163, Cmwth.1999, appeal denied 738 A.2d 459, 558 Pa. 644, appeal denied 732 A.2d 1157, 557 Pa. 188.

Election Code governed action seeking to set aside General Assembly candidate's nomination petition on ground of false statement in accompanying affidavit; fact that candidate was now sitting member of Assembly did not convert action into nonjusticiable political question, and court could grant relief if proper under provisions of Code. Petition of Pippy, 711 A.2d 1048, Cmwth.1998, affirmed 709 A.2d 905, 551 Pa. 210.

Challenge to nomination petition for candidate for representative in General Assembly was justiciable. In re Prendergast, 673 A.2d 324, 543 Pa. 498, Sup.1996.

### 3. Time of making objections

Seven days allowed under Election Code for objections to referendum petitions run from last day for filing such petitions regardless of when petitions were actually filed. Petition of Werner, 662 A.2d 35, Cmwth.1995.

Failure to comply with mandatory requirement that petition to set aside substitute nomination certificate of candidate for Common Pleas Court judge be filed and served within three days of filing of certificate precluded consideration of objection petition. In re Evans, 632 A.2d 862, 534 Pa. 279, Sup.1993.

### 4. Errors in petition

Dismissal of objectors' petition to set aside nomination petition of candidate for school director for failure to plead party affiliation was error when objectors were willing to testify at hearing that they were registered members of candidate's party, so as to establish their standing, given that statute governing petitions to set aside nomination petition did not require pleading of party affiliation. Matter of Warren, 692 A.2d 1178, Cmwth.1997.

### 5. Amendments

Decision to permit amendment of nomination certificate to include signature of notary public was not abuse of discretion, where notary affixed her seal stamp and merely neglected to sign her name, in absence of claim of falsity. In re

### 6. Specificity of objections

Nominating petition challenger's general allegations that candidate's petitions were not properly circulated, stating merely that certain signatures were dated and signed before candidate declared his candidacy, that many people who signed the petitions were not registered voters or registered democrats, and that many of the petitions were circulated by people who did not sign as circulators, were not sufficiently specific for court to entertain those objections. In re Farrow, 754 A.2d 33, Cmwth.2000.

Objections to nominating petition were sufficiently specific to satisfy requirements of Election Code; page number and lines of signatures being attacked were indicated and signatures were attacked on ground of party affiliation of signers and authenticity of signatures. In re Duffy, 635 A.2d 111, 535 Pa. 286, Sup.1993.

Compliance with requirement that objections to substitute nomination certificate be filed and served within three days of filing of certificate is mandatory. In re Evans, 632 A.2d 862, 534 Pa. 279, Sup.1993.

### 8. Grounds for objection, generally

Candidate's name was properly stricken from primary ballot on ground that he was not qualified to run for position of district justice because he held office in a political party. In re Denick, 729 A.2d 168, Cmwth.1999.

### 12. Jurisdiction

Under section of Election Code governing challenges to nomination petitions, the lower court has complete control to regulate the time and manner of giving notice and fixing of hearings. In re McElhatton, 729 A.2d 163, Cmwth.1999, appeal denied 738 A.2d 459, 558 Pa. 644, appeal denied 732 A.2d 1157, 557 Pa. 188.

Election Code governed action seeking to set aside General Assembly candidate's nomination petition on ground of false statement in accompanying affidavit; fact that candidate was now sitting member of Assembly did not convert action into nonjusticiable political question, and court could grant relief if proper under provisions of Code. Petition of Pippy, 711 A.2d 1048, Cmwth.1998, affirmed 709 A.2d 905, 551 Pa. 210.

### 14. Service of petition

In re Evans, 631 A.2d 797, 158 Pa.Cmwth. 297, Cmwth.1993, [main volume] affirmed 632 A.2d 862, 534 Pa. 279.

Petition of Acosta, 578 A.2d 407, 525 Pa. 134, Sup.1990, opinion issued 578 A.2d 407, 525 Pa. 135, [main volume] certiorari denied 111 S.Ct. 143, 498 U.S. 851, 112 L.Ed.2d 109.

Where trial court did not enter order specifying time or manner for serving notice of hearing on petitions to set aside candidate's nomination petitions, service of notice on candidate's co-employee at candidate's workplace did not violate statute which requires that such notice be served according to time and manner specified in trial court's order. In re Wilson, 728 A.2d 1025, Cmwlth.1999.

Under statute which requires that notice of hearing on petitions to set aside candidate's nomination petitions be served according to time and manner specified in trial court's order, trial court has complete control to regulate time and manner of giving notice. In re Wilson, 728 A.2d 1025, Cmwlth.1999.

#### 20. Costs

Court may set aside General Assembly candidate's nomination petition containing false statement regarding candidate's eligibility to hold office sought, and candidate may be liable for court costs, attorney fees and other similar fees flowing

from that action. Petition of Pippy, 711 A.2d 1048, Cmwlth.1998, affirmed 709 A.2d 905, 551 Pa. 210.

#### 20.5. Court orders

Statute providing that trial court "shall make an order . . . specifying the time and manner of notice that shall be given to the candidate . . . named in the nomination petition . . . to be set aside" was directory, rather than mandatory, and thus, fact that trial court did not enter such order was not fatal to petitions to set aside candidate's nomination petitions, as candidate had timely and actual notice of hearing on petitions to set aside. In re Wilson, 728 A.2d 1025, Cmwlth. 1999.

#### 22. Scope of review

Commonwealth Court's scope of review in election proceeding is limited to examination of the record to determine whether the trial court committed errors of law and whether the court's findings were supported by adequate evidence. In re McElhatton, 729 A.2d 163, Cmwlth.1999, appeal denied 738 A.2d 459, 558 Pa. 644, appeal denied 732 A.2d 1157, 557 Pa. 188.

### § 2938.3. Vacancy due to revocation of declaration of candidacy for retention

#### Notes of Decisions

##### 1. In general

Friedman v. Lewis, 598 A.2d 1361, 143 Pa. Cmwlth. 367, Cmwlth.1991, [main volume] appeal dismissed 621 A.2d 995, 533 Pa. 305.

### § 2939. Substituted nominations by parties

#### Notes of Decisions

##### 5. Prior nomination

In re Evans, 631 A.2d 797, 158 Pa.Cmwlth. 297, Cmwlth.1993, affirmed 632 A.2d 862, [main volume] 534 Pa. 279.

### § 2941.1. Affidavits of candidates

Each candidate for any State, county, city, borough, incorporated town, township, ward, school district, poor district or election district office, or for the office of United States Senator or Representative in Congress, selected as provided in sections 979 and 980 of this act,<sup>1</sup> shall file with the substituted nomination certificate an affidavit stating—(a) his residence, with street and number, if any, and his post-office address; (b) his election district, giving city, borough, town or township; (c) the name of the office for which he consents to be a candidate; (d) that he is eligible for such office; (e) that he will not knowingly violate any provision of this act, or of any law regulating and limiting election expenses and prohibiting corrupt practices in connection therewith; (f) unless he is a candidate for judge of a court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia, or for the office of school board in a district where that office is elective or for the office of justice of the peace, that he is not a candidate for the same office of any party or political body other than the one designated in such certificate; and (g) that he is aware of the provisions of section 1626 of this act<sup>2</sup> requiring election and post-election reporting of campaign contributions and expenditures.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 10, imd. effective.

<sup>1</sup> 25 P.S. §§ 2939 and 2940.

<sup>2</sup> 25 P.S. § 3246.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment deleted the second sentence, which formerly read:

"In cases of certificates for candidates for the General Assembly, the candidate's affidavit shall state (1) that the candidate will satisfy the eligibility requirements contained in sections 5 and 7 of Article II of the Constitution of Pennsylvania; (2)(i) that, in the case of a candidate for the office of Senator in the General Assembly, the candidate will be twenty-five (25) years of age on or before the first day of the term for which the candidate seeks election or (ii) that, in the case

of a candidate for the office of Representative in the General Assembly, the candidate will be twenty-one (21) years of age on or before the first day of the term for which the candidate seeks election; (3) that the candidate shall have been a citizen and an inhabitant of Pennsylvania four (4) years and an inhabitant of the respective district one (1) year next before the election (unless absent on the public business of the United States or of this State); and (4) that the candidate has not been convicted of embezzlement of public moneys, bribery, perjury or other infamous crime."

### Notes of Decisions

#### 1. In general

In re Evans, 631 A.2d 797, 158 Pa.Cmwlth. 297, Cmwlth.1993, affirmed 632 A.2d 862, [main volume] 534 Pa. 279.

### § 2942. Objections to substituted nomination certificates

All substituted nomination certificates may be objected to, as provided in section 977 of this act,<sup>1</sup> except objections to substituted nomination certificates must, in any case, be filed within three (3) days after the filing of the substituted nomination certificate: Provided, however, That no objections as to form and conformity to law, shall be received after the day on which the printing of ballots is started.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 11, imd. effective.

<sup>1</sup> 25 P.S. § 2937.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment deleted the second sentence, which formerly read: "For purposes of

this section, a certificate shall include all affidavits required to be filed with such certificate under this act."

### Notes of Decisions

#### 1. Time of filing objections

In re Evans, 632 A.2d 862, [main volume] 534 Pa. 279, Sup.1993.

#### 2. Service

In re Evans, 631 A.2d 797, 158 Pa.Cmwlth. 297, Cmwlth.1993, affirmed 632 A.2d 862, [main volume] 534 Pa. 279.

### (E) NOMINATIONS TO FILL CERTAIN VACANCIES

### § 2953. Filing of certain vacancies in public office by means of nomination certificates and nomination papers

### Notes of Decisions

#### 1. In general

Frank v. Tucker, 346 A.2d 848, 21 Pa.Cmwlth. 383, Cmwlth.1975, affirmed [main volume] 345 A.2d 702, 464 Pa. 1.

## ARTICLE X. BALLOTS

## § 2963. Form of official election ballot

## Repealed in Part

*Section 5 of Act 1997, June 18, P.L. 179, No. 18 repealed the third sentence of subsec. (g) insofar as it is inconsistent with Article XXX of Act 1955, August 9, P.L. 323, No. 130 [16 P.S. § 3011 et seq.].*

## Notes of Decisions

## 5. Defective ballot

Gilhool v. Chairman and Com'rs, Philadelphia County Bd. of Elections, E.D.Pa.1969, 306

F.Supp. 1202, [main volume] affirmed 90 S.Ct. 996, 397 U.S. 147, 25 L.Ed.2d 182.

## § 2967. Number of ballots to be printed; specimen ballots

The county board of each county shall provide for each election district in which a primary is to be held, one book of fifty official ballots of each party for every forty-five registered and enrolled electors of such party and fraction thereof, appearing upon the district register, and shall provide for each election district in which an election is to be held one book of fifty official ballots for every forty-five registered electors and fraction thereof appearing upon the district register. They shall also, in addition to the number of ballots required to be printed for general distribution, maintain a sufficient supply of such ballots at the office of the county board for the use of absentee electors and for the use of any district, the ballots for which may be lost, destroyed or stolen. They shall also cause to be printed on tinted paper, and without the facsimile endorsements, permanent binding or stubs, copies of the form of ballots provided for each polling place at each primary or election therein, which shall be called specimen ballots, and which shall be of the same size and form as the official ballots, and at each election they shall deliver to the election officers, in addition to the official ballots to be used at such election, a suitable supply of specimen ballots for the use of the electors. At each primary, a suitable supply of specimen ballots of each party shall be furnished.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 12, imd. effective.

## Historical and Statutory Notes

## 1998 Legislation

The 1998 amendment rewrote the section, which formerly read:

"The county board of each county shall provide for each election district in which a primary is to be held, one book of fifty official ballots of each party for every forty-five registered and enrolled voters of such party and fraction thereof, appearing upon the district register, and shall provide for each election district in which an election is to be held one book of fifty official ballots for every forty-five registered electors and fraction thereof appearing upon the district register. They may also, in addition to the number of ballots required to be printed for general distribution, have printed for each election district in which a primary is to be held not less than one book of fifty official ballots of each party for the use of the absentee electors and for each election district in which an election is to be held not less than one book of official ballots for the use of the absentee electors. They shall also, in addition to the number of ballots required to be printed for general distribution, have printed ten

(10) per centum of such number, to be known as reserve official ballots, and, on tinted paper, two (2) per centum of such number to be known as reserve specimen ballots, which ballots shall be kept at the office of the county board for the use of any district, the ballots for which may be lost, destroyed or stolen. They shall also cause to be printed on tinted paper, and without the facsimile endorsements, permanent binding or stubs, copies of the form of ballots provided for each voting place at each primary or election therein, which shall be called specimen ballots, and which shall be of the same size and form as the official ballots, and at each election they shall deliver to the election officers, in addition to the official ballots to be used at such election, specimen ballots for the use of the electors equal in number to one-fifth of the number of official ballots delivered to such election officers. At each primary, specimen ballots of each party shall be furnished, equal in number to one-fifth of the number of official ballots of such party furnished to the election officers as above provided."

## ARTICLE XI. VOTING MACHINES

## § 3004. Installation of voting machines

(a)(1) If a majority of the qualified electors voting on the question shall vote in the affirmative, the county election board of the said county shall purchase for each election district of such county, city, borough or township, one or more voting machines, of a kind or kinds approved by the Secretary of the Commonwealth, as hereinafter provided, and of sufficient capacity to accommodate the names of a reasonable number of candidates for all public and party offices which, under the provisions of existing laws and party rules, are likely to be voted for at any future election, and shall notify the Secretary of the Commonwealth, in writing, that they have done so. The county election board shall provide machines in good working order, and shall preserve and keep them in repair. Voting machines of different kinds may be used for different election districts in the same county, city, borough or township. In each election district in which voting machines are used, the county election board shall provide an adequate number of voting machines for the electors of the election district in accordance with section 530.<sup>1</sup>

(2) Whenever there shall be a number of candidates in a primary election so great as to require voting machines limited to the candidates of one political party, there shall be two voting machines of the same kind in any district for any party which has more than three hundred and fifty (350) registered qualified electors in that district.

(b) Such voting machines shall be installed, either simultaneously or gradually, in political subdivisions which adopt them. Upon the installation of voting machines in any election district, the use of paper ballots therein shall be discontinued, except as otherwise provided herein.

(c) If voting machines are installed gradually, they may be introduced, in the case of counties, in alphabetical order—by cities, boroughs and townships, so that they will first be used in the city, borough or township, the name of which is first in alphabetical order, and then in the city, borough or township, the name of which is next in alphabetical order, and so on. In cities, boroughs and townships, they shall be introduced in numerical or alphabetical order by wards and election districts, if any, so that they will first be used in the first election district of the first ward, and then in the second election district of the first ward, and so on. After they have been installed in all the election districts in the first ward, they may be installed, in the same manner, in the second ward, then in the third ward, and so on. In any event, the machines shall be installed as rapidly as practicable after the electors have voted in favor of them.

If voting machines are installed gradually they may also be introduced in the case of counties by legislative districts with priority in installation being given to municipalities therein in the order of their descending population rank according to the last official decennial census. Within such municipality the voting machines shall be introduced in numerical order by wards and election districts, if any, so that they will first be used in the first election district of the first ward and then in the second election district of the first ward and so on. After they have been installed in all the election districts in the first ward, they shall be installed in the same manner in the second ward, then in the third ward, and so on.

(d) If the question hereinbefore provided shall have been submitted to the qualified electors of the county, city, borough or township, and the majority of the electors voting thereon shall have voted favorably thereon, and if the county election board shall not, within one year, have executed their contract or contracts providing for the purchase or procurement of voting machines for use at the next general, municipal or primary election, occurring at least one year and sixty days after the referendum, then the Secretary of the Commonwealth shall forthwith, in writing, notify the said county election board that, after the expiration of thirty days, he, under the authority of this act, on behalf of the said county, will award, make, and execute such contract or contracts, unless the said county election board meanwhile shall have made and executed the same.

(e) If, upon the expiration of said thirty days, the county election board still shall not have made and executed the contract or contracts providing for the delivery of machines as aforesaid, the Secretary of the Commonwealth, on behalf of the said county and upon the approval of the Attorney General as to form, shall thereupon award, make, and

execute a contract or contracts for the purchase or procurement of a sufficient number of voting machines, approved as required by this act, for each election district within each such county, city, borough or township; and the cost of such voting machines, including the delivery thereof, and of making and entering into the said contract or contracts, including the preparation and printing of specifications and all other necessary expense incidental thereto, shall be the debt of the said county, and, upon the certificate of the Secretary of the Commonwealth, it shall be the duty of the controller, if any, to allow, and of the treasurer of the county to pay, the sum out of any appropriation available therefor, or out of the first unappropriated moneys that come into the treasury of the county.

(f) Provided, however, That if the county election board or the Secretary of the Commonwealth, as the case may be, shall find it impracticable to procure a voting machine or voting machines for each election district of the county, city, borough or township, for use at the general, municipal or primary election then next ensuing, they or he shall provide as many machines as it shall be practicable to procure, and, as soon thereafter as practicable, shall provide the remainder of such machines required hereunder. The machines shall be installed in the election district or districts, in the manner provided for the gradual introduction of voting machines in paragraph (c) of this section.

(g) Any county, city, borough or township may, by a majority vote of its qualified electors cast at any general election held not earlier than one hundred and three weeks after they have voted to adopt such machines, direct the discontinuance of the use of voting machines at elections held in such county, city, borough or township. The question for the discontinuance of the use of such voting machines shall be submitted to the voters, subject to the same requirements as to resolution or petition and signatures thereon, as is required for the submission of the question on the authorization of the use of such voting machines. Such question for discontinuance must be submitted to the qualified electors of the county or municipality which voted on the question of the adoption of voting machines, and the question of discontinuance shall not be submitted to the qualified electors of any city, borough or township forming a part only of any county which has previously voted to adopt voting machines for the entire county, unless the qualified electors of such city, borough or township have previously, by separate vote of its qualified electors, voted in favor of the adoption of voting machines. Where the qualified electors of any city, borough or township and the qualified electors of the entire county containing therein such city, borough or township, both have voted by separate questions in favor of the adoption of voting machines, a subsequent vote by the qualified electors of the entire county in favor of discontinuance shall not be considered as a vote to discontinue the use of voting machines in such city, borough or township.

Such question as to the discontinuance of the use of voting machines shall be submitted in the following form:

"Shall the use of voting machines be continued in the (city, borough or township), of .....

(h) If it shall appear at any election that the county board requires additional voting machines for the use of the electors, said county board shall have authority to enter into a contract or contracts for the rental of a sufficient number of machines for said election.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 13, imd. effective.

1 25 P.S. § 2730.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment, in subsec. (a)(1), in the third sentence, inserted "election", and rewrote the fourth sentence; in subsec. (a)(2), substituted "Whenever" for "In any city of the first class, whenever" and "qualified electors" for "voters".

The fourth sentence of subsec. (a)(1) formerly read:

"In each election district in which voting machines are used, the county election board may provide one voting machine for each three hun-

dred and fifty registered voters, or fraction thereof, therein, and shall provide one voting machine for each six hundred registered voters, or fraction thereof, therein: Provided, however, That the courts of quarter sessions, upon petition presented by either the county election board or by ten or more qualified electors of any such election district, may order that one additional voting machine be provided for any such election district, if the court shall be of the opinion that such additional voting machine shall be necessary in

such district for the convenience of the voters and the public interests.”

§ 3005. Changing the boundaries of election districts

United States Supreme Court

Elections, redistricting plans, vote dilution, see *Grove v. Emison*, U.S.Minn.1993, 113 S.Ct. 1075, 507 U.S. 25, 122 L.Ed.2d 388.

§ 3010. Form of ballot labels on voting machines

Repealed in Part

*Section 5 of Act 1997, June 18, P.L. 179, No. 18 repealed the second sentence of subsec. (b) insofar as it is inconsistent with Article XXX of Act 1955, August 9, P.L. 323, No. 130 [16 P.S. § 3011 et seq.].*

Notes of Decisions

1. Arrangement of names and labels

*Gilhool v. Chairman and Com'rs, Philadelphia County Bd. of Elections*, E.D.Pa.1969, 306 F.Supp. 1202, [main volume] affirmed 90 S.Ct. 996, 397 U.S. 147, 25 L.Ed.2d 182.

3. Party levers

*Gilhool v. Chairman and Com'rs, Philadelphia County Bd. of Elections*, E.D.Pa.1969, 306 F.Supp. 1202, [main volume] affirmed 90 S.Ct. 996, 397 U.S. 147, 25 L.Ed.2d 182.

ARTICLE XI-A. ELECTRONIC VOTING SYSTEMS

§ 3031.4. Installation of electronic voting systems

Notes of Decisions

Contract claim 1

1. Contract claim

Under Pennsylvania law, county could invoke doctrine of *nullum tempus occurrit regi* to avoid statute of limitations defense to its claim based upon performance bond issued by surety in con-

nection with county's purchase of electronic voting machines; since county was required by law to purchase electronic machines, claim arising out of contract to purchase the machines accrued to county in its governmental capacity and would be brought to enforce an obligation imposed by law. *Montgomery County v. MicroVote Corp.*, E.D.Pa.1998, 23 F.Supp.2d 553.

ARTICLE XII. PREPARATION FOR AND CONDUCT OF PRIMARIES AND ELECTIONS

§ 3060. Regulations in force at polling places

United States Supreme Court

First Amendment, election day prohibition on solicitation of votes, displays, or distribution of campaign materials near polling place, see *Bur-*

*son v. Freeman*, 1992, 112 S.Ct. 1846, 504 U.S. 191, 119 L.Ed.2d 5.

§ 3063. What ballots shall be counted; manner of counting; defective ballots

Notes of Decisions

5. Voter's intent

Intent of voters is touchstone in deciding validity of ballots under Election Code, and thus, where irregularities on ballot create ambiguity casting doubt on voters' intention, the ballot

must be declared void. *Temple University Health Systems v. Pennsylvania Labor Relations Bd.*, 734 A.2d 448, CmwltH.1999, appeal denied 749 A.2d 474, 561 Pa. 682.

§ 3068. Disposition of returns; posting; return of district register and voting check list

Notes of Decisions

Construction and application <sup>h</sup>

<sup>h</sup>. Construction and application

Election judges were authorized to seek assistance in maneuvering voting machines in place and in obtaining and returning registration binders and related election materials for disabled

voters before and after elections where sufficient safeguards were in place to prevent election fraud, such as sealed permanent records in voting machines and duplicate returns retained by minority inspector. *Dipietrae v. City of Philadelphia*, 666 A.2d 1132, Crmwlt.1995, appeal granted 672 A.2d 311, 543 Pa. 718, affirmed 673 A.2d 905, 543 Pa. 591.

ARTICLE XIII. VOTING BY QUALIFIED ABSENTEE ELECTORS

§ 3146.1. Qualified absentee electors

The following persons shall be entitled to vote by an official absentee ballot in any primary or election held in this Commonwealth in the manner hereinafter provided:

(a) Any qualified elector who is or who may be in the military service of the United States regardless of whether at the time of voting he is present in the election district of his residence or is within or without this Commonwealth and regardless of whether he is registered or enrolled; or

(b) Any qualified elector who is a spouse or dependent residing with or accompanying a person in the military service of the United States if at the time of voting such spouse or dependent is absent from the municipality of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(c) Any qualified elector who is or who may be in the service of the Merchant Marine of the United States if at the time of voting he is absent from the municipality of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(d) Any qualified elector who is a spouse or dependent residing with or accompanying a person who is in the service of the Merchant Marine of the United States if at the time of voting such spouse or dependent is absent from the municipality of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(e) Any qualified elector who is or who may be in a religious or welfare group officially attached to and serving with the armed forces if at the time of voting he is absent from the municipality of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(f) Any qualified elector who is a spouse or dependent residing with or accompanying a person in a religious or welfare group officially attached to and serving with the armed forces if at the time of voting such spouse or dependent is absent from the municipality of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(g) Any qualified elector who expects to be or is outside the territorial limits of the several States of the United States and the District of Columbia because his duties, occupation or business require him to be elsewhere during the entire period the polls are



open for voting on the day of any primary or election or who is or who may be a civilian employee of the United States outside the territorial limits of the several States of the United States and the District of Columbia, whether or not such elector is subject to civil-service laws and the Classification Act of 1949<sup>1</sup> and whether or not paid from funds appropriated by the Congress, if at the time of voting he is absent from the municipality of his residence: Provided, however, That said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(h) Any qualified elector who is a spouse or dependent residing with or accompanying a person who expects to be or is outside the territorial limits of the several States of the United States and the District of Columbia because his duties, occupation or business require him to be elsewhere during the entire period the polls are open for voting on the day of any primary or election or who is a spouse or dependent residing with or accompanying a person who is a civilian employee of the United States outside the territorial limits of the several States of the United States and the District of Columbia, whether or not such person is subject to civil-service laws and the Classification Act of 1949 and whether or not paid from funds appropriated by the Congress, if at the time of voting such spouse or dependent is absent from the municipality of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(i) Any qualified war veteran elector who is bedridden or hospitalized due to illness or physical disability if he is absent from the municipality of his residence and unable to attend his polling place because of such illness or physical disability regardless of whether he is registered and enrolled; or

(j) Any qualified registered and enrolled elector who expects to be or is absent from the municipality of his residence because his duties, occupation or business require him to be elsewhere during the entire period the polls are open for voting on the day of any primary or election; or

(k) Any qualified registered and enrolled elector who because of illness or physical disability is unable to attend his polling place or operate a voting machine and secure assistance by distinct and audible statement as required in section 1218 of this act;<sup>2</sup>

(l) Any qualified registered and enrolled elector who is a spouse or dependent accompanying a person employed in the service of this Commonwealth or in the service of the Federal Government within the territorial limits of the several States of the United States and the District of Columbia in the event the duties, profession or occupation of such person require him to be absent from the municipality of his residence; or

(m) Any qualified elector who is a county employe who cannot vote due to duties on election day relating to the conduct of the election; or

(n) Any qualified elector who will not attend a polling place because of the observance of a religious holiday:

Provided, however, That the words "qualified absentee elector" shall in nowise be construed to include persons confined in a penal institution or a mental institution nor shall it in anywise be construed to include a person not otherwise qualified as a qualified elector in accordance with the definition set forth in section 102(t) of this act.<sup>3</sup>

Amended 1998, Feb. 13, P.L. 72, No. 18, § 14, imd. effective.

<sup>1</sup> 5 U.S.C.A. § 1071 et seq.

<sup>2</sup> 25 P.S. § 3058.

<sup>3</sup> 25 P.S. § 2602.

## Historical and Statutory Notes

### 1998 Legislation

The 1998 amendment substituted "municipality" for "State or county" and "Commonwealth or county" throughout the section.

## Notes of Decisions

## 1. Validity

Election Code sections excluding incarcerated felons from definition of "qualified absentee elector" do not violate state constitutional provisions mandating that elections be free and equal and that every citizen who meets certain age and residency requirements is entitled to vote at all elections subject to laws requiring and regulating registration of electors as General Assembly may enact. *Mixon v. Com.*, 759 A.2d 442, Cmwlt. 2000.

## 12. Prisoners

*Owens v. Barnes*, C.A.3 (Pa.)1983, 711 F.2d 25, [main volume] certiorari denied 104 S.Ct. 400, 464 U.S. 963, 78 L.Ed.2d 341.

Registered black female elector who was not a convicted felon but who resided in voting district in which majority of voters were black or Hispanic, frequently combining to vote in a block-type fashion, did not have standing to challenge constitutionality of Election Code sections excluding incarcerated felons from definition of "qualified absentee electors" and Voter Registration Act section barring a felon released from penal institution less than five years from registering to vote. *Mixon v. Com.*, 759 A.2d 442, Cmwlt. 2000.

## § 3146.2. Applications for official absentee ballots

(a) Any qualified elector defined in preceding section 1301, subsections (a) to (h),<sup>1</sup> inclusive, may apply at any time before any primary or election for any official absentee ballot in person, on any form supplied by the Federal Government, or on any official county board of election form addressed to the Secretary of the Commonwealth of Pennsylvania or the county board of election of the county in which his voting residence is located.

(b) The application shall contain the following information: Home residence at the time of entrance into actual military service or Federal employment, length of time a citizen, length of residence in Pennsylvania, date of birth, length of time a resident of voting district, voting district if known, party choice in case of primary, name and, for a military elector, his stateside military address, FPO or APO number and serial number. Any elector other than a military elector shall in addition specify the nature of his employment, the address to which ballot is to be sent, relationship where necessary, and such other information as may be determined and prescribed by the Secretary of the Commonwealth. When such application is received by the Secretary of the Commonwealth it shall be forwarded to the proper county board of election.

(c) The application of any qualified military elector, as defined in preceding section 1301 subsection (a), for an official absentee ballot in any primary or election may not be made over the signature of any person, other than the qualified elector or an adult member of his immediate family, as required in the preceding subsection.

(d) The application of any qualified elector, as defined in preceding section 1301, subsections (b) to (h), inclusive, for an official absentee ballot in any primary or election shall be signed by the applicant.

(e) Any qualified bedridden or hospitalized veteran absent from the municipality of his residence and unable to attend his polling place because of such illness or physical disability, regardless of whether he is registered or enrolled, may apply at any time before any primary or election for an official absentee ballot on any official county board of election form addressed to the Secretary of the Commonwealth of Pennsylvania or the county board of elections of the county in which his voting residence is located.

The application shall contain the following information: Residence at the time of becoming bedridden or hospitalized, length of time a citizen, length of residence in Pennsylvania, date of birth, length of time a resident in voting district, voting district if known, party choice in case of primary, name and address of present residence or hospital at which hospitalized. When such application is received by the Secretary of the Commonwealth, it shall be forwarded to the proper county board of elections.

The application for an official absentee ballot for any primary or election shall be made on information supplied over the signature of the bedridden or hospitalized veteran as required in the preceding subsection. Any qualified registered elector, including a spouse or dependent referred to in subsection (l) of section 1301, who expects to be or is absent from the municipality of his residence because his duties, occupation or business require him to be elsewhere on the day of any primary or election and any qualified registered elector who is unable to attend his polling place on

the day of any primary or election because of illness or physical disability and any qualified registered bedridden or hospitalized veteran in the county of residence, or in the case of a county employe who cannot vote due to duties on election day relating to the conduct of the election, or in the case of a person who will not attend a polling place because of the observance of a religious holiday, may apply to the county board of elections of the county in which his voting residence is located for an Official Absentee Ballot. Such application shall be made upon an official application form supplied by the county board of elections. Such official application form shall be determined and prescribed by the Secretary of the Commonwealth of Pennsylvania.

(1) The application of any qualified registered elector, including spouse or dependent referred to in subsection (l) of section 1301, who expects to be or is absent from the municipality of his residence because his duties, occupation or business require him to be elsewhere on the day of any primary or election, or in the case of a county employe who cannot vote due to duties on election day relating to the conduct of the election, or in the case of a person who will not attend a polling place because of the observance of a religious holiday, shall be signed by the applicant and shall include the surname and given name or names of the applicant, his occupation, date of birth, length of time a resident in voting district, voting district if known, place of residence, post office address to which ballot is to be mailed, the reason for his absence, and such other information as shall make clear to the county board of elections the applicant's right to an official absentee ballot.

(2) The application of any qualified registered elector who is unable to attend his polling place on the day of any primary or election because of illness or physical disability and the application of any qualified registered bedridden or hospitalized veteran in the county of residence shall be signed by the applicant and shall include surname and given name or names of the applicant, his occupation, date of birth, residence at the time of becoming bedridden or hospitalized, length of time a resident in voting district, voting district if known, place of residence, post office address to which ballot is to be mailed, and such other information as shall make clear to the county board of elections the applicant's right to an official ballot. In addition, the application of such electors shall include a declaration stating the nature of their disability or illness, and the name, office address and office telephone number of their attending physician: Provided, however, That in the event any elector entitled to an absentee ballot under this subsection be unable to sign his application because of illness or physical disability, he shall be excused from signing upon making a statement which shall be witnessed by one adult person in substantially the following form: I hereby state that I am unable to sign my application for an absentee ballot without assistance because I am unable to write by reason of my illness or physical disability. I have made or have received assistance in making my mark in lieu of my signature.

..... (Date) ..... (Mark) .....

..... (Complete Address of Witness) ..... (Signature of Witness) .....

(e.1) Any qualified registered elector, including any qualified bedridden or hospitalized veteran, who is unable because of illness or physical disability to attend his polling place on the day of any primary or election or operate a voting machine and state distinctly and audibly that he is unable to do so as required by section 1218 of this act<sup>2</sup> may, with the certification by his attending physician that he is permanently disabled, and physically unable to attend the polls or operate a voting machine and make the distinct and audible statement required by section 1218 appended to the application hereinbefore required, be placed on a permanently disabled absentee ballot list file. An absentee ballot application shall be mailed to every such person for each primary or election so long as he does not lose his voting rights by failure to vote as otherwise required by this act. Such person shall not be required to file a physician's certificate of disability with each application as required in subsection (e) of this section but such person must submit a written statement asserting continuing disability every four years in order to maintain his eligibility to vote under the provisions of this subsection. Should any such person lose his disability he shall inform the county board of elections of the county of his residence.

(e.2) Notwithstanding the other provisions of this act any qualified elector who expects to be or is absent from the municipality of his residence because his duties, occupation or business require him to be elsewhere on the day of any election or a county employe who cannot vote due to duties on election day relating to the conduct of the election or a person who will not attend a polling place because of the observance of a religious holiday may make an application for an absentee ballot by mail by sending a letter to the county board of elections in the county in which his voting residence is located. The letter shall be signed by the applicant and contain his name and place of residence.

(f) The county chairman of each political party or the head of each political body shall designate one representative from his respective political party or body for each public institution. The representatives so appointed shall, at the same time on a date fixed by the county board of election visit every public institution situate in the county for the purpose of obtaining the names and addresses of public institution residents who desire to receive applications for absentee ballots and to act as an election board as provided in subsection (g) of this section. The list of names and addresses thus obtained shall then be submitted by said representatives to the board which shall furnish applications individually to those appearing in the written request. If the chairman or head of a political party or body fails to appoint a representative within fifteen days from written notice from the county board of election, the county board of election shall appoint a representative from the political party or body.

(g) The county board of election shall appoint teams of three members for each public institution that shall go to the public institutions and hold the election on the first Friday prior to election day. Each member of the board shall appoint one member on every team. After the votes are cast, the teams shall collect the ballots and return them to the county board of election where they shall be placed unopened in a secure, safe and sealed container in the custody of the board until they shall be distributed to the respective absentee voters' election district as provided in section 1308 of this act<sup>3</sup> where they shall be counted with the other absentee ballots, if any.

(h) The county board of election shall number, in chronological order, the applications for an official absentee ballot, which number shall likewise appear on the official absentee ballot for the qualified elector. The numbers shall appear legibly and in a conspicuous place but before the ballots are distributed the number on the ballot shall be torn off by the county board of election. This number information shall be appropriately inserted and become a part of the Registered Absentee Voters File and the Military, Veterans and Emergency Civilian Absentee Voters File provided in section 1302.3 of this act.<sup>4</sup>

(i) Application for official absentee ballots shall be on forms prescribed by the Secretary of the Commonwealth. The application shall state that a voter who receives an absentee ballot pursuant to section 1301 and who, on election day, is capable of voting at the appropriate polling place must void the absentee ballot and vote in the normal manner at the appropriate voting place. Such forms shall be made freely available to the public at county board of elections, municipal buildings and at such other locations designated by the secretary. No written application or personal request shall be necessary to receive the application forms. Copies of all completed applications for official absentee ballots shall be retained by the county board of elections.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 15, imd. effective.

<sup>1</sup> 25 P.S. § 3146.1(a) to (h).

<sup>2</sup> 25 P.S. § 3058.

<sup>3</sup> 25 P.S. § 3146.8.

<sup>4</sup> 25 P.S. § 3146.2c.

## Historical and Statutory Notes

### 1998 Legislation

The 1998 amendment substituted "municipality" for "State or county" and "Commonwealth or county" throughout the section.

**§ 3146.2a. Date of application for absentee ballot**

Applications for absentee ballots unless otherwise specified shall be received in the office of the county board of elections not earlier than fifty (50) days before the primary or election and not later than five o'clock P.M. of the first Tuesday prior to the day of any primary or election: Provided, however, That in the event any elector otherwise qualified who is so physically disabled or ill on or before the first Tuesday prior to any primary or election that he is unable to file his application or who becomes physically disabled or ill after the first Tuesday prior to any primary or election and is unable to appear at his polling place or any elector otherwise qualified who because of the conduct of his business, duties or occupation will necessarily be absent from the municipality of his residence on the day of the primary or election, which fact was not and could not reasonably be known to said elector on or before the first Tuesday prior to any primary or election, shall be entitled to an absentee ballot at any time prior to five o'clock P.M. on the first Friday preceding any primary or election upon execution of an Emergency Application in such form prescribed by the Secretary of the Commonwealth.

In the case of an elector who is physically disabled or ill on or before the first Tuesday prior to a primary or election or becomes physically disabled or ill after the first Tuesday prior to a primary or election, such Emergency Application shall contain a supporting affidavit from his attending physician stating that due to physical disability or illness said elector was unable to apply for an absentee ballot on or before the first Tuesday prior to the primary or election or became physically disabled or ill after that period.

In the case of an elector who is necessarily absent because of the conduct of his business, duties or occupation under the unforeseen circumstances specified in this subsection, such Emergency Application shall contain a supporting affidavit from such elector stating that because of the conduct of his business, duties or occupation said elector will necessarily be absent from the municipality of his residence on the day of the primary or election which fact was not and could not reasonably be known to said elector on or before the first Tuesday prior to the primary or election.

Amended 1998, Feb. 18, P.L. 72, No. 18, § 16, imd. effective.

**Historical and Statutory Notes****1998 Legislation**

The 1998 amendment, in the first and third paragraphs, substituted "municipality" for "State or county".

**§ 3146.5. Delivering or mailing ballots****Notes of Decisions****Construction and application**

voters, much less to one candidate and not his or her opponent. *Marks v. Stinson*, C.A.3 (Pa.)1994, 19 F.3d 873.

**Construction and application**

Pennsylvania law does not authorize election board to give ballots to candidate for delivery to

**§ 3146.6. Voting by absentee electors**

(a) At any time after receiving an official absentee ballot, but on or before five o'clock P.M. on the Friday prior to the primary or election, the elector shall, in secret, proceed to mark the ballot only in black lead pencil, indelible pencil or blue, black or blue-black ink, in fountain pen or ball point pen, and then fold the ballot, enclose and securely seal the same in the envelope on which is printed, stamped or endorsed "Official Absentee Ballot." This envelope shall then be placed in the second one, on which is printed the form of declaration of the elector, and the address of the elector's county board of election and the local election district of the elector. The elector shall then fill out, date and sign the declaration printed on such envelope. Such envelope shall then be securely sealed and the elector shall send same by mail, postage prepaid, except where franked, or deliver it in person to said county board of election:

Provided, however, That any elector, spouse of the elector or dependent of the elector, qualified in accordance with the provisions of section 1301,<sup>1</sup> subsections (e), (f), (g) and (h) to vote by absentee ballot as herein provided, shall be required to include on the form of declaration a supporting declaration in form prescribed by the Secretary of the Commonwealth, to be signed by the head of the department or chief of division or bureau in which the elector is employed, setting forth the identity of the elector, spouse of the elector or dependent of the elector:

Provided further, That any elector who has filed his application in accordance with section 1302 subsection (e)(2),<sup>2</sup> and is unable to sign his declaration because of illness or physical disability, shall be excused from signing upon making a declaration which shall be witnessed by one adult person in substantially the following form: I hereby declare that I am unable to sign my declaration for voting my absentee ballot without assistance because I am unable to write by reason of my illness or physical disability. I have made or received assistance in making my mark in lieu of my signature.

..... (Date)	..... (Mark)
..... (Complete Address of Witness)	..... (Signature of Witness)
(Complete Address of Witness)	

(b) In the event that any such elector, excepting an elector in military service or any elector unable to go to his polling place because of illness or physical disability, entitled to vote an official absentee ballot shall be in the municipality of his residence on the day for holding the primary or election for which the ballot was issued, or in the event any such elector shall have recovered from his illness or physical disability sufficiently to permit him to present himself at the proper polling place for the purpose of casting his ballot, such absentee ballot cast by such elector shall, be declared void.

Any such elector referred to in this subsection, who is within the municipality of his residence must present himself at his polling place and, shall be permitted to vote upon presenting himself at his regular polling place in the same manner as he could have voted had he not received an absentee ballot: Provided, That such elector has first presented himself to the judge of elections in his local election district and shall have signed the affidavit on the absentee voter's temporary registration card, which affidavit shall be in substantially the following form:

I hereby swear that I am a qualified registered elector who has obtained an absentee ballot, however, I am present in the municipality of my residence and physically able to present myself at my polling place and therefore request that my absentee ballot be voided.

..... (Date)	..... (Signature of Elector)
	..... (Local Judge of Elections)

An elector who has received an absentee ballot under the emergency application provisions of section 1302.1,<sup>3</sup> and for whom, therefore, no temporary absentee voter's registration card is in the district register, shall sign the aforementioned affidavit in any case, which the local judge of elections shall then cause to be inserted in the district register with the elector's permanent registration card.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 16, imd. effective.

1 25 P.S. § 3146.1(e), (f), (g) and (h).  
 2 25 P.S. § 3146.2(e)(2).  
 3 25 P.S. § 3146.2a.

## Historical and Statutory Notes

## 1998 Legislation

The 1998 amendment, in subsec. (b), in three places, substituted "municipality" for "county".

## Notes of Decisions

## Agent of absentee elector 5

agent to obtain absentee ballot application for a disabled person living in more than one household, is left to administrative discretion of election officials or trial court. *Dipietrae v. City of Philadelphia*, 666 A.2d 1132, Cmwth.1995, appeal granted 672 A.2d 311, 543 Pa. 718, affirmed 673 A.2d 905, 543 Pa. 591.

## 5. Agent of absentee elector

Interpretation of "household," for purposes of determining whether an individual could be an

## § 3146.8. Canvassing of official absentee ballots

(a) The county boards of election, upon receipt of official absentee ballots in such envelopes, shall safely keep the same in sealed or locked containers until they distribute same to the appropriate local election districts in a manner prescribed by the Secretary of the Commonwealth.

The county board of elections shall then distribute the absentee ballots, unopened, to the absentee voter's respective election district concurrently with the distribution of the other election supplies. Absentee ballots shall be canvassed immediately and continuously without interruption until completed after the close of the polls on the day of the election in each election district. The results of the canvass of the absentee ballots shall then be included in and returned to the county board with the returns of that district. No absentee ballot shall be counted which is received in the office of the county board of election later than five o'clock P.M. on the Friday immediately preceding the primary or November election.

(b) Watchers shall be permitted to be present when the envelopes containing official absentee ballots are opened and when such ballots are counted and recorded.

(b.1)(1) In the event that an electronic voting system provides for central tabulations of ballots, such absentee ballots shall be opened and deposited in the ballot box without being counted except as to the number of absentee ballots cast. The absentee ballots shall be counted along with the other ballots from the election district at the location and in the manner specified by the county board of elections and provided for by the electronic voting system utilized.

(2) In the event that an electronic voting system provides for tabulation of votes at the election district, such absentee ballots shall be opened, checked for write-in votes in accordance with section 1113-a<sup>1</sup> and then either hand-counted or counted by means of the automatic tabulation equipment, whatever the case may be.

(c) Deleted by amendment. 1968, Dec. 11, P.L. 1183, No. 375, § 8.

(d) Whenever it shall appear by due proof that any absentee elector who has returned his ballot in accordance with the provisions of this act has died prior to the opening of the polls on the day of the primary or election, the ballot of such deceased elector shall be rejected by the canvassers but the counting of the ballot of an elector thus deceased shall not of itself invalidate any nomination or election.

(e) At such time the local election board shall then further examine the declaration on each envelope not so set aside and shall compare the information thereon with that contained in the "Registered Absentee Voters File," the absentee voters' list and the "Military Veterans and Emergency Civilians Absentee Voters File." If the local election board is satisfied that the declaration is sufficient and the information contained in the "Registered Absentee Voters File," the absentee voters' list and the "Military Veterans and Emergency Civilians Absentee Voters File" verifies his right to vote, the local election board shall announce the name of the elector and shall give any watcher present an opportunity to challenge any absentee elector upon the ground or grounds (1) that the absentee elector is not a qualified elector; or (2) that the absentee elector was within the municipality of his residence on the day of the primary or election during the period the polls were open, except where he was in military service or except in the case where

his ballot was obtained for the reason that he was unable to appear personally at the polling place because of illness or physical disability; or (3) that the absentee elector was able to appear personally at the polling place on the day of the primary or election during the period the polls were open in the case his ballot was obtained for the reason that he was unable to appear personally at the polling place because of illness or physical disability. Upon challenge of any absentee elector, as set forth herein the local election board shall mark "challenged" on the envelope together with the reason or reasons therefor, and the same shall be set aside for return to the county board unopened pending decision by the county board and shall not be counted. All absentee ballots not challenged for any of the reasons provided herein shall be counted and included with the general return of paper ballots or voting machines, as the case may be as follows. Thereupon, the local election board shall open the envelope of every unchallenged absentee elector in such manner as not to destroy the declaration executed thereon. All of such envelopes on which are printed, stamped or endorsed the words "Official Absentee Ballot" shall be placed in one or more depositories at one time and said depository or depositories well shaken and the envelopes mixed before any envelope is taken therefrom. If any of these envelopes shall contain any extraneous marks or identifying symbols other than the words "Official Absentee Ballot," the envelopes and the ballots contained therein shall be set aside and declared void. The local election board shall then break the seals of such envelopes, remove the ballots and record the votes in the same manner as district election officers are required to record votes. With respect to the challenged ballots, they shall be returned to the county board with the returns of the local election district where they shall be placed unopened in a secure, safe and sealed container in the custody of the county board until it shall fix a time and place for a formal hearing of all such challenges and notice shall be given where possible to all absentee electors thus challenged and to every attorney, watcher or candidate who made such challenge. The time for the hearing shall not be later than seven (7) days after the date of said challenge. On the day fixed for said hearing, the county board shall proceed without delay to hear said challenges and, in hearing the testimony, the county board shall not be bound by technical rules of evidence. The testimony presented shall be stenographically recorded and made part of the record of the hearing. The decision of the county board in upholding or dismissing any challenge may be reviewed by the court of common pleas of the county upon a petition filed by any person aggrieved by the decision of the county board. Such appeal shall be taken, within two (2) days after such decision shall have been made, whether reduced to writing or not, to the court of common pleas setting forth the objections to the county board's decision and praying for an order reversing same. Pending the final determination of all appeals, the county board shall suspend any action in canvassing and computing all challenged ballots irrespective of whether or not appeal was taken from the county board's decision. Upon completion of the computation of the returns of the county, the votes cast upon the challenged official absentee ballots shall be added to the other votes cast within the county.

(f) Any person challenging an application for an absentee ballot or an absentee ballot for any of the reasons provided in this act shall deposit the sum of ten dollars (\$10.00) in cash with the local election board, in cases of challenges made to the local election board and with the county board in cases of challenges made to the county board for which he shall be issued a receipt for each challenge made, which sum shall only be refunded if the challenge is sustained or if the challenge is withdrawn within five (5) days after the primary or election. If the challenge is dismissed by any lawful order then the deposit shall be forfeited. All deposit money received by the local election board shall be turned over to the county board simultaneously with the return of the challenged ballots. The county board shall deposit all deposit money in the General Fund of the county.

Notice of the requirements of subsection (b) of section 1306<sup>2</sup> shall be printed on the envelope for the absentee ballot.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 16, imd. effective.

<sup>1</sup> 25 P.S. § 3031.13.

<sup>2</sup> 25 P.S. § 3146.6.



## Historical and Statutory Notes

## 1998 Legislation

The 1998 amendment, in subsec.(e), substituted "municipality" for "county".

## ARTICLE XIV. RETURNS OF PRIMARIES AND ELECTIONS

## § 3154. Computation of returns by county board; certification; issuance of certificates of election

## Notes of Decisions

## 6. Recount of votes

In re Reading School Bd. Election, 634 A.2d 170, [main volume] 535 Pa. 32, Sup.1993.

## § 3157. Appeals to court from decisions of the county board

## Notes of Decisions

## 4. Appealable orders or decisions

Challenger's petition to set aside recount of votes for office of district justice was not an appeal governed by the election code, since decision at issue was trial court's own order directing a recount not any decision or order of the re-

count board. In re Opening of Ballot Boxes, Montour County, 718 A.2d 774, 553 Pa. 207, Sup.1998.

## 13. Certiorari

In re Reading School Bd. Election, 634 A.2d 170, [main volume] 535 Pa. 32, Sup.1993.

## ARTICLE XV. ELECTORAL COLLEGE

## United States Supreme Court

Elections, selection of Presidential electors, authority of state legislature and courts under U.S.C.A. Const. Article 2 § 1, see Bush v. Palm

Beach county Canvassing Board, 2000, 121 S.Ct. 471.

## ARTICLE XVI. PRIMARY AND ELECTION EXPENSES

## § 3241. Definitions

## Pennsylvania Code References

Registration and organization of political committees, see 4 Pa. Code § 176.1 et seq.

Reports by candidates, political committees and other persons, see 4 Pa. Code § 177.1 et seq.

## Notes of Decisions

## Contribution 1

## 1. Contribution

Absence of competent evidence establishing "usual and normal" price for printing work for political posters precluded finding that intermediate unit that operated print shop, which unit was component of public school system, made improper in-kind contribution to political action committee that supported candidates in election for school directors. In re Audit of Campaign Expenses, Statements, Election Reports, and Affidavits Required to be Filed with Northampton County Election Bd., 747 A.2d 1262, Cmwlth.2000.

Intermediate unit that operated print shop, which unit was component of public school sys-

tem, did not violate Election Code by facilitating in the production of political posters for political action committee that supported candidates in election for school directors. In re Audit of Campaign Expenses, Statements, Election Reports, and Affidavits Required to be Filed with Northampton County Election Bd., 747 A.2d 1262, Cmwlth.2000.

Printer of campaign postcards did not provide a reportable or illegal in-kind contribution to political action committee that supported candidates in election for school directors, even if printer intended to donate postcards and delayed invoicing for five months, where printer issued invoice and was ultimately paid for print work. In re Audit of Campaign Expenses, Statements, Election Reports, and Affidavits Required to be Filed with Northampton County Election Bd., 747 A.2d 1262, Cmwlth.2000.

§ 3242. Organization of political committees; treasurer and assistant treasurer; records of candidates and committees

Notes of Decisions

Personal liability for committee's debts 1

1. Personal liability for committee's debts

Candidate or other member of unincorporated political association or committee will be personally liable for political committee's debts only if he actually authorizes, assents to, or ratifies the obligation. *Duquesne Litho, Inc. v. Roberts & Jaworski, Inc.*, 661 A.2d 9, 443 Pa.Super. 170, Super.1995.

To safeguard himself from personal liability for political committee's debts, candidate can incorporate committee and shield himself from personal liability, and can include contractual provisions

in all committee agreements with third parties that exclude candidate from personal liability. *Duquesne Litho, Inc. v. Roberts & Jaworski, Inc.*, 661 A.2d 9, 443 Pa.Super. 170, Super.1995.

Political committee was not candidate's general agent and did not serve to make candidate personally liable for all liabilities incurred by committee where filing with state naming committee created limited grant of authority only to receive or disburse funds on behalf of campaign and did not include authority to incur liabilities in interest of campaign. *Duquesne Litho, Inc. v. Roberts & Jaworski, Inc.*, 661 A.2d 9, 443 Pa.Super. 170, Super.1995.

§ 3244. Registration

Notes of Decisions

In general 1

Review 2

1. In general

Election Code should be liberally construed to carry out evident legislative intent that expense accounts of candidates for public office be subject to the closest scrutiny. In re Audit of Campaign Expenses, Statements, Election Reports, and Affidavits Required to be Filed with Northampton County Election Bd., 747 A.2d 1262, Cmwlth.2000.

2. Review

Commonwealth Court's scope of review of trial court's decision in Election Code case involving campaign expense reports filed by political action committee that supported candidates in election for school directors was limited to examination of record to determine whether trial court committed errors of law and whether trial court's findings were supported by adequate evidence. In re Audit of Campaign Expenses, Statements, Election Reports, and Affidavits Required to be Filed with Northampton County Election Bd., 747 A.2d 1262, Cmwlth.2000.

§ 3246. Reporting by candidate and political committees and other persons

Notes of Decisions

In general 1

Failure to report expenditures 2

Review 3

1. In general

Election Code should be liberally construed to carry out evident legislative intent that expense accounts of candidates for public office be subject to the closest scrutiny. In re Audit of Campaign Expenses, Statements, Election Reports, and Affidavits Required to be Filed with Northampton County Election Bd., 747 A.2d 1262, Cmwlth.2000.

rectified by inclusion of postcard expenditure on campaign expense report. In re Audit of Campaign Expenses, Statements, Election Reports, and Affidavits Required to be Filed with Northampton County Election Bd., 747 A.2d 1262, Cmwlth.2000.

Any alleged reporting irregularity in connection with legal services provided by treasurer of political action committee that supported candidates in election for school directors was not a substantial violation of Election Code; even if items relied upon by objectors constituted reportable in-kind contributions, committee's failure to report them would have been only be a de minimis violation. In re Audit of Campaign Expenses, Statements, Election Reports, and Affidavits Required to be Filed with Northampton County Election Bd., 747 A.2d 1262, Cmwlth. 2000.

2. Failure to report expenditures

Political action committee that supported candidates in election for school directors did not make a substantial violation of Election Code by failing to report expenditure of campaign postcards during required reporting period, where committee made numerous attempts to get an invoice for cards, and violation was subsequently

3. Review

Commonwealth Court's scope of review of trial court's decision in Election Code case involving

## Note 3

campaign expense reports filed by political action committee that supported candidates in election for school directors was limited to examination of record to determine whether trial court committed errors of law and whether trial court's find-

ings were supported by adequate evidence. In re Audit of Campaign Expenses, Statements, Election Reports, and Affidavits Required to be Filed with Northampton County Election Bd., 747 A.2d 1262, Cmwith.2000.

### § 3248. Late contributions and independent expenditures

Any candidate or political committee, authorized by a candidate and created solely for the purpose of influencing an election on behalf of that candidate, which receives any contribution or pledge of five hundred dollars (\$500) or more, and any person making an independent expenditure, as defined by this act, of five hundred dollars (\$500) or more after the final pre-election report has been deemed completed shall report such contribution, pledge or expenditure to the appropriate supervisor. Such report shall be sent by the candidate, chairman or treasurer of the political committee within twenty-four (24) hours of receipt of the contribution. It shall be the duty of the supervisor to confirm the substance of such report. The report shall be made by telegram, mailgram, overnight mail or facsimile transmission. Any candidate in his own behalf, or chairman, treasurer or candidate in behalf of the political committee may also comply with this section by appearing personally before such supervisor and reporting such late contributions or pledges.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 17, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment rewrote the section, which formerly read:

"Any candidate or political committee, authorized by a candidate and created solely for the purpose of influencing an election on behalf of that candidate, which receives any contribution or pledge of five hundred dollars (\$500) or more, and any person making an independent expenditure, as defined by this act, of five hundred dollars (\$500) or more after the final pre-election report has been deemed completed shall report

such contribution, pledge or expenditure to the appropriate supervisor by telegram or mailgram. Such telegram or mailgram shall be sent by the candidate, chairman or treasurer of the political committee within twenty-four (24) hours of receipt of the contribution. It shall be the duty of the supervisor to confirm the substance of such telegram or mailgram. Any candidate in his own behalf, or chairman, treasurer or candidate in behalf of the political committee may also comply with this section by appearing personally before such supervisor and reporting such late contributions or pledges."

### § 3249. Oath of compliance; perjury; disqualification from office; commercial use

### Notes of Decisions

#### Judicial elections 1

##### 1. Judicial elections

Evidence supported finding, in judicial disciplinary proceeding, that former judge knew campaign expense reports were false when he signed affidavits, and thus, that judge violated Election Code section prohibiting the wilful making of false, fraudulent, or misleading sworn statements

concerning election expenses. In re Cicchetti, 743 A.2d 431, 560 Pa. 183, Sup.2000.

Conduct of judge in executing affidavits upon two campaign expense reports attesting that his committee had not violated any provision of the Election Code, when he knew it had because he knew the reports contained false information, constituted activity prohibited by law, and thus a violation of the state Constitution, as a ground for discipline. In re Cicchetti, 697 A.2d 297 (1997).

### § 3256. Audit of expense accounts

### Notes of Decisions

#### Appointment of auditor 5

#### Review 6

##### 1. In general

Election Code should be liberally construed to carry out evident legislative intent that expense

accounts of candidates for public office be subject to the closest scrutiny. In re Audit of Campaign Expenses, Statements, Election Reports, and Affidavits Required to be Filed with Northampton County Election Bd., 747 A.2d 1262, Cmwth.2000.

Audit is enforcement mechanism used to carry out evident legislative intent that expense accounts of candidates for public office be subject to the closest scrutiny. In re Audit of Campaign Expenses, Statements, Election Reports, and Affidavits Required to be Filed with Northampton County Election Bd., 747 A.2d 1262, Cmwth. 2000.

Purpose of audit procedure is not only to determine whether political candidates' returns are mathematically correct, but also to determine whether any person has accepted campaign contributions in contravention of Election Code. In re Audit of Campaign Expenses, Statements, Election Reports, and Affidavits Required to be Filed with Northampton County Election Bd., 747 A.2d 1262, Cmwth.2000.

Procedures for addressing campaign finance violations under the Election Code involving petition by five electors requesting audit applied only to electors, and did not provide exclusive remedy precluding prosecutorial authorities from initiating criminal investigation and prosecution for violations of the Election Code. *Com. v. Beck*, 715 A.2d 1239, Cmwth.1998.

Role of auditor appointed pursuant to Election Code to audit campaign expense statements and election reports is not limited to financial issues requiring expertise of auditor; purpose of audit procedure is not only to determine whether candidates' returns are mathematically correct but also to determine whether any person has accepted campaign contributions in contravention of the Election Code. Appeal of Angle, 639 A.2d 875, 162 Pa.Cmwth. 430, Cmwth.1994, appeal denied 652 A.2d 839, 539 Pa. 669.

Election Code should be liberally construed to carry out evident legislative intent that expense accounts of candidates for public office be subject to closest scrutiny, and trial court should not concern itself with interests of the targets of audit rather than the paramount interest to the public to an election free of fraud, nor should thorough investigation be sacrificed for speedy determination pursuant to concern for concluding audit before elected officials assume their offices. Appeal of Angle, 639 A.2d 875, 162 Pa.Cmwth. 430, Cmwth.1994, appeal denied 652 A.2d 839, 539 Pa. 669.

#### 4. Costs

Objectors were required to bear full cost of audit of campaign expense statements, election reports, and affidavits filed by political action committee that supported candidates in election for school directors, where reports filed by committee were not false in any substantial manner, and committee did not accept contributions, incur expense, or expend or disburse money in contravention of Election Code. In re Audit of Campaign Expenses, Statements, Election Re-

ports, and Affidavits Required to be Filed with Northampton County Election Bd., 747 A.2d 1262, Cmwth.2000.

Trial court's order appointing auditor pursuant to electors' petition for audit of campaign expense statements and election reports and affidavits of primary election candidates for township supervisor positions, setting auditor's fee of \$800 per day, and requiring entry of security of \$15,000 by electors, did not violate electors' rights to due process and equal access to the courts, where court was acting under the same statute under which the electors were proceeding. Appeal of Angle, 639 A.2d 875, 162 Pa. Cmwth. 430, Cmwth.1994, appeal denied 652 A.2d 839, 539 Pa. 669.

Fee of \$800 per day for each day that auditor was actually engaged in auditing campaign expense statements and election reports in primary election for township supervisor positions was reasonable in view of usual hourly rates, complexity and novelty of issues involved, and time limits imposed in case involving examining campaign accounts, preparing complex report, and taking testimony of several witnesses over short period of time. Appeal of Angle, 639 A.2d 875, 162 Pa.Cmwth. 430, Cmwth.1994, appeal denied 652 A.2d 839, 539 Pa. 669.

Security set by trial court in amount of \$15,000 for costs in connection with audit under the Election Code of campaign expense statements and election reports in primary election for township supervisor positions was not inordinately high in light of number of witnesses to be called, hundreds of pages of transcription, extensive attention legal issues would require, and time required to produce timely audit report. Appeal of Angle, 639 A.2d 875, 162 Pa.Cmwth. 430, Cmwth.1994, appeal denied 652 A.2d 839, 539 Pa. 669.

#### 5. Appointment of auditor

Election Code confers on trial court discretion to appoint auditor of campaign expense statements and election reports subject only to proviso that fees be reasonable, and thus trial court could properly appoint auditor to speedily conduct requested audit where prior scheduling commitments made it impossible for trial court to complete hearings on audit in timely manner. Appeal of Angle, 639 A.2d 875, 162 Pa.Cmwth. 430, Cmwth.1994, appeal denied 652 A.2d 839, 539 Pa. 669.

#### 6. Review

Commonwealth Court's scope of review of trial court's decision in Election Code case involving campaign expense reports filed by political action committee that supported candidates in election for school directors was limited to examination of record to determine whether trial court committed errors of law and whether trial court's findings were supported by adequate evidence. In re Audit of Campaign Expenses, Statements, Election Reports, and Affidavits Required to be Filed with Northampton County Election Bd., 747 A.2d 1262, Cmwth.2000.

## § 3258. Advertising

## Law Review and Journal Commentaries

Exposing the stealth candidate: Disclosure mission. Comment, 63 U.Chi.L.Rev. 1211 statutes after *McIntyre v. Ohio Elections Com-* (1996).

## § 3260. Additional powers and duties of the Secretary of the Commonwealth

## Pennsylvania Code References

Rules authorized by this section, see 4 Pa. Code § 171.1 et seq.

## ARTICLE XVII. RECOUNTS AND CONTESTS

## (a) RECOUNTS

## § 3261. Opening ballot boxes upon petition of electors alleging fraud or error; deposit or bond

## Law Review and Journal Commentaries

Fraud and the franchise: The Pennsylvania constitution's "free and equal election" clause as an independent basis for state and local election challenges. Matthew C. Jones, 68 Temp.L.Rev. 1473 (1995).

## Notes of Decisions

## 1. In general

Trial court did not have authority to strike recount order and void election results on candidate's petition to dismiss recount, filed after results had been officially certified. In re Opening of Ballot Boxes, Montour County, 707 A.2d 643, Cmwth.1998, appeal granted 718 A.2d 787, 553 Pa. 701, vacated 718 A.2d 774, 553 Pa. 207.

Once final, only way recount may be challenged is by timely filed election contest. In re Opening of Ballot Boxes, Montour County, 707 A.2d 643, Cmwth.1998, appeal granted 718 A.2d 787, 553 Pa. 701, vacated 718 A.2d 774, 553 Pa. 207.

## § 3262. Recanvassing voting machines upon petition of electors alleging fraud or error

## Law Review and Journal Commentaries

Fraud and the franchise: The Pennsylvania constitution's "free and equal election" clause as an independent basis for state and local election challenges. Matthew C. Jones, 68 Temp.L.Rev. 1473 (1995).

## (h) GENERAL PROVISIONS RELATING TO CONTESTED NOMINATIONS AND ELECTIONS

## § 3456. Petition; time of filing; amendment

## Notes of Decisions

## Sufficiency of petition 11

## 1. Elections

Statute allowing contests to "illegal" elections did not allow election contest that was based on constitutional challenges to enabling statutes and violations of campaign finance laws; as used in statute, term "illegal" referred only to allegations of fraud or wrongdoing in the casting, computation and return of votes. In re Petition to

Contest Primary Election of May 19, 1998, 721 A.2d 1156, Cmwth.1998.

Election contests are limited to questions of whether the will of the qualified electors was correctly shown by the returns made. In re Petition to Contest Primary Election of May 19, 1998, 721 A.2d 1156, Cmwth.1998.

## 6. Time of filing petition

District justice candidate's petition to contest general election nunc pro tunc was not barred by expiration of 20-day period where there was no

evidence that candidate had any reason to suspect problem with election until filing period had expired. In re Petition to Contest General Election for Dist. Justice in Judicial Dist. 36-3-03 Nunc Pro Tunc, 670 A.2d 629, 543 Pa. 216, Sup.1996.

District justice candidate was not guilty of laches and, therefore, his petition to contest general election nunc pro tunc, filed after filing period had expired and more than 20 days after recount was completed could proceed; record failed to indicate that opposing candidate was prejudiced by any delay and opposing candidate also raised problem with election after time to contest had expired. In re Petition to Contest General Election for Dist. Justice in Judicial Dist. 36-3-03 Nunc Pro Tunc, 670 A.2d 629, 543 Pa. 216, Sup.1996.

Petitioner generally cannot delay contesting election while recounts are being completed. In re Petition to Contest General Election for Dist. Justice in Judicial Dist. 36-3-03 Nunc Pro Tunc, 670 A.2d 629, 543 Pa. 216, Sup.1996.

#### 11. Sufficiency of petition

District justice candidate's petition to contest general election nunc pro tunc sufficiently alleged breakdown in operation of county board of elections to allow petition to proceed; while candidate did not specifically state that board was derelict in its duties, he specifically alleged that fraud in election occurred between first machine count and second machine count and ballots were in exclusive control of board and or court during that time. In re Petition to Contest General Election for Dist. Justice in Judicial Dist. 36-3-03 Nunc Pro Tunc, 670 A.2d 629, 543 Pa. 216, Sup.1996.

### § 3459. Bond by petitioners

Whenever a petition to contest nomination or contest election of any class shall be presented to the General Assembly or to the court, it shall be the duty of said petitioners, within five days thereafter, to file a bond, signed by at least five of the said petitioners in such sum as the presiding officer of the Senate or said court shall designate, with two or more individual sureties or a corporate surety to be approved by the said officer or court or judge, conditioned for the payment of all costs which may accrue in said contested nomination or election proceeding, in case the said petitioners by decree shall be adjudged liable to pay said costs, and if the said bond shall not be filed, as herein provided, the said petition to contest the nomination or election shall be dismissed.

### Notes of Decisions

#### 7. Amendment of bond

Election of School Directors in Birmingham Tp., Chester County, Pa., 8 Chest. 217 (1958), [main volume] reversed 143 A.2d 18, 393 Pa. 396.

## ARTICLE XVIII. PENALTIES

### § 3502. Perjury

Any wilful false statement made under oath or affirmation or in writing, stating that it is so made, although such oath or affirmation may not have actually been made, by any person regarding any material matter or thing relating to any subject being investigated, heard, determined or acted upon by any county board of elections, or member thereof, or by any court or judge thereof, judge of election, inspector of election, or overseer, in accordance with the terms of this act, shall be perjury, a misdemeanor of the first degree, and any person upon conviction thereof, shall be sentenced to pay a fine not exceeding ten thousand (\$10,000) dollars, or to undergo an imprisonment of not more than five (5) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 18, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment made the offense a first degree misdemeanor, and increased the penalty.

## Notes of Decisions

## 1. In general

Judge's execution of false affidavits upon campaign expense reports did not subject him to discipline under the state Constitution by virtue of an alleged violation of the perjury and false swearing sections of the Crimes Code, as prose-

cution could not proceed under the general Crimes Code because the conduct is specifically proscribed by a distinct provision of another statute of discrete and narrow focus, relating to false statements in violation of the Election Code. In *re Cicchetti*, 697 A.2d 297 (1997).

## § 3502.1. False affidavits of candidates

## Notes of Decisions

## In general 1

## 1. In general

Court may set aside General Assembly candidate's nomination petition containing false state-

ment regarding candidate's eligibility to hold office sought, and candidate may be liable for court costs, attorney fees and other similar fees flowing from that action. *Petition of Pippy*, 711 A.2d 1048, *Cmwlth.*1998, affirmed 709 A.2d 905, 551 Pa. 210.

## § 3513. False signatures and statements in nomination petitions and papers

## Notes of Decisions

## Jurisdiction 9

## 5. Defenses

Permission of electors to sign nomination petition in their name is not a defense under Election Code or common law to charge of election fraud in submitting false affidavits attesting to false signatures of electors. *Com. v. Faust*, 702 A.2d 598, *Cmwlth.*1997, appeal denied 719 A.2d 747, 553 Pa. 708.

Commonality of practice of electors granting permission to others to sign nomination petition in their name would not rectify criminality of fraudulently submitting false affidavits attesting to false signatures of electors. *Com. v. Faust*, 702 A.2d 598, *Cmwlth.*1997, appeal denied 719 A.2d 747, 553 Pa. 708.

## 6. Evidence

Evidence sustained defendant's conviction for submitting false affidavits attesting to false signa-

tures of electors on her nomination petition, though defendant believed electors had given permission for signature on their behalf and believed what she had done was common political practice; defendant knowingly signed names of three electors, was aware that another signature was made by mother of elector, but swore in affidavit that electors had signed petition. *Com. v. Faust*, 702 A.2d 598, *Cmwlth.*1997, appeal denied 719 A.2d 747, 553 Pa. 708.

## 9. Jurisdiction

Commonwealth Court would retain appellate jurisdiction over appeal of criminal conviction for violation of Election Code, though it was unclear whether criminal convictions were intended to be included in Commonwealth Court's statutory jurisdiction over cases relating to election statutes, as no party had objected to jurisdiction. *Com. v. Faust*, 702 A.2d 598, *Cmwlth.*1997, appeal denied 719 A.2d 747, 553 Pa. 708.

## § 3514. Nomination petitions; certificates and papers; destruction; fraudulent filing; suppression

## Notes of Decisions

## Jurisdiction 1

## 1. Jurisdiction

Commonwealth Court would retain appellate jurisdiction over appeal of criminal conviction for

violation of Election Code, though it was unclear whether criminal convictions were intended to be included in Commonwealth Court's statutory jurisdiction over cases relating to election statutes, as no party had objected to jurisdiction. *Com. v. Faust*, 702 A.2d 598, *Cmwlth.*1997, appeal denied 719 A.2d 747, 553 Pa. 708.

## § 3516. Unlawful possession of ballots: counterfeiting ballots

Any person other than an officer charged by law with the care of ballots, or a person entrusted by any such officer with the care of the same for a purpose required by law, who shall have in his possession outside the polling place any official ballot, or any person who shall make or have in his possession any counterfeit of an official ballot, shall

be guilty of a misdemeanor of the second degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five thousand (\$5,000) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 18, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment made the offense a second degree misdemeanor, and increased the penalty.

### § 3517. Forging and destroying ballots

Any person who shall forge or falsely make the official endorsement on any ballot or wilfully destroy or deface any ballot or wilfully delay the delivery of any ballots, shall be guilty of a misdemeanor of the second degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five thousand (\$5,000) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 18, imd. effective.

#### 1998 Legislation

The 1998 amendment made the offense a second degree misdemeanor, and increased the penalty.

### § 3518. Tampering with voting machines

Any election officer or other person who shall unlawfully open or who shall tamper with or injure or attempt to injure any voting machine to be used or being used at any primary or election, or who shall prevent or attempt to prevent the correct operation of such machine, or any unauthorized person who shall make or have in his possession a key to a voting machine to be used or being used in any primary or election, shall be guilty of a misdemeanor of the second degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five thousand (\$5,000) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 18, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment made the offense a second degree misdemeanor, and increased the penalty.

### § 3523. Election officers permitting unregistered electors to vote; challenges; refusing to permit qualified electors to vote

Any judge or inspector of election who permits any person to vote at any primary or election who is not registered in accordance with law, except a person in actual military service or a person as to whom a court of competent jurisdiction has ordered that he shall be permitted to vote, or who permits any registered elector to vote knowing that such registered elector is not qualified to vote, whether or not such person has been challenged, or who permits any person who has been lawfully challenged to vote at any primary or election without requiring the proof of the right of such person to vote which is required by law, or who refuses to permit any duly registered and qualified elector to vote at any primary or election, with the knowledge that such elector is entitled to vote, shall be guilty of a felony of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding fifteen thousand (\$15,000) dollars, and to undergo an imprisonment of not more than seven (7) years, or both.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 18, imd. effective.



### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment made the offense a third degree felony, and increased the penalty.

#### § 3524. Election officers refusing to permit elector to vote in proper party at primaries

Any judge, inspector or clerk of election who refuses to permit an elector at any primary at which ballots are used to receive the ballot of the party with which he is enrolled, or who gives to any such elector the ballot of any party in which he is not enrolled, or any judge, or inspector of election, or machine inspector who, at any primary at which voting machines are used, adjusts any voting machine about to be used by an elector so as not to permit him to vote for the candidates of the party in which he is enrolled, or so as to permit him to vote for the candidates of any party in which he is not enrolled, shall be guilty of a misdemeanor of the first degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding ten thousand (\$10,000) dollars, or to undergo an imprisonment of not more than five (5) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 18, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment made the offense a first degree misdemeanor, and increased the penalty.

#### § 3525. Frauds by election officers

Any judge, inspector or clerk of election or machine inspector who shall be guilty of any wilful fraud in the conduct of his duties at a primary or election, and any person who shall make a false return of the votes cast at any primary or election, or who shall deposit fraudulent ballots in the ballot box or certify as correct a return of ballots in the ballot box which he knows to be fraudulent, or who shall register fraudulent votes upon any voting machine or certify as correct a return of votes cast upon any voting machine which he knows to be fraudulently registered thereon, or who shall make any false entries in the district register, or who shall fail to insert in the voting check list the voter's certificate of any elector actually voting at any primary or election, or who shall fail to record voting information as required herein, or who shall fail to insert in the numbered lists of voters the name of any person actually voting, or who shall wilfully destroy or alter any ballot, voter's certificate, or registration card contained in any district register, or who shall wilfully tamper with any voting machine, or who shall prepare or insert in the voting check list any false voter's certificates not prepared by or for an elector actually voting at such primary or election, for the purpose of concealing the destruction or removal of any voter's certificate, or for the purpose of concealing the deposit of fraudulent ballots in the ballot box, or the registering of fraudulent votes upon any voting machine or of aiding in the perpetration of any such fraud, or who shall fail to return to the county board of election following any primary or election any keys of a voting machine, ballot box, general or duplicate return sheet, tally paper, oaths of election officers, affidavits of electors and others, record of assisted voters, numbered list of voters, district register, voting check list, unused, spoiled and cancelled ballots, ballots deposited, written or affixed in or upon a voting machine, or any certificate, or any other paper or record required to be returned under the provisions of this act; or who shall conspire with others to commit any of the offenses herein mentioned, or in any manner to prevent a free and fair primary or election, shall be guilty of a felony of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding fifteen thousand (\$15,000) dollars, or to undergo an imprisonment of not more than seven (7) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 18, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment made the offense a third degree felony, and increased the penalty.

#### § 3527. Interference with primaries and elections; frauds; conspiracy

If any person shall prevent or attempt to prevent any election officers from holding any primary or election, under the provisions of this act, or shall use or threaten any violence to any such officer; or shall interrupt or improperly interfere with him in the execution of his duty; or shall block up or attempt to block up the avenue to the door of any polling place; or shall use or practice any intimidation, threats, force or violence with design to influence unduly or overawe any elector, or to prevent him from voting or restrain his freedom of choice; or shall prepare or present to any election officer a fraudulent voter's certificate not signed in the polling place by the elector whose certificate it purports to be; or shall deposit fraudulent ballots in the ballot box; or shall register fraudulent votes upon any voting machine; or shall tamper with any district register, voting check list, numbered lists of voters, ballot box or voting machine; or shall conspire with others to commit any of the offenses herein mentioned, or in any manner to prevent a free and fair primary or election, he shall be guilty of a felony of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding fifteen thousand (\$15,000) dollars, or to undergo an imprisonment of not more than seven (7) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 18, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment made the offense a third degree felony, and increased the penalty.

#### § 3528. Persons interfering in other districts

Any person who shall on the day of any primary or election visit any polling place at which he is not entitled to vote and at which he is not entitled to be present under any provision of this act, and shall use any intimidation or violence for the purpose of preventing any election officer from performing the duties required of him by this act, or for the purpose of preventing any qualified elector from exercising his right to vote or from exercising his right to challenge any person offering to vote, or for the purpose of influencing the vote of any elector, he shall be guilty of a felony of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding fifteen thousand (\$15,000) dollars, or to undergo an imprisonment of not more than seven (7) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 18, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment made the offense a third degree felony, and increased the penalty.

#### § 3529. Assault and battery at polls

Any person who shall unlawfully strike, wound or commit an assault and battery upon the person of any elector at or near the polling place during the time of any primary or election, shall be guilty of a misdemeanor of the first degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding ten thousand (\$10,000) dollars, or to undergo an imprisonment of not more than five (5) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 18, imd. effective.

**Historical and Statutory Notes****1998 Legislation**

The 1998 amendment made the offense a first degree misdemeanor, and increased the penalty.

**§ 3533. Unlawful voting**

Any person who votes or attempts to vote at any primary or election, knowing that he does not possess all the qualifications of an elector at such primary or election, as set forth in this act, shall be guilty of a misdemeanor of the first degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding ten thousand (\$10,000) dollars, or to undergo an imprisonment of not more than five (5) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 18, imd. effective.

**Historical and Statutory Notes****1998 Legislation**

The 1998 amendment made the offense a first degree misdemeanor, and increased the penalty.

**§ 3534. Elector voting ballot of wrong party at primary**

Any elector who shall wilfully vote at any primary the ballot of a party in which he is not enrolled, in violation of the provisions of this act, shall be guilty of a misdemeanor of the second degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five thousand (\$5,000) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 18, imd. effective.

**Historical and Statutory Notes****1998 Legislation**

The 1998 amendment made the offense a second degree misdemeanor, and increased the penalty.

**§ 3535. Repeat voting at elections**

If any person shall vote in more than one election district, or otherwise fraudulently vote more than once at the same primary or election, or shall vote a ballot other than the ballot issued to him by the election officers, or shall advise or procure another so to do, he shall be guilty of a felony of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding fifteen thousand (\$15,000) dollars, or to undergo an imprisonment of not more than seven (7) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 19, imd. effective.

**Historical and Statutory Notes****1998 Legislation**

The 1998 amendment made the offense a third degree felony, and increased the penalty.

**§ 3536. Removing ballots**

Any person removing any ballot from any book of official ballots, except in the manner provided by this act, shall be guilty of a misdemeanor of the second degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five thousand (\$5,000) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 20, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment made the offense a second degree misdemeanor, and increased the penalty.

#### § 3539. Bribery at elections

Any person who shall, directly or indirectly, give or promise or offer to give any gift or reward in money, goods or other valuable thing to any person, with intent to induce him to vote or refrain from voting for any particular candidate or candidates or for or against any constitutional amendment or other question at any primary or election; or who shall, directly or indirectly, procure for or offer or promise to procure for such person any such gift or reward with the intent aforesaid; or, who with the intent to influence or intimidate such person to give his vote or to refrain from giving his vote for any particular candidate or candidates or for or against any constitutional amendment or other question at any primary or election, shall give to or obtain for or assist in obtaining for or offer or promise to give to or obtain for or assist in obtaining for such person any office, place, appointment or employment, public or private, or threaten such person with dismissal or discharge from any office, place, appointment or employment, public or private, then held by him, shall be guilty of a felony of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding fifteen thousand (\$15,000) dollars, or to undergo an imprisonment of not more than seven (7) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 20, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment made the offense a third degree felony, and increased the penalty.

#### § 3547. Prohibiting duress and intimidation of voters and interference with the free exercise of the elective franchise

Any person or corporation who, directly or indirectly—(a) uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation or coercion upon or against any person, in order to induce or compel such person to vote or refrain from voting at any election, or to vote or refrain from voting for or against any particular person, or for or against any question submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a register of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons or for or against any question submitted to voters at such election, or having registered or refrained from registering as a voter; or (b) by abduction, duress or coercion, or any forcible or fraudulent device or contrivance, whatever, impedes, prevents, or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces, or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election; or (c) being an employer, pays his employes the salary or wages due in "pay envelopes" upon which or in which there is written or printed any political motto, device, statement or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employes, or within ninety days of any election or primary puts or otherwise exhibits in the establishment or place where his employes are engaged in labor, any handbill or placard containing any threat, notice, or information that if any particular ticket or candidate is elected or defeated work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employes reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employes, shall be guilty of a misdemeanor of the second degree. Any person or corporation, convicted of a violation of any of the provisions of this section, shall be sentenced to pay a fine not exceeding five thousand (\$5,000) dollars,

or such person or the officers, directors or agents of such corporation responsible for the violation of this section, shall be sentenced to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 20, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment made the offense a second degree misdemeanor, and increased the penalty.

### § 3553. Violations of provisions relating to absentee electors ballots

If any person shall sign an application for absentee ballot or declaration of elector on the forms prescribed knowing any matter declared therein to be false, or shall vote any ballot other than one properly issued to him, or vote or attempt to vote more than once in any election for which an absentee ballot shall have been issued to him, or shall violate any other provisions of Article XIII of this act, he shall be guilty of a misdemeanor of the first degree, and, upon conviction, shall be sentenced to pay a fine not exceeding ten thousand dollars (\$10,000), or be imprisoned for a term not exceeding five (5) years, or both, at the discretion of the court.

If any chief clerk or member of a board of elections, member of a return board or member of a board of registration commissioners, shall neglect or refuse to perform any of the duties prescribed by Article XIII of this act, or shall reveal or divulge any of the details of any ballot cast in accordance with the provisions of Article XIII of this act, or shall count an absentee ballot knowing the same to be contrary to Article XIII, or shall reject an absentee ballot without reason to believe that the same is contrary to Article XIII, or shall permit an elector to cast his ballot at a polling place knowing that there has been issued to the elector an absentee ballot, he shall be guilty of a felony of the third degree, and, upon conviction, shall be punished by a fine not exceeding fifteen thousand dollars (\$15,000), or be imprisoned for a term not exceeding seven (7) years, or both, at the discretion of the court.

Amended 1998, Feb. 13, P.L. 72, No. 18, § 21, imd. effective.

### Historical and Statutory Notes

#### 1998 Legislation

The 1998 amendment, in the first paragraph, made the offense a first degree misdemeanor, in

the second paragraph, made the offense a third degree felony, and increased both penalties.

## ARTICLE XVIII-A. CONGRESSIONAL DISTRICTS

§§ 3571 to 3573. Repealed. 1998, Feb. 13, P.L. 72, No. 18, § 22, imd. effective

### Historical and Statutory Notes

Former § 3571, which derived from Act 1937, June 3, P.L.1333, art. XVIII-A, § 1801-A, and was added by Act 1989, March 3, P.L.127, No.42, § 2.

Former § 3572, which derived from Act 1937, June 3, P.L.1333, art. XVIII-A, § 1802-A, and was added by Act 1982, March 3, P.L. 127, No. 42, § 2, related to elections and vacancies.

Former § 3573, which derived from Act 1937, June 3, P.L. 1333, art. XVIII-A, § 1803-A, and was added by Act 1982, March 3, P.L. 127, No. 42, § 2, related to omissions of subdivisions or parts thereof.

## CHAPTER 15

### ELECTION DISTRICT ALTERATION AND DATA REPORTING ACT

§§ 3601 to 3607. Repealed. 1999, Nov. 24, P.L. 543, No. 51, § 3, imd. effective

**Historical and Statutory Notes**

Former §§ 3601 to 3607, which derived from Act 1989, Dec. 22, P.L. 732, No. 101, related to the Election District and Data Reporting Act.

**INDEX**

**CONSULT GENERAL INDEX**

†

