

HISTORICAL BACKGROUND

The Clerk of the Court of Quarter Sessions and Oyer and Terminer has existed in Pennsylvania since the first organization of English government in colonial America. A change in the Pennsylvania Constitution consolidated all the various courts into the Court of Common Pleas with the clerk now being known as the Clerk of Courts.

Most duties performed by other row officers today were responsibilities that belonged to the early clerks. For example: duties such as recording judgments, executions and attachments, maintaining naturalization records are now performed by the prothonotary; recording of deeds and surveys of town plots, also commissions granted now belong to the recorder of deeds; and the entering of wills or administrations fall within the realm of the register of wills.

In addition to those records, many other types of records that are now obsolete were at one time preserved by the clerks. Some of the more interesting ones were:

Bolter and Baker Brandmarks (1724)--a record of trademarks of bolters, bakers and flour millers containing the date of registry, copy of the mark and name of the owner.

Lists of Slave-Owners (1780-88 and after)--names of all persons in the county who own slaves. Each list contained the owner's name and also the name, age, sex, and length of required servitude for each slave in his possession.

Peddler's Bonds (1830)--the bonds which were annually posted by every hawker and peddler before the court would grant a license to him.

Transient Medical Practitioners (1877-1911)--Anyone who opened a transient medical office within the county was obliged to secure a license from the Clerk of Courts after furnishing a diploma from a chartered medical school or a record of the places where he had practiced. (Early medicine men?)

Stallion Certificates (1893-1911)--Certificates indicating the name and age of the stallion, date foaled, description and pedigree plus owner information.

Motor Vehicle Affidavits (1919-23)--this included registration of second-hand autos sold or transferred within the various townships of the county containing names and addresses of the vendor and vendee.

The one enduring responsibility of the Clerk to this day has been custodian of the criminal court records from the early handwritten dockets to the evolution of the present-day technological records that are maintained.

Source: Stevens, Sylvester K., and Kent, Donald H. County Government and Archives in Pennsylvania, Harrisburg: Pennsylvania Historical and Museum Commission, 1947.

CLERK OF THE COURTS

A. General Notes

1. In Pennsylvania, the Clerk of Courts is an independent "public officer", established by the Pennsylvania Constitution whose duties and responsibilities are set forth in the laws of the Commonwealth. The Clerk is a county official, known as a "row officer", with rank equal to commissioners, district attorneys, sheriffs, recorders, etc. (Pa. Const. Art. IX, § 4).
2. The Constitution requires that the Clerk of Courts shall "be responsible for the records, books and dockets" of the Court (Schedule to Judiciary Article of the Pa. Constitution, V, § 15; see also, Oblackovich vs. McCormick, 7 D. & C. 3d 590 (1978) and In re Cambria County Clerk of Courts, 13 D. & C. 3d 710 (1980)).
3. Until otherwise provided by law, the several courts of common pleas shall exercise the jurisdiction now vested in the present courts of common pleas. The courts of oyer and terminer and general jail delivery, quarter sessions of the peace, and orphans' courts are abolished and the several courts of common pleas shall also exercise the jurisdiction of these courts. (Schedule to Judiciary Article of the Pa. Constitution, V, § 4)
4. With respect to the administration of the Clerk's office, the clerk has no rights as an administrative officer to interpret the law and act in a discretionary manner as to what documents are accepted for filing (so long as they are proper on their face). (See Thompson v. Cortese, 398 A.2d 1079 (1979) which deals with Clerk of Court's civil counterpart, the prothonotary.)
5. All Clerks of Court follow 1 Pa.C.S.A § 1907 for uniform standard time, 1 Pa.C.S.A. § 1908 for computation of time and 1 Pa.C.S.A. § 1910 for time computation of months.
6. All records maintained in the Clerk's office are public records except when specifically precluded by law; ie, juvenile, child victim, or sealed/impounded by Order of Court.
7. Records maintained in the Clerk's office include all documents filed in the following:
 - a. Criminal matters
 - b. Road, liquor, and municipal matters

- c. Other miscellaneous matters as dictated by local practice (42 Pa.C.S.A. § 2756)
 - d. Juvenile matters (42 Pa.C.S.A. § 6301 et seq., Juvenile Act) (See Juvenile Matters, Chap. J2)
8. Bonding Requirements for Clerk of Courts
- a. County Bond
 - (1) Commissioners or the county governing body shall set the amount required for this bond. Bond shall be given prior to entering on official duties.
 - b. State Bond
 - (1) The state bond and commission are acquired through the Department of State. Generally the Recorder of Deeds receives them in sufficient time for you to secure coverage prior to the first Monday in January. Completed bond must be forwarded to the Department of State prior to receiving your commission.
 - c. Additionally, Errors and Omissions insurance is required for each Clerk of Courts according to Sect. 431 of the County Code.
9. Staff (42 Pa.C.S.A. § 2755)
- a. The clerk of the courts may appoint and remove such deputies and other administrative staff of the office of the clerk of the courts as may be necessary.
 - (1) The deputies shall be appointed at the inception of each term. Such appointment and oath of office shall be filed in the Recorder of Deeds or Prothonotary according to local practice.
 - b. The clerk of the courts may appoint and remove a solicitor, who shall be a member of the bar of this Commonwealth. The solicitor shall advise upon all legal matters that may be submitted by the clerk of the courts to him, and shall conduct any litigation when required to do so by the clerk of the courts.

- c. The clerk of the courts, except as otherwise provided by statute or home rule charter or optional plan of government, may fix the compensation and duties of the staff of the office of the clerk of the courts. Where the compensation of the staff of the office of the clerk of the courts is fixed by a county salary board, the clerk of the courts shall be a member of the salary board for such purpose.
 - d. Your deputy may be covered by a bond if your office collects money.
10. The office of the clerk of the courts shall have the power and duty to: (42 Pa.C.S.A. § 2757)
- a. Administer oaths and affirmations and take acknowledgments pursuant to section 327 (relating to oaths and acknowledgments), but shall not be compelled to do so in any matter not pertaining to the proper business of the office.
 - b. Affix and attest the seal of the court or courts to all the process thereof and to the certifications and exemplifications of all documents and records pertaining to the office of the clerk of the courts and the business of the court or courts of which it is the clerk of the courts.
 - c. Enter all criminal judgments and judgments entered by confession.
 - d. Exercise the authority of the clerk of the courts as an officer of the court. The Supreme Court of Pennsylvania has the power to prescribe general rules governing the procedure of all state courts and the supervision of all officers of the judicial branch so long as such rules are consistent with the Constitution and "neither abridge, enlarge nor modify the substantive rights of any litigant" (Const. Art. V, §10, In re Cambria County Clerk of Courts, at 713).
 - e. Exercise such other powers and perform such other duties as may now or hereafter be vested in or imposed upon the office by law, home rule charter, order or rule of court, or ordinance of a county governed by a home rule charter or optional plan of government.

- f. Prothonotary has no judicial powers nor does he have power to act as attorney for others by virtue of his office. Smith v. Safeguard Mut. Ins. Co., 239 A.2d 824, 212 Pa.Super. 83, 1968. "Prothonotary" is merely clerk of court of common pleas. Id. Notes of Decision No. 1 (42 Pa.C.S.A. § 2737)
11. It is recommended that a Clerk of Court have easy access to:
- a. Pennsylvania Rules of Court (Desk Copy)
 - b. Purdon Title 16 - Counties
 - c. Purdon Title 18 - Crimes and Offenses
 - d. Purdon Title 75 - Vehicles
 - e. Purdon Title 42 - JARA and Rules of Criminal Procedure
 - f. The Pennsylvania Bulletin
 - g. Pennsylvania Manual of Civil and Criminal Penalties and Sentences by Burton R. Laub; George T. Bisel Company.
 - h. The County Records Manual, available through the:

Pennsylvania Historical & Museum Commission
Division of Archival & Records Management Services
P. O. Box 1026
Harrisburg, PA 17108-1026
787-3913, 783-9874 or 783-5796
12. Whenever procedures vary, the authors strongly suggest the Clerk of Courts procure a written administrative order from the court.

CHAPTER 27

OFFICE OF THE CLERK OF THE COURT OF COMMON PLEAS

Subchapter

- A. General Provisions
- B. Prothonotaries
- C. Clerks of the Courts
- D. Clerks of Orphans' Court Divisions

Enactment

Title 42, Judiciary and Judiciary Procedure, of the Pennsylvania Consolidated Statutes, was enacted by Act 1976, July 9, P.L. 586, No. 142, generally effective 60 days from the date of final enactment of Act 1978, April 28, P.L. 202, No. 53 (June 27, 1978).

Tables

Disposition and Derivation Tables are provided in the first volume immediately preceding the text of this title in order to determine both the disposition of sections repealed or otherwise affected by the Judiciary Act Repealer Act (JARA) and the derivation of sections of Title 42.

SUBCHAPTER A

GENERAL PROVISIONS

sec.

- 701. Scope and purpose of chapter.
- 702. Place of filing of documents.
- 703. Notice of transfer of functions and duties.
- 704. Responsibility for entry, maintenance and certification of data and certification of amicable judgments.
- 705. Responsibility for reports to executive agencies.

Cross References

Division of business under this chapter, administrative staff of courts of common pleas and Philadelphia Municipal Court, see § 102 of this title.

§ 2701. Scope and purpose of chapter

(a) Purpose.—The purpose of this chapter is to facilitate the prompt, fair and efficient administration of justice by specifying the respective powers and duties of prothonotaries, clerks of the courts and clerks of orphans' court divisions.

(b) Effect of other provisions of law.—The provisions of this chapter shall be subject to any inconsistent statute, home rule charter or optional plan of government, and to any inconsistent general rule or rule of court heretofore or hereafter adopted pursuant to and subject to the limitations of constitutional authority.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Historical Note

Official Source Note:

New.

Library References

Clerks of Courts § 1.

C.J.S. Clerks of Courts § 1.

§ 2702. Place of filing of documents

Where jurisdiction of any matter is by law vested in a court of common pleas or in the Philadelphia Municipal Court, all applications for relief or other documents relating to the matter shall be filed in or transferred to the office of the clerk of the court of common pleas and handled by the appropriate office specified by or pursuant to this chapter.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Historical Note

Official Source Note:

New.

Library References

Clerks of Courts § 57.

C.J.S. Clerks of Courts § 38.

§ 2703. Notice of transfer of functions and duties

Whenever pursuant to section 2756(b)(2) (relating to exceptions) a clerk of the courts files a waiver of any functions and duties ordinarily incident to his office, the order of court appointing another officer or other person to perform such functions and duties entered pursuant to this chapter shall not be valid for any pur-

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pose until filed in the Administrative Office. The Administrative Office shall cause all such orders to be published in the Pennsylvania Code.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Historical Note

Official Source Note:

New.

§ 2704. Responsibility for entry, maintenance and certification of data and certification of amicable judgments

The prothonotary, clerk of the courts and clerk of the orphans' court division shall:

(1) Be responsible for the accurate and timely creation, maintenance and certification of the record of matters pending before or determined by the courts of common pleas and the Philadelphia Municipal Court, including data and reports relating thereto.

(2) Within 30 days after the entry of any money judgment, other than upon a verdict or after decision by a court, deliver to the authorities who assess for county tax purposes in the county where the judgment was entered a written report of the docket number where the judgment was entered, the date the judgment was entered, the amount of the judgment, the names of all parties to the proceeding in which the judgment was entered, the addresses of the persons in favor of whom the judgment was entered and the names and addresses of all assignees of the judgment. Failure to perform the duties imposed by this paragraph shall not impair the validity of any judgment or the lien thereof.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. As amended 1980, Oct. 5, P.L. 693, No. 142, § 501(a), effective in 60 days.

Historical Note

The 1980 amendment added the language in the section heading following the word "data" and, in the first sentence of the text, after "shall" inserted the colon, inserted the "(1)" before "Be" and added subsec. (2).

Official Source Note:

New.

Prior Laws:

1921, May 20, P.L. 938, § 1 (17 P.S. § 1914).

Library References

Clerks of Courts ¶ 69.

C.J.S. Clerks of Courts § 39.

§ 2705. Responsibility for reports to executive agencies

(a) Community Affairs.—The office of clerk of the court of common pleas shall certify to the Department of Community Affairs a copy of any order of court incorporating, merging, dissolving, annexing any territory from or to, confirming the adoption, amendment or repeal of any home rule charter or optional plan of government, or otherwise affecting the corporate status of any municipality.

(b) Insurance Department.—The prothonotary and the clerk of the orphans' court division shall make to the Insurance Department such periodic or special reports concerning matters commenced against any person subject to the supervision of the Insurance Department as the department may specify by regulation.

(c) Department of Justice.—The prothonotary and the clerk of the courts shall make to the Department of Justice such periodic or special reports concerning criminal matters as the department may specify by regulation.

(d) Department of Labor and Industry.—The clerk of the courts shall notify the Department of Labor and Industry of every conviction under the act of May 18, 1937 (P.L. 665, No. 176), known as the "Industrial Homework Law,"¹ if the department is not a party to the proceedings.

(e) Department of Transportation.—The office of the clerk of the court of common pleas shall comply with the reporting requirements of Title 75 (relating to vehicles).

(f) Superseding administrative office procedures and standards.—The manner of making any informational report required by or pursuant to subsections (a) through (e) or by or pursuant to any other similar statute by the office of the clerk of the court of common pleas may be modified by procedures and standards prescribed pursuant to section 4301 (relating to establishment and maintenance of judicial records) with the approval of the Department of Justice.

1978, April 28, P.L. 202, No. 53, § 10(22), effective June 27, 1978.

¹ 43 P.S. § 491—1 et seq.

Historical Note

Official Source Note:

Derived from act of February 27, 1847 (P.L. 172, No. 131), § 2 (17 P.S. § 416); act of May 17, 1921 (P.L. 789, No. 285), § 210 (40 P.S. § 48), act of July 9, 1976 (No. 142), § 6 (1976 Purd. Pamph. No. 4) and similar statutes.

Prior Laws:

1976, Nov. 24, P.L. 1196, No. 263, § 5.
1974, June 17, P.L. 341, No. 110, § 1.
1971, June 29, P.L. 263, No. 65, § 4.
1968, July 31, P.L. 757, No. 236, § 1.
1937, May 18, P.L. 665, No. 176, § 17.1 (43 P.S. § 491—17.1).

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1927, April 27, P.L. 476, § 2.

1921, May 17, P.L. 789, art. II, § 210 (40
P.S. § 48).

1921, May 17, P.L. 682, art. III, § 337.7
(40 P.S. § 459.7(l)).

1847, Feb. 27, P.L. 172, § 2 (17 P.S. §
416).

Library References

Clerks of Courts § 67.

C.J.S. Clerks of Courts § 38.

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1. In general

Prothonotary has no judicial powers nor does he have power to act as attorney for others by virtue of his office. *Smith v. Safeguard Mut. Ins. Co.*, 239 A.2d 824, 212 Pa.Super. 83, 1968.

"Prothonotary" is merely clerk of court of common pleas. *Id.*

Philadelphia Court Rule 145, providing for the prothonotary to enter an interlocutory order requiring a party to answer interrogatories within 30 days or suffer entry of judgment in favor of the party propounding the interrogatories, is invalid because it is inconsistent with Pa.R.C.P. No. 4019, 42 Pa.C.S.A., by its elimination of judicial discretion in the imposition of sanctions and by its delegation to the prothonotary of the court's power to impose sanctions (notwithstanding the power of the court to vest powers in the prothonotary under the Judicial Code). *Bowles v. Cohen*, 9 D. & C.3d 309, 1979.

Omission in Const. Art. 14, § 8, (repealed; see now, Art. 9, § 13), which related to city-county consolidation, to refer to Const. Art. 5, § 16, which pertains to the judiciary, indicated lack of intent to affect the powers of the prothonotary and the register of wills granted in Const. Art. 5, § 16. *Burke v. Clark*, 87 D. & C. 329, 1954, affirmed in part, modified in part, and reversed in part on other grounds 93 A.2d 834, 372 Pa. 355.

The mere absence of a prothonotary from his office does not constitute a vacancy, since the prothonotary is entitled to appoint deputies; and, in case of his sickness, absence, or other temporary disability, the person designated as principal deputy prothonotary is empowered to act. *McFadden v. Kessler*, 50 D. & C. 20, 1944.

2. Administering oaths

The prothonotary cannot administer the oath to an insolvent's petition. *Dewiler v. Casselberry*, 5 W. & S. 179, 1843.

3. Bonds

A prothonotary is liable upon his official bond, to any one who may be injured by his neglect or violation of duty, and the statute of limitations does not apply to such an action. *Saylor v. Com.*, 5 A. 227; 2 Cent.Rep. 562, 1886; *McKeehan v. Com.*, 3 Pa. 151, 1846; *Mann's Appeal*, 1 Pa. 24, 1845; *Com. v. Conard*, 1 Rawle 249, 1829; *Work v. Hoofnagle*, 1 Y. 506, 1795.

The sureties are responsible for the damages occasioned by an erroneous certificate of judgments. But only to the person to whom it is given. *Siewers v. Com.*, 87 Pa. 15, 1878; *Ziegler v. Com.*, 12 Pa. 227, 1849; *McCraher v. Com.*, 5 W. & S. 21, 1843.

SUBCHAPTER C

CLERKS OF THE COURTS

- Sec.
- 2751. Clerk of the courts.
 - 2752. Selection of clerk of the courts.
 - 2753. Seal.
 - 2754. Office of the clerk of the courts.
 - 2755. Staff.
 - 2756. Matters or documents filed in the office of the clerk of the courts.
 - 2757. Powers and duties of the office of the clerk of the courts.

Cross References

Prothonotaries, powers and duties under this subchapter, no separate clerks of the courts authorized, see § 2738(a)(1) of this title.

§ 2751. Clerk of the courts

(a) General rule.—In each county of this Commonwealth there shall be a clerk of the courts for the court of common pleas who shall be known as the "Clerk of the Courts of (the respective) county."

(b) Multicounty judicial districts.—In multicounty judicial districts the clerk of the courts shall be the clerk of the courts of the ranch of the court of common pleas established for the county.

(c) Philadelphia.—In the first judicial district there shall be a clerk of the courts for the Court of Common Pleas of Philadelphia county and the Philadelphia Municipal Court, who shall be known the "Clerk of Quarter Sessions of Philadelphia."

76, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Historical Note

Original Source Note:

Derived from Constitution, Art. V, (16 P.S. § 3401); Act of August 9, 1955, Schedule, § 16(D), Art. IX, § 4, act of (P.L. 323, No. 130), § 401 (16 P.S. § 401), Act of July 23, 1953 (P.L. 723, No. 230), § 401

Library References

Clerks of Courts ⇐ 2. C.J.S. Clerks of Courts § 2.

Notes of Decisions

1 general

Clerk of quarter sessions court is official court. Com. v. Smith, 96 Pa.Supp. 11, 1929.

§ 2752. Selection of clerk of the courts

(a) **General rule.**—The clerk of the courts of each county shall be selected, and may be removed, in the manner provided by the act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code"¹ or the act of August 9, 1955 (P.L.323, No. 130), known as "The County Code,"² as the case may be. The office shall be combined with another county office when so provided by statute.

(b) **Philadelphia.**—The Clerk of Quarter Sessions of Philadelphia shall be selected, and may be removed, in the manner provided by statute or home rule charter.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

¹ 16 P.S. § 3101 et seq.

² 16 P.S. § 101 et seq.

Historical Note

Official Source Note:
New.

Prior Laws:
1834, April 14, P.L. 333, § 76 (17 P.S. § 1481).

Library References

Clerks of Courts ⇨3, 8.

C.J.S. Clerks of Courts §§ 3, 8, 88.

§ 2753. Seal

The clerk of the courts shall have custody of a counterpart of the seal of the court or courts for which he is the clerk of the courts.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Historical Note

Official Source Note:
New.

§ 2754. Office of the clerk of the courts

(a) **General rule.**—There shall be an office of the clerk of the courts in each county of this Commonwealth, which shall be supervised by the clerk of the courts of the county who shall, either personally, by deputy, or by other duly authorized employees or agents of the office, exercise the powers and perform the duties by law vested in and imposed upon the clerk of the courts or the office of the clerk of the courts.

(b) **Facilities and services.**—The office of the clerk of the courts shall be provided with all necessary accommodations, goods and

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services pursuant to section 3722 (relating to general facilities and services furnished by county).

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Historical Note

Official Source Note:
New.

Library References

Clerks of Courts ⇐2.

C.J.S. Clerks of Courts § 2.

§ 2755. Staff

(a) General rule.—The clerk of the courts may appoint and remove such deputies and other administrative staff of the office of the clerk of the courts as may be necessary.

(b) Solicitor.—The clerk of the courts may appoint and remove a solicitor, who shall be a member of the bar of this Commonwealth. The solicitor shall advise upon all legal matters that may be submitted by the clerk of the courts to him, and shall conduct any litigation when required to do so by the clerk of the courts.

(c) Compensation and duties.—The clerk of the courts, except as otherwise provided by statute or home rule charter or optional plan of government, may fix the compensation and duties of the staff of the office of the clerk of the courts. Where the compensation of the staff of the office of the clerk of the courts is fixed by a county salary board, the clerk of the courts shall be a member of the salary board for such purpose.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. As amended 1978, April 28, P.L. 202, No. 53, § 10(23.1), effective June 27, 1978.

Historical Note

Official Source Note:

Derived from act of July 28, 1953 (P.L. 23, No. 230), §§ 1304 and 1823 (16 P.S. § 4304 and 4823), act of August 9, 1955 (P.L. 323, No. 130), §§ 1305, 1315 and 23 (16 P.S. §§ 1305, 1315 and 1623).

Other Laws:

1961, June 7, P.L. 245, § 2 (16 P.S. § 1315).
1955, Aug. 9, P.L. 323, §§ 1304, 1305 (16 P.S. §§ 1304, 1305).
1947, July 5, P.L. 1308, §§ 8, 11.

1933, May 23, P.L. 952, § 1.
1931, June 9, P.L. 401, § 1.
1929, May 2, P.L. 1278, art. III, §§ 223, 224, 233, 235.
1927, May 13, P.L. 982, No. 473, § 1 (17 P.S. § 448).
1917, June 7, P.L. 415, § 2.
1915, April 21, P.L. 157, § 1.
1911, June 9, P.L. 753, No. 315, §§ 1, 2.
1874, May 15, P.L. 186, No. 120, § 4.
1874, Feb. 12, P.L. 43, No. 2, § 2.
1852, March 1, P.L. 100, § 1.
1834, April 14, P.L. 333, § 75.

Library References

Clerks of Courts ⇐6.

C.J.S. Clerks of Courts § 83 et seq.

Notes of Decisions

1. Law governing

If the court should have found the provisions of 16 P.S. § 1315 (repealed), which authorized the prothonotary, register of wills, sheriff, county treasurer, recorder of deeds, and clerks of courts each to appoint one person as solicitor in his office, to have been in irreconcilable conflict with the provision of 16 P.S. § 1623, which authorized the salary board to fix the number of employes in each such office, 1 Pa.C.S. § 1933 would have required the general provision of 16 P.S. § 1623 to yield to the special provisions of the earlier sections relating to

each office. *Sukala v. Shope*, 63 D. & C.2d 517, 55 West. 37, 1973.

Since the provisions of 16 P.S. § 101 et seq. in separate sections authorize the prothonotary, register of wills, sheriff, county treasurer, recorder of deeds, and clerk of courts, respectively, each to appoint one person as his solicitor, the salary board may not, under the guise of fixing the number of such employes, as authorized by 16 P.S. § 1623, eliminate entirely the post of solicitor in each of those offices. *Id.*

§ 2756. Matters or documents filed in the office of the clerk of the courts

(a) General rule.—All applications for relief or other documents relating to the following matters shall be filed in or transferred to the office of the clerk of the courts:

(1) Criminal matters including all related motions and filings.

(2) Road, liquor, municipal and other miscellaneous civil matters formerly within the jurisdiction of the Courts of Oyer and Terminer, General Jail Delivery, and Quarter Sessions of the Peace.

(3) Other matters to the extent provided by law or the local ordinance or resolution creating or recognizing the cause of action.

(b) Exceptions.—

(1) Subsection (a)(2) and (3) shall not be applicable in the fifth judicial district.

(2) The clerk of the courts of any county may file in the office of the prothonotary of the county and in the Administrative Office a written waiver of all or any part of subsection (a)(2) and (3), whereupon the provisions so waived shall not be applicable in the county.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Historical Note

Official Source Note:

New.

Cross References

Clerk of the court of common pleas, matters or documents to be filed in office, exception under this section, see § 2736 of this title.
Notice, transfer of functions and duties waived under subsec. (b)(2) of this section, see § 2703 of this title.

Library References

Clerks of Courts § 69.

C.J.S. Clerks of Courts § 39.

Notes of Decisions

1. *In general*

Clerk of court of quarter sessions, which is a court of record, has duty to make official record in book kept for that purpose of proceedings vital to cause then before court. *Com. v. Robinson*, 176 A. 908, 317 Pa. 321, 1935.

§ 2757. Powers and duties of the office of the clerk of the courts

The office of the clerk of the courts shall have the power and duty to:

- (1) Administer oaths and affirmations and take acknowledgments pursuant to section 327 (relating to oaths and acknowledgments), but shall not be compelled to do so in any matter not pertaining to the proper business of the office.
- (2) Affix and attest the seal of the court or courts to all the process thereof and to the certifications and exemplifications of all documents and records pertaining to the office of the clerk of the courts and the business of the court or courts of which it is the clerk of the courts.
- (3) Enter all criminal judgments and judgments entered by confession.
- (4) Exercise the authority of the clerk of the courts as an officer of the court.
- (5) Exercise such other powers and perform such other duties as may now or hereafter be vested in or imposed upon the office by law, home rule charter, order or rule of court, or ordinance of a county governed by a home rule charter or optional plan of government.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. As amended 1978, April 28, P.L. 202, No. 53, § 10(24), effective June 27, 1978.

Historical Note

Official Source Note:

Paragraph (1) derived from act of (16 P.S. § 4305), act of August 9, 1955 July 28, 1953 (P.L. 723, No. 230), § 1305 (P.L. 323, No. 130), § 1306 (15 P.S. §

T. 42 P.S. §§ 1701-5100-11

1306). Paragraphs (2) to (5) new. See also act of June 25, 1937 (P.L. 2326, No. 446) (19 P.S. § 81 et seq.).

1978 Amendment: To give effect to act of February 24, 1806 (P.L. 334, 4 Sm.L. 270), § 28 (12 P.S. § 739), act of March 21, 1806 (P.L. 558, 4 Sm.L. 326), § 8 (12 P.S. § 738).

Prior Laws:

1957, June 10, P.L. 281, No. 143, § 1.
 1957, June 10, P.L. 281, No. 142, § 1.
 1955, Aug. 9, P.L. 323, § 1306 (16 P.S. § 1306).
 1953, July 23, P.L. 723, art. XIII, § 1305 (16 P.S. § 4305).

1937, June 25, P.L. 2326, §§ 1 to 6, 8 (19 P.S. §§ 81 to 87).

1929, May 2, P.L. 1278, art. III, §§ 226, 229.

1915, April 21, P.L. 157, § 1.

1911, June 9, P.L. 753, No. 315, § 1.

1859, March 22, P.L. 194, No. 195, § 1.

1834, April 14, P.L. 333, § 77 (17 P.S. § 1482).

1806, March 21, P.L. 558, 4 Sm.L. 326, § 8 (12 P.S. § 738).

1806, Feb. 24, P.L. 334, 4 Sm.L. 270, § 28 (12 P.S. § 739).

Cross References

Confession of judgment, see Pa.R.C.P. No. 2950 et seq., 42 Pa.C.S.A.

Library References

Clerks of Courts § 65 et seq.

C.J.S. Clerks of Courts § 33 et seq.

Notes of Decisions

1. Bonds

There is no statutory requirement for the entry of judgment on the official bond of either the county controller or

the clerk of courts and if such judgment is entered it will be stricken off. *Com. v. Duke*, 33 Del. 273, 1946.

amount of such bond or undertaking, given by any indemnity or surety company authorized to do business in this Commonwealth, and approved by the proper authority. 1972, Dec. 6, P.L. 1339, No. 290, § 3, imd. effective.

Historical and Statutory Notes

Subject matter of this section was derived from 46 P.S. § 536, repealed by Act 1972, Dec. 6, P.L. 1339, No. 290, § 4, imd. effective.

Prior Laws:
1937, May 28, P.L. 1019, art. III, § 36 (46 P.S. § 536).

Notes of Decisions

1. Construction and application
Election Code's specific bonding provision (25 P.S. § 3459) was controlling over general bonding provision found in the "Statutory Construc-

tion Act of 1972" (1 Pa.C.S.A. § 1906). *Olshansky v. Montgomery County Election Bd.*, 412 A.2d 552, 488 Pa. 365, 1980.

§ 1907. Uniform standard time

Every mention of, or reference to any hour or time in any statute, shall be construed with reference to and in accordance with the mean solar time of the 75th meridian of longitude west of Greenwich, commonly called eastern standard time, unless a different standard is therein expressly provided for, or unless the standard time shall be advanced for any portion of the year, by any act of Congress.

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

For annotative material on same subject matter covering the period preceding enactment of this section, see 46 P.S. § 537, main volume.

Historical and Statutory Notes

Subject matter of this section was derived from 46 P.S. § 537, repealed by Act 1972, Dec. 6, P.L. 1339, No. 290, § 4, imd. effective.

Prior Laws:
1937, May 28, P.L. 1019, art. III, § 37 (46 P.S. § 537).

§ 1908. Computation of time

When any period of time is referred to in any statute, such period in all cases, except as otherwise provided in section 1909 of this title (relating to publication for successive weeks) and section 1910 of this title (relating to computation of months) shall be so computed as to exclude the first and include the last day of such period. Whenever the last day of any such period shall fall on Saturday or Sunday, or on any day made a legal holiday by the laws of this Commonwealth or of the United States, such day shall be omitted from the computation.

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

For annotative material on same subject matter covering the period preceding enactment of this section, see 46 P.S. § 538, main volume and pocket part.

Historical and Statutory Notes

Subject matter of this section was derived from 46 P.S. § 538, repealed by Act 1972, Dec. 6, P.L. 1339, No. 290, § 4, imd. effective.

1937, May 28, P.L. 1019, art. III, § 38 (46 P.S. § 538).

Prior Laws:

1959, Aug. 11, P.L. 691, § 1.

Notes of Decisions

1. Construction and application
Tax collector timely filed appeal to common pleas court from prothonotary's entry of judgment, where 30th day fell on a Saturday, extend-

ing filing period to Monday. *County of Bucks v. Cogan*, 615 A.2d 310, 150 Pa.Cm.wth. 74, 1992, appeal denied 627 A.2d 181, 534 Pa. 650.

For Title 1, Purdon's Statutes, see text preceding this Appendix

Revocation hearing as convicted parole violator was timely where it was held within 120 days of date upon which parole board received official verification of defendant's conviction on additional felony charges. *Smith v. Com., Pennsylvania Bd. of Probation and Parole*, 570 A.2d 597, 131 Pa.Cmwith. 360, 1990.

Petition for delay damages was filed within five days from date on which trial court's decision was entered on prothonotary's docket, excluding first day and legal holiday occurring within five-day period. *Wolfe v. Stover*, 548 A.2d 628, 378 Pa.Super. 313, 1988.

Where pleadings revealed that State Board of Probation and Parole issued detainer warrant for technical parole violations on Friday, parole officer's visiting parolee on Monday following issuance of warrant satisfied regulatory requirement that parole officer visit parolee within 24 hours of Board warrant being lodged as detainer since, under Statutory Construction Act, intervening Saturday and Sunday had to be excluded from computation. *Donnell v. Com., Pennsylvania Bd. of Probation and Parole*, 453 A.2d 36, 70 Pa.Cmwith. 265, 1982.

Provision of 1 Pa.C.S.A. § 1908 that whenever last day of any period of time referred to in statute shall fall on Saturday or Sunday, or on any day made legal holiday by laws of Commonwealth or of the United States, such day shall be omitted from computation applies to speedy trial run date calculation. *Com. v. Sanford*, 441 A.2d 1220, 497 Pa. 442, 1982.

In determining whether an appeal is timely, reviewing court must exclude from its computation date lower court's order was entered but include the final day of the period within which appeal must be taken. *State Farm Mut. Auto. Ins. Co. v. Schultz*, 421 A.2d 1224, 281 Pa.Super. 212, 1980.

In determining when trial should have commenced under Pa.R.Crim.P., Rule 1100, calculation is made in compliance with this section, mandating exclusion of first day and inclusion of last. *Com. v. McCulley*, 410 A.2d 1276, 270 Pa.Super. 115, 1979.

When words "at least" are used in statute with reference to time within which act must be performed, not less than required number of days must intervene and both terminal days must be excluded. *Courtney v. Com., Civil Service Commission*, 391 A.2d 6, 37 Pa.Cmwith. 366, 1978.

Where May 24, 1970, which was last day of 16-month period of limitation for filing workmen's compensation claim, was a Sunday, such Sunday was required to be omitted from computation of time, and thus claim petition for compensation filed on May 25, 1970, was timely. *Spillance v. Workmen's Compensation Appeal Bd.*, 364 A.2d 1386, 26 Pa.Cmwith. 536, 1976.

Even if last day of five-year period for filing of a continuation statement by lender, which was given a secured interest by borrower and which filed financing statement with Secretary of Commonwealth on March 20, 1962, was March 18, 1967, lender had until March 20 of such year to file such continuation statement, in view of fact that March 18 fell on a Saturday. *Heights v. Citizens Nat. Bank*, 342 A.2d 738, 463 Pa. 48, 1975.

Where decision of Workmen's Compensation Appeal Board awarding compensation was mailed on May 16, 1974, and employer's appeal was not filed in reviewing court until June 6, 1974, the appeal was filed one day late and court did not have jurisdiction to entertain the appeal. *Steven Kulovits Trucking v. Workmen's Compensation Appeal Bd.*, 332 A.2d 892, 16 Pa.Cmwith. 417, 1975.

In computing statutory time periods, court is required to exclude the first day and include the last day. *Steven Kulovits Trucking v. Workmen's Compensation Appeal Bd.*, 332 A.2d 892, 16 Pa.Cmwith. 417, 1975.

Computation of ten-day period provided by Const. Art. 4, § 15, for Governor to act on bills excludes the day of presentation and includes the tenth calendar day thereafter, regardless of whether tenth day falls on Saturday, Sunday or legal holiday. 1974 Op.Arry.Gen. No. 50.

§ 1909. Time; publication for successive weeks

Whenever in any statute providing for the publishing of notices, the phrase "successive weeks" is used, weeks shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in "successive weeks" shall elapse between the first publication and the day for the happening of the event for which publication shall be made.

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

For annotative material on same subject matter covering the period preceding enactment of this section, see 46 P.S. § 539, main volume.

Historical and Statutory Notes

Subject matter of this section was derived from 46 P.S. § 539, repealed by Act 1972, Dec. 6, P.L. 1339, No. 290, § 4, imd. effective.

Prior Laws:

1937, May 28, P.L. 1019, art. III, § 39 (46 P.S. § 539).

For Title 1, Purdon's Statutes, see text preceding this Appendix

Notes of Decisions

1. In general

Advertising of public hearing on redevelopment proposal complied with requirement that notice of hearing "shall be published at least once each week for three consecutive weeks,"

though first two advertisements were only three days apart. *Feagly v. Huntingdon, County Planning Commission*, 350 A.2d 281, 16 Pa.Cmwlth. 520, 1974.

§ 1910. Time; computation of months

Whenever in any statute the lapse of a number of months after or before a certain day is required, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and shall include the day of the month in the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of such month.

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

For annotative material on same subject matter covering the period preceding enactment of this section, see 46 P.S. § 540, main volume.

Historical and Statutory Notes

Subject matter of this section was derived from 46 P.S. § 540, repealed by Act 1972, Dec. 6, P.L. 1339, No. 290, § 4, imd. effective.

Prior Laws:

1937, May 28, P.L. 1019, art. III, § 40 (46 P.S. § 540).

SUBCHAPTER B. CONSTRUCTION OF STATUTES

Section	Section
1921. Legislative intent controls.	1929. Penalties no bar to civil remedies.
1922. Presumptions in ascertaining legislative intent.	1930. Penalties for each offense.
1923. Grammar and punctuation of statutes.	1931. Intent to defraud.
1924. Construction of titles, preambles, provisos, exceptions and headings.	1932. Statutes in pari materia.
1925. Constitutional construction of statutes.	1933. Particular controls general.
1926. Presumption against retroactive effect.	1934. Irreconcilable clauses in the same statute.
1927. Construction of uniform laws.	1935. Irreconcilable statutes passed by same General Assembly.
1928. Rule of strict and liberal construction.	1936. Irreconcilable statutes passed by different General Assemblies.
	1937. References to statutes and regulations.
	1938. References to public bodies and public officers.
	1939. Use of comments and reports.

Pennsylvania Code References

Statutes, see 101 Pa. Code § 15.1 et seq.

Library References

Statutory Construction Digest. Vincent C. DeLiberato, Jr. (1986) Pa. Legislative Reference Bureau.

§ 1921. Legislative intent controls

(a) The object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly. Every statute shall be construed, if possible, to give effect to all its provisions.

For Title 1, Purdon's Statutes, see text preceding this Appendix