PA 22-26—sHB 5393
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING COURT OPERATIONS AND THE UNIFORM COMMERCIAL REAL ESTATE RECEIVERSHIP ACT

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Delays the effective date of the Uniform Commercial Real Estate Receivership Act by one year, until July 1, 2023

SUMMARY: This act makes various unrelated changes in laws related to court procedures and operations. It also makes other minor, technical, and conforming changes. A section-by-section analysis appears below.
EFFECTIVE DATE: Upon passage, unless stated otherwise below.

§ 1 — JUDICIAL BRANCH'S AUTHORITY OVER CONSTRUCTION PROJECT OVERSIGHT

Expands the judicial branch's authority over building projects by increasing the maximum value of projects it has charge and control of from $1.25 million to $2 million

By law, the Department of Administrative Services (DAS) commissioner has authority over most state building construction projects (e.g., remodeling, alteration, repair, or enlargement) that cost over $500,000, with state agencies having authority over (1) their own projects under this threshold and (2) certain other projects, depending on the agency. The act expands the judicial branch's authority over its building projects by increasing, from $1.25 million to $2 million, the maximum amount the judicial branch can spend to remodel, alter, repair, or construct or make additions to public buildings while retaining control of the project.

§§ 2-7, 24, 25, 27 & 31 — CSSD SUPERVISION

Clarifies that people in certain programs and whose prosecution is suspended are under the judicial branch's Court Support Services Division's supervision, not in its custody

The act clarifies that certain people in certain programs are under the Court Support Services Division's (CSSD's) supervision, not in its custody. It does so by replacing the term "custody" with the term "supervision" in specified statutes where prosecution is suspended for:

1. alcohol and drug dependency treatment (§§ 2 & 3),
2. probation instead of trial for certain firearms-related offenses (§§ 4-7),
3. probation instead of trial for certain firearms offenses related to ghost guns (§§ 24 & 25), and
4. accelerated pretrial rehabilitation (§ 27).

It makes a similar change in a statute in which certain criminal offenders must submit to blood tests or DNA sampling before being discharged from CSSD's

supervision (§ 31).
EFFECTIVE DATE: Upon passage, except (1) October 1, 2022, for the provisions on ghost guns (§§ 24 & 25) and (2) July 1, 2022, for the provision on accelerated pretrial rehabilitation (§ 27).

§ 8 — FAMILY MATTERS: LEGAL SEPARATION

Eliminates a requirement that parties who wish to have their legal separation judgment dismissed must submit a written declaration to the Superior Court stating that they have resumed marital relations

Under prior law, parties who were legally separated and who wished to have their judgment of separation dismissed were required to submit a written declaration with the Superior Court stating that they had resumed marital relations. The act eliminates this requirement and instead requires that the parties submit a written declaration stating that they no longer wish to be legally separated.

Under existing law and the act, the declaration must be signed, acknowledged, and witnessed.
EFFECTIVE DATE: October 1, 2022

§§ 9-12 & 30 — JUVENILE MATTERS

Expands the circumstances under which juvenile delinquency and youthful offender records may be disclosed; makes records for juveniles transferred to the adult criminal docket public; requires next-day arraignment for children arrested for firearms or motor vehicle offenses; changes the frequency of CSSD's report on the use of chemical agents and prone restraints on juveniles

Juvenile Offenders' Records (§ 9)

By law, records of juvenile cases involving delinquency proceedings are available only to certain persons and in specified circumstances, such as law enforcement officials and prosecutors conducting a legitimate criminal investigation. The act also allows juvenile delinquency records to be disclosed to law enforcement officials and prosecutors seeking an order to detain a child.

Juvenile Case Transferred to the Regular Criminal Docket (§ 10)

By law, when a child faces felony charges, the case is either transferred to adult court automatically or may be transferred at the prosecutor's discretion, depending on the seriousness of the alleged act (CGS § 46b-127).

Under prior law, any proceeding involving a juvenile on the regular criminal docket was private until the court rendered a verdict or a guilty plea; and records were generally only available to the crime victim. The act repeals this provision, which makes these records available to the public, in conformity with a Second Circuit Court of Appeals decision.

Next-Day Arraignment for Children Charged With Certain Offenses (§ 11)

The act requires that when a child is arrested for a firearms or motor vehicle offense, the arraignment be scheduled for the next business day following the date the child was arrested. Prior law did not impose a specific timeframe for arraignment.

Chemical Agents or Prone Restraints Report (§ 12)

Prior law required the Department of Correction commissioner and the CSSD executive director to report monthly to the Juvenile Justice Policy and Oversight Committee (JJPOC) on any use of chemical agents or prone restraints on children under age 18 detained in a facility the commissioner or executive director operates or oversees. The act instead requires the commissioner and executive director to submit the report to JJPOC within 30 days after the instance occurred, rather than monthly.

Youthful Offenders' Records (§ 30)

By law, a juvenile transferred to Superior Court who meets certain criteria is presumed eligible for youthful offender status, which generally makes his or her records and information on the youthful offender docket confidential (CGS § 54-76c).

Under existing law, the records may be disclosed in certain circumstances, such as to law enforcement officials and prosecutors conducting a legitimate criminal investigation. The act also allows a youthful offender's record to be disclosed to law enforcement officials and prosecutors seeking an order to detain a child.

EFFECTIVE DATE: Upon passage, except the provisions on next-day arraignment for children (§ 11) and youthful offenders' records (§ 30) are effective July 1, 2022.

§§ 13-14, 23 & 60-61 — TECHNICAL AND CONFORMING CHANGES

Makes technical and conforming changes to various statutes

The act makes technical fixes to the Family Support Magistrate's Act (§ 13) and a law on exemptions from execution against debts (§ 23).

It also makes conforming changes to reflect the past dissolution of certain offices within CSSD and the transfer of their functions (§§ 14 & 60-61).

EFFECTIVE DATE: Upon passage, except the technical changes in § 23 are effective October 1, 2022.

§§ 15 & 16 — COURT TRANSCRIPTS

Allows court transcripts to be provided in electronic format; eliminates the per page cost for copies of transcripts ordered by judges and judicial branch employees

The act allows court transcripts to be provided in electronic format. It does so by specifying that the definition of "transcript page" under existing law applies if it was printed on paper (i.e., a page consisting of 27 double-spaced lines on 8.5- by

11-inch paper, with sixty spaces available per line). The act also specifies that "transcript page" also means a page stored in an electronic format retrievable in a perceivable form (§ 15).

It also eliminates the $0.75 per page cost charged when judicial officers and judicial branch employees order court transcripts previously produced (§ 16).

§§ 17 & 19 — JUDICIAL OFFICERS

Extends liability protection to attorneys who inventory certain attorneys' files and are appointed by the court under its inherent authority to regulate attorney conduct; disqualifies state referees from serving as jurors

Attorneys Appointed to Inventory Files (§ 17)

The law generally shields from liability for damage or injury that is not wanton, reckless, or malicious an attorney appointed by the court, pursuant to the Superior Court rules, to (1) inventory the files of an inactive, suspended, disbarred, or resigned attorney and (2) take necessary action to protect their clients' interests.

The act specifically extends this liability protection to attorneys who (1) are appointed by the court pursuant to the court's inherent authority to regulate attorney conduct and (2) inventory deceased attorneys' files.

State Referees (§ 19)

Existing law disqualifies judges and family support magistrates, among others, from serving as jurors. The act also disqualifies state referees from serving as jurors.

§ 18 — CENTRALIZED INFRACTIONS BUREAU

Adds numerous violations to the list of violations handled by the Superior Court's Centralized Infractions Bureau

The act adds numerous violations to the list of violations handled by the Superior Court's Centralized Infractions Bureau, which processes payments or not guilty pleas for committing infractions or violations. Generally, anyone who is alleged to have committed an infraction or certain violations may either plead not guilty or pay by mail the set fine and any other fee or cost the law prescribes.

The act adds infractions and violations such as those related to (1) the State Capitol building, grounds, and facilities; (2) being under age in a gaming facility; (3) motor vehicle violations; (4) tax violations; (5) certain municipal powers; (6) taxicab operators; (7) pilot boat operators; (8) Public Utilities Regulatory Authority orders; (9) agriculture, domestic animals, and fisheries; (10) banking and insurance; (11) a peace officer's failure to submit a family violence report; and (12) seized property.

The act also makes conforming changes.

EFFECTIVE DATE: October 1, 2022

§§ 20, 21 & 66 — JUROR SUMMONS

Moves forward the timeline for implementing the "yield ratio" calculation for summonses

Proportional Representation (§§ 20-21 & 66)

Under PA 21-170, § 2, beginning July 1, 2023, the jury administrator must calculate proportional representation for the requirement that the number of jurors chosen from each town reflect the proportional representation of each town's population using a formula that incorporates the town's "yield ratio." The act requires the administrator to start implementing this formula upon the act's passage, rather than beginning July 1, 2023, as under PA 21-170. But it also requires the administrator to use 2019 data through 2023. Beginning January 1, 2024, the administrator must calculate proportional representation in the same way that PA 21-170, § 2, specified.

The act correspondingly eliminates prior law's requirement that from July 1, 2022, through June 30, 2023, for each jury summons that is undeliverable, the jury administrator send another randomly generated jury summons to a juror within the same zip code as the undeliverable summons.

EFFECTIVE DATE: Upon passage, except the provision on additional summonses is effective July 1, 2022 (§ 21).

§ 22 — COURT FEES FOR INDIGENT PARTIES

Provides for appellate review of applications for a waiver of fees to start civil and habeas actions

By law, in any civil or criminal matter, if the court finds that a party is indigent and unable to pay the court fees or the service of process cost, the court must waive the fees and the state must pay the fees and cost. If an application for a fee waiver is denied, upon the request of the applicant, the court clerk schedules a hearing.

Under the act, if after a hearing, the Superior Court denies the fee waiver application for starting a civil or habeas action or the cost of the service of process, the aggrieved party may petition the Appellate Court for review at no charge.

EFFECTIVE DATE: October 1, 2022

§§ 26-29, 32 & 33 — CSSD'S FUNCTIONS, PROGRAMS, REPORTS, AND FILES

Requires the division to assist with indigent pretrial diversionary program applications; allows it to conduct pre-arraignment interviews remotely; requires the division to (1) have its records release procedures be signed by the chief court administrator and (2) develop policies and procedures for issuing certificates of rehabilitation and specifies when they may be issued

Indigent Pretrial Diversionary Program Applicants (§§ 26 & 27)

Under prior law, for the accelerated pretrial rehabilitation and the community service labor programs, the court was required to waive the application or

participation fee when the person filed an affidavit of indigency or inability to pay and had it confirmed by CSSD and the court entered that finding. The act instead requires CSSD to assist the person in filing the application, at his or her request, rather than confirm the person's indigence or inability to pay.

Under the law and the act, alternatively, the court must waive the application or participation fee for anyone who has been determined indigent and eligible for representation by an appointed public defender.

Pre-Arraignment Interviews (§ 28)

By law, prior to arraignment, CSSD must promptly interview anyone referred by the police or a judge. Under prior law, a person held at a police station could be interviewed by video conference. The act instead allows CSSD to conduct the pre-arraignment interview by remote technology.

CSSD's Confidential Reports and Files (§ 29)

The act requires CSSD's written procedures for the release of information in the division's reports and files to be approved by the chief court administrator, or his designee, instead of the executive committee of the judges of the Superior Court as prior law required.

Certificates of Rehabilitation (§§ 32 & 33)

The act allows CSSD to (1) grant a certificate of rehabilitation (commonly referred to as a certificate of employability) if the applicant was under the division's supervision at the time of the application (i.e., an eligible offender) and (2) develop policies and procedures for issuing these certificates to meet the law's requirements.

With respect to certificates of rehabilitation, under prior law, an "eligible offender" was a Connecticut resident who was convicted of a crime and under CSSD's supervision. The act additionally requires an eligible offender to be under CSSD's supervision at the time of the application.

EFFECTIVE DATE: Upon passage, except the provisions on pretrial diversionary programs (§§ 26 & 27) are effective July 1, 2022.

§§ 34-36 — CRIMINAL RECORD ERASURE AND DISCLOSURE

Makes any record of conviction ineligible for record erasure until the defendant has completed serving the sentence imposed for the offense or offenses for which he or she was convicted; authorizes the disclosure of erased records to victims who have started an action to enforce a financial restitution order; generally requires a record of conviction for an offense that has been decriminalized be erased, not physically destroyed

Erasure of Certain Drug Possession Convictions (§ 34)

By law, certain crimes are eligible for record erasure: (1) misdemeanors are

subject to erasure seven years after the person's most recent conviction and (2) felonies are subject to erasure 10 years after the most recent conviction. The law also specifies that certain crimes are ineligible for record erasure (e.g., family violence crimes and nonviolent or violent sexual offenses requiring sex offender registration).

Prior law also designated as ineligible for record erasure any offense for which a defendant had not served or finished serving the sentence (including any period of incarceration, special parole, parole, or probation) until the applicable time period elapsed, and the defendant completed the sentence. The act eliminates this provision and instead makes ineligible for record erasure any conviction for any offense until the defendant has finished serving the respective sentence.

Disclosure of Erased Records to Victims (§ 35)

The law allows (1) the clerk of the court or anyone charged with retention and control of erased records or (2) any criminal justice agency with information contained in erased criminal records to disclose to the crime victim or the victim's legal representative the fact that the case was dismissed.

Under the law, if the disclosure contains information from erased records, the defendant's identity must not be released, except to the crime victim or the victim's representative, upon written application to the court.

Under prior law, the victim's written application to the court had to state (1) that a civil action for loss or damage resulting from the criminal act had begun or (2) the intent to bring that action. Under the act, the victim or his or her representative may also access these records if (1) a civil action to enforce a financial restitution order has begun or (2) he or she intends to bring that action.

Records Related to Decriminalized Offenses (§ 36)

Under prior law, upon the petition of someone convicted for an act that was later decriminalized, the court was required to immediately order the physical destruction of all related police, court, and prosecution records. The act instead requires that the records be erased, not physically destroyed.

The act specifies that this does not apply to any police, court, or state's attorney records' information with references to more than one count, unless and until all counts in the information are entitled to erasure (except for electronic records or parts of electronic records released to the public that reference a charge that would otherwise be entitled to record erasure, which must be erased before release).
EFFECTIVE DATE: January 1, 2023

§§ 37-42 — RECREATIONAL CANNABIS LEGISLATION

Makes a technical change regarding criminal record purchasers; exempts certain probation officers from the laws that limit when cannabis odor or possession can justify a search or motor vehicle stop; requires participants of certain pretrial diversionary programs who go to an out-of-state provider to pay the fees and costs of that provider only and not also the Connecticut fees; prohibits the court from waiving out-of-state program fees and costs

Criminal Record Purchasers (§ 37)

PA 21-1, June Special Session (JSS), § 10, extended certain requirements for purchasers of public criminal records to cover records purchased from all criminal justice agencies, not just the judicial branch. The act makes a conforming change to add a reference to those criminal justice agencies.

Searches by Probation Officers (§ 38)

Existing law limits when cannabis odor or possession can justify a search or motor vehicle stop. The act exempts from this limitation a probation officer supervising a probationer who, as a condition of probation, is prohibited from using or possessing cannabis.

Pretrial Diversionary Programs (§§ 39-42)

PA 21-1, JSS, §§ 166 & 167, sunset CSSD's pretrial programs for people charged with certain drug crimes, but established a new, similar program.

Under prior law, a program participant who was going to an out-of-state program provider was required to pay both the Connecticut and out-of-state program fees and costs. The act instead requires them to pay only the out-of-state fees and costs.

Under prior law, generally a program participant had to pay the court a nonrefundable program fee and the cost of any related treatment to the treatment provider. Under the act, if CSSD allows the person to participate in an applicable program in another state, the person must only pay the program fee and participation costs required by the out-of-state program provider. The act also explicitly prohibits the court from waiving out-of-state program fees and costs.

EFFECTIVE DATE: October 1, 2022, except (1) January 1, 2023, for the provision on criminal record purchasers (§ 37) and (2) upon passage, for the provision on searches and motor vehicle stops (§ 38).

§ 43 — PLEADING PARTY'S FALSE ALLEGATIONS OR DENIALS

Increases, from $10 to $500 per offense, the cap on attorney's fees that a party can recover due to a false allegation or denial

By law, any allegation or denial in a civil pleading made without reasonable cause and found untrue makes the pleading party responsible for reasonable expenses incurred by the other party.

Prior law limited the expenses for attorney's fees to $10 per offense. The act increases this to $500 per offense.

EFFECTIVE DATE: October 1, 2022

§§ 44-52 & 68 — CONNECTICUT INTERSTATE DEPOSITIONS AND DISCOVERY ACT

Adopts the Uniform Interstate Depositions and Discovery Act and applies its provisions to any request for discovery in an action pending on or filed on or after July 1, 2023

The act adopts the Uniform Interstate Depositions and Discovery Act (UIDDA), to be cited as the "Connecticut Interstate Depositions and Discovery Act," and applies its provisions to any request for discovery in a Superior Court or probate court action pending on or filed on or after July 1, 2023 (§ 44). UIDDA provides procedures for courts in one state to issue subpoenas for out-of-state depositions and discovery. Generally, it harmonizes the out-of-state subpoena process for state court cases with Federal Rule of Civil Procedure 45.

It specifies that in applying and construing its provisions, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it (§ 49).

EFFECTIVE DATE: July 1, 2023, and applicable to any request for discovery in an action pending on or filed on or after that date, except the provisions on the subpoena request court fee (§§ 51 & 52) and exemption for states that have enacted UIDDA (§ 50) are effective July 1, 2023.

Definitions (§ 45)

The act defines specific terms for its purposes.

"Foreign jurisdiction" means a state other than Connecticut.

"State" means a U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to U.S. jurisdiction.

"Foreign subpoena" means a subpoena in a civil or probate action issued under authority of a foreign jurisdiction's court of record.

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, instrumentality, or any other legal or commercial entity.

"Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to:

1. attend and give testimony at a deposition;
2. produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the person's possession, custody, or control; or
3. permit inspection of premises under the person's control.

Requesting Subpoenas (§§ 46, 51 & 52)

The act establishes a clerical procedure under which a foreign subpoena (i.e., one issued outside of Connecticut) may be reissued as a Connecticut subpoena.

Under the act, to request that the Connecticut Superior Court or probate court issue a subpoena, a party must submit to a clerk of the court in the applicable judicial or probate district in which discovery is to be conducted the (1) applicable subpoena request form, (2) original foreign subpoena or a true copy of it, and (3)

court fee of $100.

The act specifies that this request does not constitute an appearance in any Connecticut court.

Under the act, the subpoena request form must be prescribed by the (1) office of the chief court administrator for an action in the Superior Court and (2) office of the probate court administrator for an action in the probate court.

Issuing Subpoenas (§§ 46 & 68)

When a party submits a foreign subpoena that meets the act's requirements to the Superior Court or probate court, the clerk must promptly issue, according to the respective court's rules, a subpoena for service upon the person to which the foreign subpoena is directed.

A subpoena issued under the act must:

1. incorporate the terms used in the foreign subpoena;
2. contain, or be accompanied by, the party's affidavit stating the names, addresses, and telephone numbers of all counsel of record in the proceeding related to the subpoena and of any party not represented by counsel;
3. include the case caption and docket number of the matter pending in the foreign jurisdiction; and
4. identify the name and address of the Superior Court or probate court issuing the subpoena.

The act requires the (1) chief court administrator to prescribe the form for subpoenas issued by the clerk of the Superior Court and (2) probate court administrator to prescribe the form for those issued by the clerk of the probate court.

The act correspondingly repeals the law that allowed a commissioner appointed by another state to apply to a Connecticut judge, justice of the peace, notary public, or commissioner of the Superior Court for a subpoena to compel a witness to appear before the out-of-state commissioner (§ 68).

Depositions (§§ 47 & 50)

Any subpoena issued under the act by a clerk of a Connecticut court must be served in accordance with subpoenas issued under existing law.

The act applies existing laws on taking depositions to the subpoenas issued under its provisions, including requirements on when a person may be deposed; how much notice is required; witnesses; deposing people over age 60 or in the armed forces and medical witnesses; written depositions; and the custody and opening of depositions (§ 47).

By law, in Connecticut, depositions must be taken before a judge or clerk of any court, justice of the peace, notary public, or commissioner of the Superior Court. For depositions taken in another state or country, existing law specifies the people before whom depositions for a civil action or probate proceeding in Connecticut must be taken (e.g., a commissioner appointed by the governor of Connecticut or any magistrate having power to administer oaths). The act exempts from this provision any state that has enacted laws substantially similar to the

UIDDA (§ 50).

Protective Orders and Enforcing, Quashing, or Modifying a Subpoena (§ 48)

Under the act, a protective order application related to a matter under the act, or to enforce, quash, or modify a subpoena issued by a clerk of a court under the act's provisions, must (1) comply with Connecticut laws and court rules and (2) be submitted to the Superior Court in the judicial district or the probate court in the probate district, as applicable, where discovery is being sought.

§§ 53-56 & 62-63 — FEES FOR SERVICE OF PROCESS AND OTHER DUTIES

Increases certain fees payable under the law to officers and people serving process or performing other duties for state and municipal officers, the Judicial Department, the Division of Criminal Justice, and others; sets a new mileage reimbursement rate for in-hand service of process, including those for civil orders of protection; sets new rates for actions in cases involving evictions and foreclosure ejections

Service on Behalf of Officials of the State or Its Agencies, Boards, or Commissions and Municipal Officials (§ 53)

The act increases fees payable to officers or others authorized to serve process, summons, or attachments on behalf of state (except the Judicial Department or the Division of Criminal Justice, see § 54) and municipal officials as follows:

1. from $30 to $50, the fee for each process served;
2. from $10 to $20, the fee for each subsequent service at the same address;
3. from $30 to $50, the additional fee for other subsequent process served; and
4. from $10 to $20, the additional fee for notice to the attorney general in dissolution and post-judgment proceedings involving a party or child receiving public assistance.

When service is on behalf of someone who is not a state or municipal official, the act increases, from $40 to $50, the fee payable for process served, as well as the fee for the second and subsequent process served.

In-Hand Service of Process. Under existing law, an officer or person who serves process also receives a mileage reimbursement at the state employee mileage rate (i.e., the rate set by the Department of Administrative Services (DAS) for state employees). However, previously, if more than one process was served on a person at once, the total travel cost for the service had to be the same as for the service of one process only. In cases in which an officer or person is requested by the court or required by law to make in-hand personal service or for service related to issuing a civil restraining order, the act requires additional milage reimbursement.

Specifically, under the act, the officer must also receive reimbursement at the state employee mileage rate for each mile of travel for each round trip traveled while attempting to make in-hand personal service. This must be computed from the place where the process was received to the place of attempted service, and if multiple trips to effectuate service are made, back to the place where process was received and then to the place of the subsequent attempt, and then, in the case of

civil process, to the place of return. However, the act requires the officer or person to:

1. state in the return of service that (a) in-hand personal service was requested or required or was made pursuant to a civil restraining order application and (b) multiple trips were necessary to make in-hand personal service; and
2. submit a bill stating the dates, times, and results of each trip the officer or person made while attempting to make in-hand personal service.

Under the act, a person may only receive payment for attempted round trip travel from the Judicial Department when (1) ordered by the court or by law to effectuate in-hand personal service and the in-hand personal service is done and (2) in-hand personal service of process is made pursuant to applications for a civil restraining order or a civil protection order.

The act allows the Judicial Department to limit payment for the cost of attempted round trip travel for in-hand service of process to three round trips. However, it does not limit the Judicial Department from paying an officer or person serving process a greater amount.

Other Allowable Fees. The act also changes the following fees:

1. increases from $0.40 to $0.50, the fee for each page or part of a page for endorsements;
2. increases from $30 to $50, the minimum fee for certain executions involving debts and collections;
3. changes from $0.21 a mile to the state employee mileage rate, the mileage rate applied when committing someone to a community correctional center, in civil actions; and
4. for any recording for which the recording fee is not otherwise set by law, changes from a "reasonable fee" to $50 plus costs and mileage reimbursement at the state employee mileage rate.

Service on Behalf of the Judicial Department or Division of Criminal Justice (§§ 54 & 55)

The act makes the following changes to fees payable to officers, such as state marshals and others authorized to serve process, when service is on behalf of the Judicial Department or the Division of Criminal Justice:

1. increases, from $30 to $50, the fee for each process served on a person;
2. increases, from $10 to $50, the fee for service on each additional person; and
3. allows an additional $20 fee for each subsequent service of process at the same address.

In-Hand Personal Service. The act makes the same exception described above for mileage reimbursement when an officer or person is requested or required to make in-hand service of process.

Enforcement of Attorney Obligation. The act changes the mileage reimbursement for an officer or other person to serve process to enforce an attorney's obligation under the client security fund, from $0.20 per mile to the state employee mileage rate. However, under the act, if more than one process is served

on one person at once by the officer or person, the total travel cost for the service must be the same as for the service of one process only.

Other Fees. The act also changes the following fees:

1. increases, from $0.60 to $1.00, the per page cost for copies of writs and complaints, exclusive of endorsements;
2. increases the fee for levying certain executions from 3% to 15% of the amount of the execution (§ 55);
3. increases the fee for causing an execution levied on real property to be recorded, from $0.50 to $50, in addition to travel fees;
4. for committing any person to a community correctional center, in civil actions, changes travel reimbursements from $0.20 a mile to the state employee mileage rate; and
5. for any recording for which the recording fee is not otherwise prescribed by law, allows $50 plus costs and the state employee mileage reimbursement rate.

Evictions and Foreclosure Ejectments (§§ 53 & 56)

The act makes changes to fees related to an officer executing a summary judgment (eviction) and sets a new fee schedule for removing the defendant's or other occupant's possessions during an eviction or a foreclosure ejectment.

Service and Scheduling Fee. Under prior law, in eviction cases, the fee for service of process could not exceed $50. The act includes scheduling the service in the fee and caps the combined fee at $100 plus the state employee mileage rate. The act also applies this new fee cap and mileage reimbursement rate to the service and scheduling of foreclosure ejectments (§ 53).

Eviction-Related Removal and Inventory Fee. Under existing law, the fee for removing a defendant, other occupants, and their possessions in a residential eviction can be up to $100 per hour. The act also adds the state employee mileage rate to the allowable fee.

Additionally, the act sets the same fee for removing and taking inventory of possessions and personal effects of a defendant or other occupant subject to a commercial eviction order (i.e., not more than $100 per hour and the state employee mileage rate) (§ 53).

Foreclosure-Related Removal Fee. The act sets the fee for removing a defendant, other occupants, and their possessions in a foreclosure ejectment at not more than $100 per hour plus the state employee mileage rate.

In foreclosure cases, the act also allows the officer or person serving the execution or ejectment to claim compensation for time and expenses of any mover, locksmith, or any other individual, in keeping, securing, or removing property and the transportation incidental to the execution or ejectment. However, the officer or person must submit a bill with the details of these additional costs (§ 53).

Payment for Removal, Delivery, and Storage. By law, in a residential eviction, whenever the possessions and personal effects of a defendant (tenant) are removed by a state marshal, the marshal must deliver them to the designated storage place.

The act specifies that the plaintiff (landlord):

1. must pay the state marshal the fees set in law for the removal (see above) and
2. may recover the expense from the defendant (§ 56).

Civil Orders of Protection (§§ 62 & 63)

Under existing law, the judicial branch must pay the service of process costs for hearings on applications for civil orders of protection (i.e., a civil restraining order against a family or household member or a civil protection order against anyone other than a family or household member). Under the act, this cost also includes mileage reimbursement for making in-hand personal service as described above.

In-Hand Service Not Effectuated. Under the act, for service made for civil orders of protection which were not done in-hand, regardless of any attempts to do so, the mileage fee must be computed from the place where the process was received to the place of service, and then, in the case of civil process, to the place of return. If the court allows an applicant more time to make service pursuant to a restraining order application, the extra time is considered a continuation of the original attempts at service when calculating the mileage cost.

Timely Return of Service. Under the act, no officer or person is entitled to a fee for service related to civil orders of protection if the court does not receive timely return of service, unless there is a court order authorizing the fee. "Timely return" includes sending a copy of the return of service to the court, by fax or other means, before the hearing, followed by delivering the original return to the court within a reasonable time after the hearing.

EFFECTIVE DATE: October 1, 2022

§§ 57 & 58 — PROTECTIONS FOR STATE MARSHALS

Extends address confidentiality protections afforded to certain public officials under existing law to state marshals

Under existing law, if certain individuals, such as police officers or judges, submit a written request and furnish their business address to the Department of Motor Vehicles commissioner, only their business address may be disclosed or made available for public inspection, to the extent authorized by law. The act extends this privilege to state marshals (§ 57).

Existing law prohibits any public agency from disclosing under the Freedom of Information Act, from its personnel, medical, or similar files, the residential address of certain people employed by the public agency (e.g., a judge or magistrate). The act extends this protection from disclosure to state marshals appointed by the State Marshal Commission (§ 58).

EFFECTIVE DATE: July 1, 2022

§ 59 — CSSD'S REPORT TO COURT IN RESTRAINING ORDER CASES

Limits when the court, at a hearing on an application for a civil restraining order, may consider the report written by CSSD's family services unit

By law, when someone applies for a civil restraining order, the judge must order a hearing on the matter within a specified time. Under certain circumstances the judge may issue an ex parte order (i.e., without a hearing) pending the hearing after specific notice to the respondent (i.e., the person subject to the order).

At the hearing, prior law allowed the court to consider a report prepared by CSSD's family services unit. The act allows the court to consider this report only if the person who prepared it is available to testify at the hearing and is subject to cross examination.

Under the law, the report may include things such as any existing or prior order of protection and any information on pending or prior family matters or criminal cases, prior convictions, arrest warrants, and the respondent's risk level based on CSSD's risk assessment. By law, unchanged by the act, any report provided to the court by CSSD must also be provided to the applicant and respondent.

EFFECTIVE DATE: October 1, 2022

§§ 64, 65 & 67 — UNIFORM COMMERCIAL REAL ESTATE RECEIVERSHIP ACT

Delays the effective date of the Uniform Commercial Real Estate Receivership Act by one year, until July 1, 2023

PA 21-80 adopted the Uniform Commercial Real Estate Receivership Act (UCRERA) effective July 1, 2022. The act extends the act's effective date by one year to July 1, 2023, and correspondingly specifies that it does not apply to receiverships for which a receiver was appointed before that date.

By law, UCRERA applies to commercial receiverships for an interest in real property and any personal property related to, or used in, operating the real property. With limited exceptions, it does not apply to residential properties with four or fewer units.

EFFECTIVE DATE: Upon passage, except the provision specifying that UCRERA does not apply to receiverships for which a receiver was appointed before July 1, 2023, is effective July 1, 2023.