

**Pennsylvania Committee  
for the Analysis and Reform  
of Our Criminal System**

1143 Carlson Dr.  
Ambridge, PA 15003  
[mrthomas@hotmail.com](mailto:mrthomas@hotmail.com)

April 25, 2014

Senator Donald White  
Senate Box 203041  
Harrisburg, PA 17120-3041

**SB 1215 of 2013**

Dear Sen. White,

In furtherance of our conversations of our conversations and correspondence, I would like to submit the following supportive testimony regarding SB 1215 for the hearing of April 29, 2014.

Pennsylvania is re-structuring its judicial system through the "Unified Judicial System (UJS)".

We have traditionally elected about 10 "row officers"; the *District Attorney, Sheriff, Controller, Prothonotary, Register of Wills/Clerk of Orphans Court, Recorder of Deeds, Treasurer, Clerk of Courts, Coroner, and Jury Commissioner*. Very few voters know who these people are, or what their jobs entail. The job descriptions set out in Pennsylvania Title 42 really have little relationship to what these office holders do on a daily basis. Even many attorneys cannot distinguish between the Clerk of Court and the Prothonotary. The electoral system was established during a much more rural culture. It was designed to assure that these officials were responsible directly to the voters. Now, few people even vote for the offices.

The purpose of SB 1215 is to consolidate the *Prothonotary, Clerk of Courts, and Clerk of Orphans Court* under the Administrative Office of the Pennsylvania Courts (AOPC) and therefore under the President Judge. These three Row Offices serve essentially judicial functions. The AOPC hopes to develop a "Key Management Team" under the President Judge.

The Court Administrators were consolidated in 1999, and the Jury Commissioners were phased out in 2013 under SB 808.<sup>1</sup>

The Senate polled the seated Prothonotaries, Clerks of Court and Clerks of Orphans Court regarding the UJS. Of 91 respondents, 53 favored absorption and 36 opposed it. The division was along urban/rural lines, and the concerns were about retention, compensation and benefits.

The advantage of the UJS would be a more consistent and cost effective administration. The procedures, forms and computer programs would become consistent across the eight levels of counties. Under the current system many computers cannot talk to each other, and conflicting programs are in use. This complicates implementation across county lines.

The vulnerability in SB 1215 is that Section (5)(h) empowers the AOPC to "establish standards and qualifications" for these offices, and then appoint the personnel.<sup>2</sup> No attention paid to the

---

<sup>1</sup> The Jury Commissioners' Association appealed HB 808 to the Supreme Court as unconstitutional. The appeal was denied.

<sup>2</sup> This language comes from 42 PaCSA 1905 which made Court Administrators AOPC employees in 1999.

Associations' existing job descriptions. Nor is there any provision for certification or continuing education.

Officials within the AOPC are confident that their human resources department would be able to properly identify qualified applicants for these offices. They already have a demonstrated record of employment and retention in their existing employment profile.<sup>3</sup>

Their confidence is not affirmed in the Home Rule experience from a few years ago. The County Commissioners implementing Home Rule had no positive guidance about the job qualifications. The officials appointed under Home Rule changed from politicians to patronage. Several people who were blatantly unqualified were appointed in the hope that they would learn through on-the-job experience. This experience could be avoided in the UJS if job descriptions were developed, certification processes were established, and continuing education requirements were provided.

This process was not required when the Court Administrators were absorbed into the AOPC because the Administrators performed essentially clerical duties such as scheduling. The three offices which are now being considered for absorption have official duties on behalf of the Commonwealth and their home counties. They will be more than employees.

SB 1215 needs to require the AOPC to consult with the existing Prothonotary and Clerk of Courts Association and the Clerks of Orphans Court Association to identify the tasks these Row Officers actually perform. As stated, these officials' jobs clearly exceed what is recited in Pennsylvania Title 42. The job description developed in this consultation process should not be an exhaustive laundry list of every task these Officers might perform. Such a laundry list would become an encumbrance, and it would be out of date before it was published. The job description developed in consultation with the Associations should provide effective criteria for AOPC's Human Resources staff in selecting appropriate employees to these positions.

The official duties the Officers perform require that they should be certified in their position. This is a common requirement in both commerce and government. It verifies that the office holder has a certain level of proficiency before they can perform certain functions.<sup>4</sup> The appointed official could immediately do the routine filing and administrative procedures required in the office. The certified personnel would do the official acts of the office. The certification process would substantially increase the credibility of the office. It would also reduce the liability from acts of neophytes who are not yet fully trained. There is already a longstanding lawsuit regarding the UJS.

There are at least 50 Bills in the hopper for this legislative session pertaining to Clerks of Courts and Prothonotaries. Even the most proficient office holders are unaware of the provisions in these Bills. There are also continuous modifications to both the technical and procedural office routines. The computer programs alone are presumed to be out of date. This illustrates the need for a continuing education requirement. The requirement should not be limited to changes in the law, but rather to changes in the dynamics of the office. The recommendation is for 10 hours in each legislative session. This number is set because these requirements are often under-funded.

---

<sup>3</sup> See also the Code of Judicial Conduct, Rule 2.12 and 2.13A. The AOPC's Jan. 8, 2014 press release emphasizes that "Among the notable changes from the prior code is the adoption of provisions dealing with nepotism..."

<sup>4</sup> Only certain accountants are CPAs, and only certain attorneys can handle specific cases. Judges must be certified before they can serve. So also with adjusters, appraisers and surveyors.

It mandates that there shall be continuing professional education, but allows the funding agencies to short the number of hours actually given.

The essence of our proposal is to assure the continuing professionalism in these offices. We are urging you to amend SB 1215 Section (5)(h) so:

- The AOPC will consider the Associations' job descriptions when establishing the "standards and qualifications" under the UJS,
- The "standards and qualifications" will include a certification process, and
- There will be a continuing professional education requirement.

An example of such an amendment could read:

(3) The Court Administrator of Pennsylvania, with the approval of the Supreme Court, shall establish standards and qualifications for individuals appointed to fill vacancies under paragraph (1). **The Court Administrator shall consult with the existing professional associations when establishing these standards and qualifications. The standards and qualifications shall include a job description and a certification process at each county level. The standards and qualifications shall also include 10 hours of continuing professional education during each legislative session.**

Thank you,

Roger Thomas  
Chair

cc:

Sen. Greenleaf  
Sen. Solobay