

Legal Journals: An Essential Means of Public Notice

Legal journals are an effective and essential medium in which to publish legal notices for the following reasons:

- Legal journals are an efficient and widely used source of information for the legal profession, and through which the local legal community communicates about issues directly affecting business clients.
- Legal journals are a timely, unique, convenient and efficient source of important legal information for both the legal and business communities.
- Notifying the legal profession and the public all at once through a legal notice in a county legal journal is much more expedient, efficient and economical than requiring each individual to check constantly with the Department of State.
- The cost of publication in a law journal is nominal, and an insignificant cost to business entities. Any potential Corporation, Partnership, LLP or LLC that is unable to afford the de minimus advertising charge is clearly undercapitalized and a potential risk for insolvency and/or fraud.
- Legal journals are the publication designated by the rules of court for the publication of legal notices.
- The publication of official notices should be available through more than one source, as has traditionally been the case.

Merit Selection

Key Talking Points on Choosing Judges

What Does the Proposal Achieve

- New way for Pennsylvania to choose appellate judges – merit selection
- New system to ensure most qualified and fair judges and remove money from process
- Makes qualifications determining factor for who gets on bench
- Removes perceptions that judges treat campaign contributors differently
- Takes random factors out of the process – no longer will good ballot position or county of residence determine who serves on our courts

The Basics of a Merit Selection System

- Citizens nominating commission evaluates candidates and devises list of the most qualified to serve on our courts
- The selection process has four steps:
 - screening and evaluation by a citizens' nominating commission that recommends the most qualified candidates to the governor;
 - nomination by the governor of a candidate from the commission's list;
 - confirmation by the senate; and after a number of years on the bench,
 - retention in a nonpartisan yes-no vote by the public.

What is Special About this Merit Selection Proposal

- The broad-based citizen nominating commission that represents the broad diversity of PA
- Nominating commission is unlike any other public commission in PA
- Nominating commission is different from previous PA proposals: more inclusive of public
- Six public seats on nominating commission reserved for people selected through a process that does not require appointment by an elected official
- Nominating commission: broad-based, bipartisan, lawyers and nonlawyers, men and women, from across PA, racially and professionally diverse
- 4 appointed by Governor; 4 by General Assembly; 6 public members
- Public members include individuals from unions, business organizations, nonlawyer professional associations, civic groups, public safety organizations, and law school deans from across the Commonwealth
- 5 largest organizations in each category nominate a commission member; lots drawn to determine which nominee in each category will serve

Role of the Public in Selecting Judges

- Participation on the nominating commission;
- Communication with Governor about recommended candidates;
- Communication with Senate about confirming nominees; and
- Final decision by voters whether judge will sit for a full term through retention elections

Why Shouldn't Judges Be Elected Like Other Public Officials?

- Judges are very different from other public officials
- Judges must be impartial and resolve disputes based on the law and evidence rather than on commitments or comments made while campaigning
- Judges are not supposed to be responsive to their communities, to popular will or political pressure. They are responsible to the law

The Judicial Selection Process Can Only Change if Public Votes to Amend Constitution

THE PBA POSITION ON TITLE 15 CHANGES

The Pennsylvania Bar Association **supports changes to Pennsylvania's Nonprofit Corporation Law, and placing Limited Liability Partnerships and Limited Liability Companies on an equal footing with other business entities** in Pennsylvania. To this end, the PBA supports the passage of **SB 632**, sponsored by Sen. S. Greenleaf (R), which would do the following:

- **Complete the codification of the Nonprofit Corporation Law** (Title 15, Part 11, Subpart C).
- Add the Uniform Unincorporated Nonprofit Association Act (Title 15, Part IV, Chapter 91 B)
- **Provide general partners in a LLP the same protection from liability** as shareholders in a professional corporation, thus giving the owners of large and small professional practices the same liability protection.
- Raise the annual fee for restricted LLPs to equal the fee paid by LLCs to recognize that both forms of entity are entitled to the same type of liability shield
- Require LLPs and LLCs to provide public notice through legal advertising when they are formed and when they are dissolved.

THE PBA POSITION ON DISCRIMINATION

The Pennsylvania Bar Association has adopted these positions on discrimination:

- Support for amending the Pennsylvania Human Relations Act to **add familial status and marital status as protected classes with respect to employment discrimination**
- Support for amending the Pennsylvania Human Relations Act to **add sexual orientation and gender identity or expression to the list of protected classes**
- **Opposition to amending the Pennsylvania Constitution to define marriage as occurring only between one man and one woman** and which precludes the recognition or creation by the Commonwealth or any of its subdivisions of any legal relationship that is identical or substantially equivalent to that of marriage for unmarried individuals

Per these positions, the PBA stands as follows with respect to the following bills:

Oppose

SB 1250, sponsored by Sen. M. Brubaker (R), is a Joint Resolution proposing an amendment to the Pennsylvania Constitution providing no union other than marriage between one man and one woman would be valid or recognized as marriage or the functional equivalent of marriage by the Commonwealth

Support

HB 280, sponsored by Rep. C. Dally (R), amends the Pennsylvania Human Relations Act prohibiting discrimination based on familial status or marital status.

HB 1400, sponsored by Rep. D. Frankel (D), amends the Pennsylvania Human Relations Act prohibiting discrimination based on sexual orientation, gender identity or expression

SB 280, sponsored by Sen. J. Oriole (R), amends the Pennsylvania Human Relations Act prohibiting discrimination based on familial status or marital status. The term "marital status" means whether a person is single, married, divorced, separated or widowed.

THE PBA POSITION ON IMMIGRATION

Through a number of adopted Resolutions, the Pennsylvania Bar Association has established these positions on immigration:

- **Support for federal enforcement of immigration law** and ongoing efforts to develop and enact comprehensive immigration reform
- **Opposition to state or local regulation of immigration or immigrants**, including engaging police in the investigation, apprehension, detention, and removal of undocumented immigrants
- Employment and labor laws should support all workers, and all workers should have means available to correct unlawful employer conduct, regardless of citizenship or immigration status
- Opposition to criminalization of violations of civil immigration law

Per these positions, the PBA stands as follows with respect to the following bills and resolutions:

Oppose

HB 750, sponsored by Rep. D. Metcalfe (R), makes it illegal for an employer to employ an unauthorized alien. As a condition for the award of any state contract worth more than \$10,000, an employer has to show enrollment and participation in the Basic Pilot Program, which involves the electronic verification of work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act. Government entities also have to participate in this program. A political subdivision could enact any ordinance prohibiting the employment of unauthorized aliens including punishing businesses that hire them and allowing restrictions on rental properties to unlawful aliens.

HB 751, sponsored by T. Creighton (R), directs the State Police to negotiate the terms of a memorandum of understanding between Pennsylvania and the federal government concerning the enforcement of federal immigration and customs laws, detention and removals and investigations in Pennsylvania.

Support (to the extent consistent with federal law)

HB 1351, sponsored by Rep. S. Rohrer (R), neither the Governor, PennDOT nor or any other Commonwealth agency may participate in the compliance of any provision of the REAL ID Act of 2005 until DHS expressly guarantees that implementation of the REAL ID Act will not compromise the economic privacy or biometric data of any Pennsylvania resident. The provisions of the REAL ID Act shall not be implemented until all costs of implementation have been met through federal funding. Either the Governor or the Attorney General may file an action in a court of competent jurisdiction to challenge the constitutionality or legality of the REAL ID Act.

HR 100, sponsored by Rep. B. Josephs (D), memorializing Congress to repeal or delay the creation of a national identification card and the implementation of the REAL ID Act of 2005.

HR 296, sponsored by Rep. J. Siptroth (D), is a concurrent resolution opposing implementation of costly Federal standards imposed under the REAL ID Act of 2005.

Oppose

HB 1459, sponsored by Rep. A. DeLuca (D), amends Title 18 (Crimes and Offenses) providing for the unlawful employment of aliens. An employer found to have violated § 274A of the Immigration and Nationality Act shall be subject to the suspension or revocation of its business or professional license by the applicable licensing authority in addition to a fine of \$5,000.

SB 9, sponsored by Sen. J. Scarnati (R), requires anybody who applies for public benefits to provide certain identification and execute an affidavit stating that he or she is a U.S. citizen or legal permanent resident or is otherwise lawfully present in the U.S. This requirement would not apply to a person under 18 years of age; a person currently receiving supplemental security income or SSDI; a person entitled to or enrolled in Medicare Part A or Part B or both; or a person applying for public benefits on behalf of a person under 18 years of age. The agency receiving this affidavit must keep it on file. Agencies that administer public benefits have to verify, through the SAVE program, that each applicant who has executed an affidavit is an alien legally present in the U.S. Penalties are further provided for in the bill.

SB 979, sponsored by Sen. J. Rafferty (R), prohibits the employment of an unauthorized aliens; requiring participation in the Basic Pilot Program as a condition for Commonwealth contracts or grants; prohibiting business tax deductions for certain compensation; requiring suspension of licenses, registrations and certificates of incorporation under certain circumstances; and authorizing a private cause of action.

SB 980, sponsored by Sen. J. Rafferty, requires the State Police to negotiate the terms of a memorandum of understanding between the Commonwealth and the federal government concerning the enforcement of federal immigration and customs laws, detention and removals and investigations in Pennsylvania.

Support (to the extent consistent with federal law)

SR 126, sponsored by Sen. R. Robbins (R), memorializing Congress to repeal or delay the creation of a national identification card and the implementation of the REAL ID Act of 2005. It passed the Senate 50-0.

THE PBA POSITION ON JUROR COMPENSATION

The Pennsylvania Bar Association supports **increasing the compensation of jurors**. To this end, it supports the following legislation:

HB 601, sponsored by Rep. R. Waters (D), amends Title 42 (Judiciary), providing that a person summoned to serve as a juror **shall receive compensation at the rate of \$40 (currently \$9) a day for each day** in any calendar year he or she would be required to report for service. The bill **removes the language that provides the juror would receive \$9 per day for the first three days and \$25 a day for each day thereafter.**

HB 1356, sponsored by Rep. R. Marsico (R), amends Title 42, further providing for compensation and travel allowance for jurors by **increasing the compensation to eight times the hourly minimum wage for each day the person is required to report for service.** Additionally, jurors would receive a travel allowance to and from their residences at the business standard mileage rate. The Commonwealth would reimburse each county 50% (currently 80%) of the amount expended by the county for such compensation and travel allowance.

THE PBA POSITION ON THE DEATH PENALTY

The Pennsylvania Bar Association **supports a moratorium on the use of the death penalty in Pennsylvania, opposes imposing the death penalty upon any person for any offense committed while he or she was under the age of 18, and opposes imposing the death penalty on mentally retarded individuals.** To this end, it supports the passage of the following legislation:

- **HB 1370**, sponsored by Rep. K. Manderino (D), amends Title 42 (Judiciary) by prohibiting the imposition of the death sentence in cases of mental retardation and providing guidelines for determining validity of a claim of mental retardation in such a case.
- **SB 751**, sponsored by Sen. M. White (R), amends Title 42 prohibiting the imposition of the death sentence in cases of mental retardation and providing guidelines for determining validity of a claim of mental retardation in such a case.
- **SB 850**, sponsored by Sen. J. Ferlo (D), amends Title 42 imposing a temporary suspension of the death penalty while a commission on the death penalty studies the law that provides for the death penalty and the administration of the death penalty in Pennsylvania. The commission shall make recommendations for amendments to the death penalty law to provide certain assurances outlined in the bill. The bill provides for the membership of the commission.

THE PBA POSITION ON USING PLAIN ENGLISH IN AUTO INSURANCE POLICIES

The Pennsylvania Bar Association **supports replacing “tort” in automobile insurance policies to “right to sue.”** To this end, it supports the passage of **HB 1104**, sponsored by Rep. J. Taylor (R), which amends Title 75 (Vehicles) further providing for notice of election of tort options and for definitions by inserting the phrase "Right to Sue", thus creating "Limited Right to Sue Tort" and "Full Right to Sue Tort" "Tort" is defined to have the same meaning and be interpreted in the same manner as the term "right to sue." The PBA also supports the language in **HB 34**, sponsored by Rep. M. Cohen (D) and **HB 1510**, sponsored by Rep. F. Shimkus (D), that substitutes “right to sue” for “tort.”

THE PBA POSITION STATUTORY CONSOLIDATION

The Pennsylvania Bar Association **supports the completion of the consolidation of the unconsolidated sections of Pennsylvania statutes.** Pennsylvania is the only state without a code of statutes. Further, the chaotic non-arrangement of the unconsolidated statutes leads to instances where the unofficial version of a statute misstates the actual statutory text, and makes Pennsylvania's statutes very difficult to amend in a fashion that fairly informs the public of what changes are made. To this end, the PBA supports the passage of **SB 73**, sponsored by Sen. S. Greenleaf (R), which consolidates Title 61, the Penal Code.