

COMMITTEE BILL ANALYSIS

Bill: House Bill 1026

Printer's No.: 1113

Sponsor: Representative Caltagirone

Prepared by: Gregg Warner

Synopsis: This bill amends section 327 of the Judicial Code, Title 42 of the Pennsylvania Consolidated Statutes, to authorize qualified retired and senior judges to administer oaths and affirmations and take acknowledgments.

Summary: Section 327(b) is added to allow retired and senior judges to administer oaths and affirmations and take acknowledgments as long as they meet certain criteria.

Criteria

- (1) The retired or senior judge has served as a magisterial district judge, judge or justice, whether or not continuously or on the same court, by election or appointment for an aggregate period equaling a full term of office.
- (2) The retired or senior judge has not been defeated for reelection or retention.
- (3) The retired or senior judge has not been convicted of or pleaded nolo contendere to any misdemeanor or felony.
- (4) The retired or senior judge has not resigned a judicial commission to avoid having charges filed or to avoid prosecution by law enforcement agencies or by the Judicial Conduct Board.
- (5) The retired or senior judge is a resident of Pennsylvania.

Effective date

This act takes effect in 60 days.

Background: The House of Representatives passed House Bill 1026 on June 22, 2011 by a vote of 201 to 0.

Current law

Section 327 authorizes each judicial officer, each clerk of court and such other personnel of the system and jurors as may be designated by rules to administer oaths and affirmations and take acknowledgments. An acknowledgment may be taken by an attorney if the document is thereafter certified to an officer authorized to administer oaths. Certification by an attorney shall be in accordance with the Uniform Acknowledgment Act.

Reasoning

According to the sponsor, “Under my bill, retired judges, whether magisterial district, common pleas, Philadelphia Municipal, or appellate, would be authorized to administer oaths and affirmations.

For a newly elected local government official, the choice of whom he or she chooses to administer the oath of office to them is a choice that is seldom taken lightly. Often a retired judge will have been a mentor or advisor to the new local official, yet under current law retired judges may not formally administer the oath of office.

Only former judges that meet the same criteria we passed into law last term regarding the solemnization of marriages would be eligible.”