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TITLE 44

LAW AND JUSTICE

PART IV

OTHER OFFICERS

Chapter

- 71. Constables

Enactment. Part IV was added Oct. 9, 2009, P.L.494, No.49, effective in 60 days.

CHAPTER 71

CONSTABLES

Subchapter

- A. Preliminary Provisions
- B. Election
- C. Appointment
- D. Conflicts
- E. Training
- F. Powers and Duties
- G. Compensation
- H. Penalties and Remedies

Enactment. Chapter 71 was added Oct. 9, 2009, P.L.494, No.49, effective in 60 days.

Special Provisions in Appendix. See section 5 of Act 49 of 2009 in the appendix to this title for special provisions

relating to legislative findings and declarations.

SUBCHAPTER A
PRELIMINARY PROVISIONS

Sec.

- 7101. Scope of chapter.
- 7102. Definitions.
- 7103. Cities of the first class.

§ 7101. Scope of chapter.

This chapter relates to constables.

§ 7102. Definitions.

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

"**Livestock.**" Cattle, horses, sheep, goats and swine of every age and sex.

§ 7103. Cities of the first class.

As of February 10, 1970, the office of constable is abolished in cities of the first class, and the terms of office of incumbents are terminated.

SUBCHAPTER B
ELECTION

Sec.

- 7111. Term of office.
- 7112. Cities of the second and third classes.
- 7113. Boroughs.
- 7114. Townships.

§ 7111. Term of office.

The term of a constable in a city of the second class, city of the second class A, city of the third class, borough, incorporated town or township is six years.

§ 7112. Cities of the second and third classes.

The qualified voters of each ward in a city of the second or third class shall elect a properly qualified person for constable in each ward.

§ 7113. Boroughs.

(a) **General rule.**--Except as provided in subsection (b), the qualified voters of every borough shall vote for and elect a properly qualified person for constable.

(b) **Boroughs divided into wards.**--The qualified voters of every borough divided into wards shall vote for and elect a properly qualified person for constable in each ward and a properly constable for high constable in the borough.

§ 7114. Townships.

(a) **Election.**--The following shall apply:

(1) The qualified voters of every township shall vote for and elect a properly qualified person for constable.

(2) The qualified electors of each township of the first class may vote for and elect a properly qualified person to serve as constable, in addition to the constable elected under paragraph (1).

(b) **Procedure upon election; penalty.**--Every person elected to the office of constable in a township shall appear in court on the first day of the next court of common pleas of the same

county to accept or decline the office. A person who neglects or refuses to appear, after having been duly notified of the election, shall forfeit to the township the sum of \$40 to be levied by order of the court.

(c) Bond.--The bond given by a constable in a township shall be in a sum not less than \$500 nor more than \$3,000, as the court shall direct, and shall be taken by the clerk of the court in the name of the Commonwealth, with conditions for just and faithful discharge by the constable of the duties of office. The bond shall be held in trust for the use and benefit of persons who may sustain injury by reason of neglect of duty, and for the same purposes and uses as a sheriff's bond.

§ 7121. Constables.

When a vacancy occurs in the office of constable, regardless of the reason for the vacancy, the court of common pleas of the county of the vacancy, upon petition of not less than ten qualified electors residing in the borough, city, ward or township of the vacancy, shall appoint a suitable person, who, upon being qualified as required by law, shall serve as the constable for the unexpired term of the vacancy.

§ 7122. Deputy constables.

(a) General rule.--Sole power to appoint deputy constables in a ward, borough or township is vested in the constable of the ward, borough or township, subject to approval of the court of common pleas under subsection (b). No person shall be appointed as a deputy constable unless, at the time of appointment, he is a bona fide resident of the ward, borough or township for which he is appointed and he continues to be a bona fide resident for the duration of the appointment.

(b) Court approval and qualifications.--

(1) Except as set forth in paragraph (2), no deputy shall be appointed, either by general or partial deputization, without approbation of the court of common pleas of the county, except for special appointments in a civil suit or proceeding, at the request and risk of the plaintiff or his agent. If a deputy no longer resides in, or ceases to be a qualified elector of, the ward in which he was appointed to serve, the court of common pleas may revoke the appointment of the deputy upon petition of five duly qualified electors of the ward and proof of facts requiring revocation.

(2) In the event of a deputy's death or inability or refusal to act, the constable of a township may, with approbation of the court of common pleas of the county where the deputy served, appoint another deputy who shall have full authority to act until the next regular session of court. The constable and his surety shall be liable for acts of the deputy as in other cases. The constable shall file a written copy of the deputization in the office of the clerk of courts of the county where the constable serves.

(c) Certain provisions relating to boroughs unaffected.--

This section does not affect the provisions of section 14 of the act of June 28, 1923 (P.L.903, No.348), entitled "A supplement to an act, approved the fourteenth day of May, one thousand nine hundred and fifteen (Pamphlet Laws, three hundred and twelve), entitled 'An act providing a system for government of boroughs,

and revising, amending, and consolidating the law relating to boroughs'; so as to provide a system of government where a borough now has annexed or hereafter shall annex land in an adjoining county, including assessment of property, levying and collection of taxes, making municipal improvements, and filing and collecting of liens for the same; the jurisdiction of courts for the enforcement of borough ordinances and State laws, and primary, general, municipal, and special elections; and repealing inconsistent laws."

References in Text. Section 14 of the act of June 28, 1923 (P.L.903, No.48), referred to in this section, was repealed by the act of October 9, 2009 (P.L.494, No.49). The subject matter is now contained in Chapter 71.

SUBCHAPTER D CONFLICTS

Sec.

7131. Public office.

7132. Police officers.

§ 7131. Public office.

(a) General rule.--Except as set forth in subsection (b), it shall be unlawful for a constable to hold or exercise the office of magisterial district judge or alderman.

(b) Exceptions.--Nothing in this section or in any other law or court rule shall be construed to prohibit a constable from:

- (1) being an officer of a political body or political party as those terms are defined in the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code;
- (2) holding the office of a national, State or county committee of a political party;
- (3) running for and holding an elective office; or
- (4) participating in election-day activities.

§ 7132. Police officers.

(a) Constable employed as policeman not to accept other fees in addition to salary.--Except for public rewards and legal mileage allowed to a constable for traveling expenses, and except as provided in subsection (b), it is unlawful for a constable who is also employed as a policeman to charge or accept a fee or other compensation, other than his salary as a policeman, for services rendered or performed pertaining to his office or duties as a policeman or constable.

(b) Exception.--Unless prevented from doing so by the operation of the civil service provisions of the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, borough policemen who reside in the borough may hold and exercise the office of constable in the borough, or in any ward thereof, and receive all costs, fees and emoluments pertaining to such office.

SUBCHAPTER E TRAINING

Sec.

7141. Definitions.

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- 7148. Use of firearms.
- 7149. Restricted account.

§ 7141. Definitions.

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

"Account." The Constables' Education and Training Account established in section 7149 (relating to restricted account).

"Board." The Constables' Education and Training Board established in section 7143 (relating to board established).

"Commission." The Pennsylvania Commission on Crime and Delinquency of the Commonwealth.

"Court." The minor judiciary or any other court in this Commonwealth.

"Judicial duties." Those services specified in section 7161 (relating to fees).

"Term of office of a deputy constable." The term of office of the constable who appointed him.

§ 7142. Conduct and insurance.

(a) Certification.--After the establishment, implementation and administration of the Constables' Education and Training Program created under sections 7144 (relating to program established) and 7145 (relating to program contents), no constable or deputy constable shall perform any judicial duties nor demand or receive any fee, surcharge or mileage provided by this subchapter unless he has been certified under this subchapter.

(b) Liability insurance.--Every constable and deputy constable must file with the clerk of courts proof that he has, currently in force, a policy of professional liability insurance covering each individual in the performance of his judicial duties with a minimum coverage of \$250,000 per incident and a minimum aggregate of \$500,000 per year. The Constables' Education and Training Board shall immediately investigate and implement the most cost-effective method of achieving liability insurance for constables and deputy constables under this subsection.

(c) Loss of certification.--Any constable or deputy constable who fails, neglects or refuses to maintain a current insurance policy as required by subsection (b) or to file proof thereof with the clerk of courts shall cease automatically to be certified to perform judicial duties upon the expiration of the policy of which proof has been filed with the clerk of courts.

(d) Recertification.--Any constable or deputy constable who ceases to be certified to perform judicial duties as a result of the operation of subsection (c) may later be recertified immediately by filing with the clerk of courts proof that such insurance has been in force continuously since the officer was last certified to perform judicial duties. In the case of a violation of subsection (c), the individual may be recertified

by complying with subsection (b).

(e) Limitations on liability.--The provisions of this subchapter shall not be deemed to impose respondeat superior liability on any county.

(f) Conduct.--While a constable or deputy constable is performing duties other than judicial duties, regardless of whether or not he is certified under this subchapter, he shall not in any manner hold himself out to be active as an agent, employee or representative of any court, magisterial district judge or judge.

§ 7143. Board established.

(a) Board created.--There is established within the commission an advisory board to be known as the Constables' Education and Training Board.

(b) Composition.--The board shall be composed of the Pennsylvania State Police Commissioner or his designee and six other members appointed by the Governor with the consent of a majority of the members of the Senate:

(1) Three persons who shall be constables.

(2) One person who shall be a magisterial district judge.

(3) One person who shall be a court administrator.

(4) One person who shall be a county commissioner.

(c) Appointments and terms.--Members shall serve for three-year terms and may be appointed for more than one additional consecutive term. If a member who serves by virtue of public office ceases to represent the class to which he was appointed, his membership in the commission shall terminate immediately, and a new member shall be appointed in the same manner as his predecessor to fill the unexpired portion of the term. No constable may be appointed, be reappointed or serve as a board member unless he is certified under this subchapter.

(d) Vacancy.--A member appointed to fill a vacancy created by any reason other than expiration of a term shall be appointed for the unexpired term of the member whom he is to succeed in the same manner as the original appointment.

(e) Expenses.--The members of the board shall serve without compensation but shall be reimbursed the necessary and actual expenses incurred in attending meetings of the board and in the performance of their duties under this subchapter.

(f) Removal.--Members of the board may be removed by the appointing authority for good cause upon written notice from the appointing authority specifically setting forth the cause for removal.

(g) Chairman elected.--The members of the board shall elect a chairman from among the members to serve for a period of one year. A chairman may be elected to serve successive terms. The Governor shall designate the first chairman for organizational purposes only.

(h) Meetings.--The board shall meet as often as it deems necessary but at least four times each year. Meetings may be called by the chairman of the board or by any four members thereof, in either case upon at least ten days' written notice to all members of the board. A quorum shall consist of four members.

Cross References. Section 7143 is referred to in section 7141 of this title.

§ 7144. Program established.

The board, with the review and approval of the commission, shall:

(1) Establish, implement and administer the Constables' Education and Training Program according to the minimum requirements set forth in this subchapter.

(2) Establish, implement and administer requirements for the minimum courses of study and training for constables and deputy constables.

(3) Establish, implement and administer requirements for courses of study and in-service training for constables and deputy constables.

(4) Establish, implement and administer requirements for a continuing education program for constables and deputy constables concerning subjects the board may deem necessary and appropriate for the continued education and training of constables and deputy constables.

(5) Approve or revoke the approval of any school which may be utilized for the educational and training requirements of this subchapter.

(6) Establish the minimum qualifications for instructors and certify instructors.

(7) Consult, cooperate and contract with universities, colleges, law schools, community colleges and institutes for the development of basic and continuing education courses for constables and deputy constables.

(8) Promote the most efficient and economical program for constable and deputy constable training by utilizing existing facilities, programs and qualified State and local personnel.

(9) Certify constables and deputy constables who have satisfactorily completed the basic and continuing education and training requirements of this subchapter and issue appropriate certificates to them.

(10) Make rules and regulations and perform other duties as may be reasonably necessary or appropriate to administer the education and training program for constables and deputy constables.

(11) In consultation with the Insurance Commissioner, monitor the price and availability of the liability insurance required by section 7142(b) (relating to conduct and insurance) and, if deemed necessary by the board, provide information and coordination to assure the availability and competitive pricing of such insurance.

(12) Make an annual report to the Governor and to the General Assembly concerning:

(i) The administration of the Constables' Education and Training Program.

(ii) The activities of the board.

(iii) The costs of the program.

(iv) Proposed changes, if any, in this subchapter.

Cross References. Section 7144 is referred to in section

7142 of this title.

§ 7145. Program contents.

The Constables' Education and Training Program shall include training for a total of 80 hours, the content of which shall be determined by regulation. The training shall include instruction in the interpretation and application of the fees provided for in section 7161 (relating to fees).

Cross References. Section 7145 is referred to in section 7142 of this title.

§ 7146. Continuing education.

The board, with the review and approval of the commission, shall establish a mandatory continuing education program for constables and deputy constables, which shall include no more than 40 hours per year, concerning subjects the board may deem necessary and appropriate for the continued education and training of constables and deputy constables.

Cross References. Section 7146 is referred to in section 7149 of this title.

§ 7147. (Reserved).

Cross References. Section 7147 is referred to in section 7161 of this title.

§ 7148. Use of firearms.

The Constables' Education and Training Board, with the review and approval of the Pennsylvania Commission on Crime and Delinquency, shall establish standards for the certification or qualification of constables and deputy constables to carry or use firearms in the performance of any duties.

§ 7149. Restricted account.

(a) Account established.--There is established a special restricted account within the General Fund, which shall be known as the Constables' Education and Training Account, for the purposes of financing training program expenses, the costs of administering the program and all other costs associated with the activities of the board and the implementation of this subchapter and as provided under subsection (f).

(b) Surcharge.--There is assessed as a cost in each case before a magisterial district judge a surcharge of \$5 per docket number in each criminal case and \$5 per named defendant in each civil case in which a constable or deputy constable performs a service provided in Subchapter G (relating to compensation), except that no county shall be required to pay this surcharge on behalf of any indigent or other defendant in a criminal case.

(c) Disposition of funds.--The surcharges collected under subsection (b), if collected by a constable or deputy constable, shall be turned over within one week to the issuing authority. The issuing authority shall remit the same to the Department of Revenue for deposit into the account.

(d) Disbursements.--Disbursements from the account shall be made by the commission.

(e) Audit.--The Auditor General shall conduct an audit of the account as he may deem necessary or advisable, from time to time, but not less than once every three years.

(f) Fund surplus.--If account money are sufficient to meet

the expenses and costs under subsection (a), the commission may allocate any surplus funds in the account to assist constables and deputy constables with costs associated with attendance at continuing education programs under section 7146 (relating to continuing education).

Cross References. Section 7149 is referred to in section 7141 of this title.

SUBCHAPTER F
POWERS AND DUTIES

Sec.

- 7151. General imposition of duties and grant of powers.
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- 7155. Arrest of offenders against forest laws.
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- 7157. Returns and appearance.
- 7158. Arrest in boroughs.
- 7159. Trespassing livestock.
- 7159.1. Sale of trespassing livestock.

§ 7151. General imposition of duties and grant of powers.

Constables shall perform all duties authorized or imposed on them by statute.

§ 7152. Elections.

The constable of a borough, township or ward, or his deputy, shall do all of the following:

- (1) Be present at the polling place in each election district of the borough, township or ward at each election during the continuance of each election and while the votes are being counted, for the purpose of preserving the peace.
- (2) Serve at all elections.

Cross References. Section 7152 is referred to in section 7163 of this title.

§ 7153. Service of process.

If no coroner is in commission to serve process in a suit instituted in a court of this Commonwealth in which the sheriff of a county may be a party, a constable in the county where the process has been issued may serve as the coroner and perform the authorized duties of the coroner.

§ 7154. Collection of taxes.

(a) Bond.--It shall be unlawful for a tax collector to do any of the following:

- (1) Give a warrant against delinquent tax payers to a constable unless the constable has given security by bond and warrant, with two sufficient sureties and to the satisfaction of the court of common pleas, in the sum of \$5,000.
- (2) Give a constable, at any one time, warrants for a greater amount of taxes than the amount of the bond required under paragraph (1).

(b) Report and payment.--A constable shall make a report and payment of all collections on warrants under subsection (a) at least once in every week after the warrants have been issued.

(c) **Interest.**--In addition to any commissions that may be imposed for the collection of taxes, all taxes remaining unpaid on the first day of January after the year for which they were assessed shall accrue interest until they are paid.

§ 7155. Arrest of offenders against forest laws.

If a person is detected by a constable in the act of trespassing upon any forest or timber land within this Commonwealth, under circumstances as to warrant reasonable suspicion that the person has, is or may commit an offense against any law for the protection of forests and timber land, the constable may, without first procuring a warrant, arrest the person.

§ 7156. Executions.

(a) **Debt, interests and costs.**--The debt, interest and costs of a writ of execution delivered to a constable shall be entered into the docket of a magisterial district court and on the back of the writ of execution. A constable may not be discharged from the writ of execution unless he provides to the magisterial district judge on or before the return day of the writ of execution the receipt of the plaintiff or any other legally sufficient return.

(b) **Invalid returns.**--If a constable makes a false return, does not produce the plaintiff's receipt on the return day or makes a return deemed insufficient by the magisterial district judge, the magisterial district judge shall issue a summons to the constable to appear on the designated day, which may not be more than eight days from the date of issuance, to show cause why a writ of execution should not be issued against the constable for the amount of the writ of execution under subsection (a). If the constable does not appear or does not show sufficient cause why the writ of execution should not be issued against him, the magisterial district judge shall enter judgment against the constable for the amount of the writ of execution under subsection (a) with costs. No stay may be entered upon the writ of execution, and, upon application of the plaintiff or his agent, the magisterial district judge shall issue an execution against the constable for the amount of the judgment, which may be directed to an authorized person. The summons under this subsection shall be issued to an authorized person to serve. If the summons is not served, that person shall pay a fine of \$20. If an authorized person cannot be conveniently found to serve the summons, the magisterial district judge shall direct it to the supervisor of the highways of the township, ward or district where the constable resides, who shall serve the summons or pay a penalty of \$20.

(c) **Insolvent debtors.**--Nothing in this section shall affect proceedings regarding insolvent debtors and their discharge on a full surrender of their property.

§ 7157. Returns and appearance.

(a) **Returns.**--In a county of the sixth, seventh or eighth class, a constable is not required to make a return, if required by law, to the court of common pleas if the constable has no information to impart in the return.

(b) **Appearance.**--A court may summon a constable to appear before it and direct the constable to investigate a complaint of a violation of law or of a condition which a constable is

required to report to the court and to make a report of his investigation.

§ 7158. Arrest in boroughs.

In addition to any other powers granted under law, a constable of a borough shall, without warrant and upon view, arrest and commit for hearing any person who:

- (1) Is guilty of a breach of the peace, vagrancy, riotous or disorderly conduct or drunkenness.
- (2) May be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens.
- (3) Violates any ordinance of the borough for which a fine or penalty is imposed.

§ 7159. Trespassing livestock.

(a) In general.--An owner or tenant of an enclosed or unenclosed, improved land in this Commonwealth who discovers trespassing livestock shall notify the constable of the township, borough or ward in which the improved land lies. If the constable of the township, borough or ward is unavailable or unable to assist, the owner or tenant shall notify the constable of the county. The following shall apply:

- (1) The constable shall impound the livestock either with the owner or tenant of the land if the owner, and the tenant if one exists, agrees or with another individual or entity that the constable may deem best situated to care for the livestock.
- (2) All reasonable costs of keeping the livestock shall be part of the costs of care.

(b) Notification.--The owner of the livestock shall be notified in the following manner:

- (1) If the owner is known and resides within the county where the trespass has been committed, the constable shall give written notice to the owner that the livestock has been impounded, the location of the livestock and the name of the owner of the land where the livestock trespassed. Notice shall be given within 24 hours of impounding in accordance with the Pennsylvania Rules of Civil Procedure.

- (2) If the owner is known but does not reside in the county where the trespass has been committed, the constable shall give written notice to the owner that the livestock has been impounded, the location of the livestock and the name of the owner of the land where the livestock trespassed. Notice shall be served within 24 hours of impounding by registered mail.

(c) Payment.--If, within four days of receiving notice, the owner of the trespassing livestock pays for the cost of the damage to the land, the costs of care and the fee for the constable, the livestock shall be returned to the owner within three days after receiving payment.

(d) Refusal.--If the owner fails to pay the costs and fees within four days, the constable shall notify the magisterial district judge of the county where the trespass was committed. The magisterial district judge shall then direct three disinterested owners of land in the locale where the damage occurred to inspect the trespass, value and appraise the damage. The three shall then consider the appraisal, value and costs of

care and make a report to the magisterial district judge within five days.

Cross References. Section 7159 is referred to in section 7159.1 of this title.

§ 7159.1. Sale of trespassing livestock.

(a) Process.--If the owner of the livestock fails to pay for the costs, damages and fees within one day of the filing of the report of the appraisers, the livestock shall be sold at a public sale. The following shall apply:

(1) The livestock must be described with particularity in a printed or written advertisement. The following shall apply:

(i) The advertisement must be posted at six of the most public places in the locale of the damaged property.

(ii) The advertisement must set forth a place and time of public sale of the livestock.

(2) At the named time and place, the livestock shall be sold to the highest bidder unless at any time prior to the sale the owner of the livestock shall pay all costs, damages and fees or has begun an action for replevin against the owner of the land.

(3) The constable shall remit a written report of the sale and all money realized from the sale of the livestock to the magisterial district judge. The following shall apply:

(i) The magisterial district judge shall pay the costs and damages to the land owner.

(ii) Not less than three, nor more than four, months after the sale, the magisterial district judge shall remit any surplus to the county treasurer in the county where the damage occurred.

(iii) The owner of the livestock shall have the right to submit proof of ownership to the magisterial district judge or the county treasurer at any time within two years of the sale to claim any surplus of the sale.

(4) If the sale results in a deficit, the payment shall be made as follows:

(i) First, the costs shall be paid in full or divided pro rata among the constable, magisterial district judge, the appraisers and the cost of care.

(ii) After the costs are paid in full, the remaining amount shall be paid to the owner of the land for any damage sustained.

(b) Redemption.--The owner of livestock impounded under this section shall have the right, at any time before the livestock are sold, to pay all the costs accrued and the amount of damages awarded in the appraisal in section 7159 (relating to trespassing livestock) and to recover the livestock.

(c) Replevin.--The owner may also recover the impounded livestock, at any time before the livestock are sold, through a successful action of replevin. The following shall apply:

(1) The action for replevin must be on the condition that the owner of the livestock pay all damages and fees, including:

(i) Amount of damages sustained by the land owner.

(ii) Costs of care.

(iii) Fees to the constable, magisterial district judge and the three disinterested appraisers.

(2) The damages and fees shall be itemized by costs, damages and fees.

(3) If a jury or the appraisers determine that the harm to the owner of the livestock was greater than the harm to the owner of the land, the owner of the livestock must still pay the costs and fees, but not to the attorney for the owner of the land.

(4) If a jury or the appraisers determine that the harm to the owner of the land is greater than the harm to the owner of the livestock, the court shall require the owner of the livestock to pay a reasonable fee to the attorney for the owner of the land.

SUBCHAPTER G COMPENSATION

Sec.

7161. Fees.

7161.1. Specific fees.

7162. Returns.

7163. Election services.

7164. Impounding, selling and viewing fees.

7165. Seizure fees.

7166. Returns to court.

Cross References. Subchapter G is referred to in section 7149 of this title.

§ 7161. Fees.

(a) **Travel or mileage.**--Actual mileage for travel by motor vehicle shall be reimbursed at a rate equal to the highest rate allowed by the Internal Revenue Service. If travel occurs by a mode other than motor vehicle, reimbursement shall be for the vouchered travel expenses.

(b) **Apportionment.**--If more than one defendant is transported simultaneously, reimbursements shall be for miles traveled, and the travel cost shall be divided between or among the defendants.

(c) **Additional persons.**--A constable or deputy constable when he is transporting a prisoner, serving a felony or misdemeanor warrant or serving a warrant on a juvenile or a defendant of the opposite sex may, at his discretion, be accompanied by a second constable or deputy constable who is certified under section 7147 (relating to automatic certification) to perform judicial duties. In those cases, each officer shall receive the fee set out in this section. In all other civil, landlord-tenant and summary criminal cases, the issuing authority may authorize payment to a second officer.

(d) **Civil and landlord-tenant cases.**--In civil and landlord-tenant cases, constable fees must be paid in advance to the court for services desired to be performed. These fees shall not be refundable to the plaintiff if a case is settled or a debt is satisfied less than 48 hours prior to a scheduled sale or ejectment. In the latter case, the constable or deputy constable shall be paid for holding the sale or carrying out an ejectment,

respectively.

(e) Payment.--All civil, landlord-tenant and criminal fees shall be paid by the court to the constable as soon as possible and in no case not more than 15 days in civil and landlord-tenant cases and 30 days in criminal cases after the service is performed and a proper request for payment is submitted, provided that, in criminal cases where the books and accounts of the relevant county offices are payable on a monthly basis, payment shall be made not more than 15 days after the close of the month.

(f) Civil and landlord-tenant cases.--Fees in civil and landlord-tenant cases shall be as follows:

(1) For serving complaint, summons or notice on suitor or tenant, either personally or by leaving a copy, \$13, plus \$5 for each additional defendant at the same address, \$2.50 for each return of service, plus mileage.

(2) For levying goods, including schedule of property levied upon and set aside, notice of levy and return of service, \$75, plus mileage.

(3) For advertising personal property for public sale, \$7 per posting, with a maximum \$21 fee, plus mileage, plus the cost of advertising.

(4) For selling goods levied, receipts and returns to court, \$85, plus mileage.

(5) For making return of not found, \$13, plus mileage. Payment shall be limited to three returns of not found.

(6) For executing order of possession, \$13, plus \$5 for each additional defendant at the same address, \$2.50 for each return of service, plus mileage.

(7) For ejectment, \$90, \$2.50 for each return of service, plus mileage.

(8) For making any return of service other than not found, \$2.50 each.

(9) For providing courtroom security as ordered, \$13 per hour, assessed against one or more parties as determined by the court.

(10) Actual mileage for travel by motor vehicle shall be reimbursed at the rate equal to the highest rate allowed by the Internal Revenue Service. If travel is by other than motor vehicle, reimbursement shall be for vouchered travel expenses.

(g) Criminal cases.--Fees in criminal cases shall be as follows:

(1) For executing each warrant of arrest or for effectuating the payment of fines and costs by attempting to execute each warrant of arrest, \$25 for each docket number and \$2.50 for each return of service, plus mileage.

(2) For taking custody of a defendant, \$5 per defendant.

(3) For conveyance of defendant to or from court, \$5 per defendant.

(4) For attendance at arraignment or hearing, \$13.

(5) For executing discharge, \$5 per defendant.

(6) For executing commitment, \$5 per defendant.

(7) For executing release, \$5 per defendant.

(8) For making returns to the court, \$2.50.

(9) Transporting each nonincarcerated defendant to jail,

\$17, plus mileage; transporting an incarcerated prisoner, \$38 per prisoner, plus an hourly rate of \$13 per hour, plus mileage. Computation of hourly rate will apply after the expiration of the first hour per prisoner per hour, not to exceed \$26 per hour per constable.

(10) Receipt of the fees for transporting a nonincarcerated defendant under paragraph (9) shall not exclude receipt of the fees under paragraphs (6) and (8) for that transport.

(11) Receipt of the fees for transporting an incarcerated prisoner under paragraph (9) shall exclude receipt of the fees under paragraphs (2), (3), (4) and (7) for the transport.

(12) Actual mileage for travel by motor vehicle shall be reimbursed at the rate equal to the highest rate allowed by the Internal Revenue Service. If travel is by other than motor vehicle, reimbursement shall be for vouchered travel expenses.

(13) For conveying defendants for fingerprinting, \$17 per defendant, plus \$13 per hour beyond the first hour per defendant per hour, not to exceed \$26 per hour per constable, plus mileage.

(14) For holding one or more defendants at the office of a magisterial district judge, \$13 per hour per defendant beyond the first half hour.

(15) For courtroom security as ordered, \$13 per hour, assessed against one or more parties as determined by the court.

(16) In all criminal cases wherein the defendant is discharged or indigent or the case is otherwise dismissed, the court shall assess to the county the fee provided in this section, except that, in cases of private criminal complaints where the defendant is discharged prior to the indictment or the filing of any information or the case is otherwise dismissed at the summary offense hearing, the court shall assess the fee to the affiant.

(h) Subpoenas.--For serving district court-issued subpoenas for civil, landlord-tenant or criminal matters, \$13 for first witness, plus \$5 for each additional witness at the same address, \$2.50 return of service for each subpoena, plus mileage. The same fee shall be payable for attempting to serve a subpoena at a wrong address supplied by the party requesting the service.

(i) Similar fees.--For civil, landlord-tenant and criminal services not specifically provided for, the court shall pay the same fees as it pays for services that it determines to be similar to those performed.

Cross References. Section 7161 is referred to in sections 7141, 7145 of this title.
§ 7161.1. Specific fees.

(a) Court appearances and returns.--For attendance on court and making returns, the fees to be received by constables shall be \$2.50 per day.

(b) Notices of election.--For serving notices of their election upon township or borough officers, the fees to be

received by constables shall be \$0.15 for each service.

(c) Juvenile matters.--Constables shall receive the same fees for serving writs in juvenile cases as they receive for similar services in criminal cases.

§ 7162. Returns.

The returns required by law to be made by constables to the court of common pleas may, at the discretion of the court, be abolished, or be made at times and relating to subjects as the court may require. No constable shall be entitled to fees or mileage for making a return, except as required by the court.

§ 7163. Election services.

For services performed under section 7152 (relating to elections), the constables and deputies performing the services shall receive the same compensation payable to inspectors and clerks under section 412.2(a) of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code. The compensation shall be paid by the county, and the sum shall include pay for serving notices in writing to persons elected at the election.

§ 7164. Impounding, selling and viewing fees.

(a) Impounding and selling.--The fees collected by the constable for impounding an animal shall be \$1 and \$2 for each animal sold, provided that the fees of the constable for impounding and selling amount to not more than \$4. The fees of the magisterial district judge shall be \$1 for each case, without regard to the number of animals impounded, for all cases where no sale is made and \$3 for all cases where a sale is made.

(b) Viewing.--The fees for each viewer appointed to assess the damages shall be \$1 for the first hour and \$.50 per hour for each hour necessarily engaged after the first hour.

§ 7165. Seizure fees.

(a) Registration plates and cards.--If constables and deputy constables are delegated authority to seize registration plates and registration cards under 75 Pa.C.S. § 1376(b)(5) (relating to surrender of registration plates and cards upon suspension or revocation), they shall be compensated by the department at the rate of \$15 for each registration plate and card jointly seized, plus mileage. The department shall pay a constable or deputy constable within 30 days after a documented request for payment is submitted to it.

(b) Drivers' licenses.--If constables and deputy constables are delegated authority to seize drivers' licenses under 75 Pa.C.S. § 1540(c)(1)(v) (relating to surrender of license), they shall be compensated by the department at the rate of \$15 for each driver's license seized, plus mileage. The department shall pay a constable or deputy constable within 30 days after a documented request is submitted to it.

§ 7166. Returns to court.

(a) Scope of section.--This section shall apply to counties of the sixth, seventh and eighth class.

(b) Requirements.--No compensation for making a return to court shall be paid to a constable unless he has appeared in court and presented his return containing information required by the court, at the regular time fixed by law for making the return.

SUBCHAPTER H
PENALTIES AND REMEDIES

Sec.

- 7171. Election notice in certain areas.
- 7172. Incompetence.
- 7173. Taxes.
- 7174. Action against security.
- 7175. Criminal penalty.
- 7176. Compensation violation.
- 7177. Failure to execute process.
- 7178. Failure to serve in a township.

§ 7171. Election notice in certain areas.

(a) **Scope of section.**--This section applies to wards, townships and districts.

(b) **Acting constables.**--The acting constable shall, within six days after the election for a constable, give notice in writing to the elected individual of election to the office. An acting constable who violates this subsection shall pay a civil penalty of \$16 to the Commonwealth.

(c) **Elected constables.**--An individual elected and notified under subsection (b) shall appear on the next day that the court of common pleas of the applicable judicial district is in session and either decline or accept the office. A constable elect who violates this subsection shall pay a civil penalty of \$16 to the Commonwealth.

(d) **Court.**--The applicable court of common pleas has the authority to levy the penalty under subsection (b) or (c).

§ 7172. Incompetence.

(a) **Inquiry.**--A court of common pleas with competent jurisdiction may inquire into the official conduct of the constable if any of the following apply:

(1) A surety of the constable files a verified petition alleging that the constable is incompetent to discharge official duties because of intemperance or neglect of duty.

(2) Any person files a verified petition alleging that the constable is incompetent to discharge official duties for a reason other than intemperance or neglect of duty. This paragraph includes an act of oppression of a litigant or a witness.

(b) **Determination.**--If the court determines that the constable is incompetent to discharge official duties, the following apply:

(1) The court may:

(i) require additional security from the constable;

or

(ii) remove the constable from office.

(2) Upon removal under paragraph (1)(ii), the court may appoint a suitable individual to fill the vacancy until a successor is elected and qualified. The appointed individual must have a freehold estate with at least \$1,000 beyond incumbrance or furnish security.

§ 7173. Taxes.

If a constable defaults on remittance of collected tax pursuant to law, all of the following apply:

(1) The constable is no longer authorized to receive

tax.

(2) The person that was entitled to the remittance shall publish, three times in three daily newspapers, notice of the loss of authority under paragraph (1).

(3) The constable may not draw compensation until the default is cured.

§ 7174. Action against security.

(a) **Scope of section.**--This section applies to a constable subject to all of the following:

(1) The constable has furnished security for the faithful performance of the duties of office.

(2) The constable fails to perform the duties of office.

(3) One of the following subparagraphs applies:

(i) The constable leaves the country before a judgment is entered on the failure under paragraph (2).

(ii) A judgment is entered against the constable for failure under paragraph (2), and the judgment cannot be paid.

(b) **Procedure.**--A court of competent jurisdiction may issue a writ of scire facias and proceed against the security.

(c) **Appeal.**--A surety and a constable may appeal from a judgment on a writ under subsection (b).

§ 7175. Criminal penalty.

A constable who neglects or refuses to perform the duties under the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$500 or to imprisonment for not less than one month nor more than one year, or both.

§ 7176. Compensation violation.

A constable who violates the act of July 14, 1897 (P.L.206, No.209), entitled "An act to regulate the remuneration of policemen and constables employed as policemen throughout the Commonwealth of Pennsylvania, and prohibiting them from charging or accepting any fee or other compensation, in addition to their salary, except as public rewards and mileage for traveling expenses," commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$50 or to imprisonment for not more than 30 days, or both.

§ 7177. Failure to execute process.

(a) **Scope of section.**--This section applies to a constable subject to all of the following:

(1) The constable is entrusted with the execution of a process for the collection of money.

(2) The constable, by neglect of duty, fails to collect the money.

(3) The constable's security is used to pay the money.

(b) **Equitable interest.**--The person that pays the security under subsection (a) (3):

(1) has an equitable interest in the judgment; and

(2) may collect the judgment in the name of the party that won the judgment.

§ 7178. Failure to serve in a township.

(a) **Scope of section.**--This section applies to an individual in a township if all of the following circumstances exist:

- (1) The individual is elected or appointed a constable.
- (2) The individual has a freehold estate worth at least \$1,000.
- (3) The individual fails to:
 - (i) serve; or
 - (ii) appoint a deputy to serve.

(b) Fine.--Except as set forth in subsection (c), an individual under subsection (a) shall be fined \$40 for the use of the appropriate township.

(c) Exception.--Subsection (b) shall not apply to an individual who:

- (1) has served personally or by deputy in the office of constable of the same township within 15 years of election or appointment; or
- (2) has paid a fine under subsection (b) within 15 years of election or appointment.

APPENDIX TO TITLE 44
LAW AND JUSTICE

Supplementary Provisions of Amendatory Statutes

2009, OCTOBER 9, P.L.494, NO.49

§ 5. Legislative findings and declarations.

The General Assembly finds and declares as follows:

- (1) This act consolidates a major title of the Pennsylvania Consolidated Statutes.
- (2) In order to further the process of statutory consolidation, it is necessary to eliminate obsolete provisions in every title of the Pennsylvania Consolidated Statutes.
- (3) The repeal of 44 Pa.C.S. Ch. 53 is necessary because the chapter became obsolete when it was replaced by 61 Pa.C.S. Ch. 45 in the act of August 11, 2009 (P.L.147, No.33), entitled "An act amending Title 42 (Judiciary and Judicial Procedure) and codifying Title 61 (Penal and Correctional Institutions) of the Pennsylvania Consolidated Statutes, further providing for adoption of guidelines for resentencing, for adoption of guidelines for parole and for adoption of recommitment ranges following revocation of parole by board; providing for temporary release from county correctional institution; further providing for sentence of total confinement; providing for parole without board supervision, for judicial power to release inmates and for transfers of inmates in need of medical treatment; further providing for State intermediate punishment; providing for other criminal provisions; amending the heading of Title 61; adding definitions, provisions relating to general administration of correctional institutions, State correctional institutions, county correctional institutions, house of detention for untried inmates and witnesses, inmate labor, medical services, visitation, inmate prerelease plans,

motivational boot camp, execution procedure and method, recidivism risk reduction incentive, miscellaneous matters relating thereto, probation and parole generally, the Pennsylvania Board of Probation and Parole, County Probation and Parole Officers' Firearm Education and Training and correctional institution interstate compacts; and making conforming amendments, editorial changes and repeals relating to codification."

(4) The addition of 44 Pa.C.S. Ch. 71 Subchs. A, B, C, D, F, G and H is a continuation of the statutory provisions repealed in section 4(2) of this act. The following apply:

(i) Except as otherwise provided in 44 Pa.C.S. Ch. 71, all activities initiated under the statutory provisions repealed in section 4(2) of this act shall continue and remain in full force and effect and may be completed under 44 Pa.C.S. Ch. 71. Orders, regulations, rules and decisions which were made under the statutory provisions set forth in section 4(2) of this act and which are in effect on the effective date of 4(2) of this act shall remain in full force and effect until revoked, vacated or modified under 44 Pa.C.S. Ch. 71. Contracts, obligations and collective bargaining agreements entered into under the statutory provisions repealed in section 4(2) of this act are not affected nor impaired by the repeal in section 4(2) of this act.

(ii) Except as set forth in subparagraph (iii), any difference in language between 44 Pa.C.S. Ch. 71 Subchs. A, B, C, D, F and G and the statutory provisions repealed in section 4(2) of this act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the statutory provisions repealed in section 4(2) of this act.

(iii) Subparagraph (ii) does not apply to any of the following provisions of Title 44:

- (A) Section 7112.
- (B) Section 7113.
- (C) Section 7114(a).
- (D) Section 7143(h).
- (E) Section 7148(b).
- (F) Section 7149(b).
- (G) Section 7151.

(5) The provisions on constable training have been transferred from former 42 Pa.C.S. §§ 2941 through 2949 to 44 Pa.C.S. Ch. 71 Subch. E. Revisions have been made in 44 Pa.C.S. §§ 7143(h), 7148(b) and 7149(b). Except as otherwise provided in 44 Pa.C.S. Ch. 71, all activities initiated under former 42 Pa.C.S. §§ 2941 through 2949 shall continue and remain in full force and effect and may be completed under 44 Pa.C.S. Ch. 71 Subch. E. Orders, regulations, rules and decisions which were made under former 42 Pa.C.S. §§ 2941 through 2949 and which are in effect on the effective date of section 1 (42 Pa.C.S. §§ 2941 through 2949) of this act shall remain in full force and effect until revoked, vacated or modified under 44 Pa.C.S. Ch. 71 Subch. E. Contracts,

obligations and collective bargaining agreements entered into under former 42 Pa.C.S. §§ 2941 through 2949 and which are in effect on the effective date of section 1 (42 Pa.C.S. §§ 2941 through 2949) of this act are not affected nor impaired by section 1 (42 Pa.C.S. §§ 2941 through 2949) of this act.

(6) Provisions on constable fees have been transferred from 42 Pa.C.S. § 2950 to 44 Pa.C.S. § 7161. Except as otherwise provided in 44 Pa.C.S. § 7161, all activities initiated under former 42 Pa.C.S. § 2950 shall continue and remain in full force and effect and may be completed under 44 Pa.C.S. § 7161. Orders, regulations, rules and decisions which were made under former 42 Pa.C.S. § 2950 and which are in effect on the effective date of section 1 (42 Pa.C.S. § 2950) of this act shall remain in full force and effect until revoked, vacated or modified under 44 Pa.C.S. § 7161. Contracts, obligations and collective bargaining agreements entered into under former 42 Pa.C.S. § 2950 and which are in effect on the effective date of section 1 (42 Pa.C.S. § 2950) of this act are not affected nor impaired by section 1 (42 Pa.C.S. § 2950) of this act.

(7) This act deals with fees and funds affecting the judicial branch of State government, including fees which may be charged by constables in civil and criminal cases and additional fees and surcharges on the initiation of legal proceedings and on the filing of legal documents. In order to further the process of statutory consolidation, it is necessary to maintain and continue the coordination of fees and funding affecting any branch of State government.

Explanatory Note. Act 49 added or repealed Chapter 53 and Part IV of Title 44 and amended, added or repealed Subchapter C of Chapter 29 and sections 3733 and 3733.1 of Title 42 and amended sections 1376 and 1540 of Title 75.