Legislative Session Yielded Successes for PBA

The PBA Legislative Relations Department had numerous successes this legislative session (2017-18). Staff also negotiated compromises in the form of amendments and blocked other legislation.

PBA Legislative Director Fredrick Cabell Jr. said, “We got a lot done this session, both on offense and defense. We are also always vigilant on monitoring a sales tax on legal services and advertising carve outs for county legal journals.”

PBA legislative initiatives and priorities that became law this last legislative session include the following:

• Act 78 of 2017 — the Uniform Voidable Transaction Act amends the Pennsylvania Uniform Fraudulent Transfer Act, based on recommendations from the Uniform Law Commission regarding choice of law, venue, and standard of proof, among other things. This legislation originated from the PBA Business Law Section.

• Act 21 of 2018 — this establishes criteria for third-party standing in custody matters where no parents have any form of care and control of a child. The bill also reinstates a partial physical custody standing provision for grandparents. This legislation is especially important in light of the opioid crisis, when more and more grandparents, other family members, and caregivers become primary custodians of minor children. The PBA worked with Sen. Don White on amendments to SB 844; when the bill made it out of committee with a compromise amendment and before passing the House, the PBA had to thwart some unfavorable amendments. The Pennsylvania Family Law Section was involved in the progression of this legislation.

• Act 55 of 2018 — this “twofer” is the result of years of work with the Pennsylvania Association for Justice and the Pennsylvania Insurance Federation. Two PBA initiatives, the Revised Uniform Arbitration Act (RUAA) and the Pennsylvania Collaborative Law Act, were signed into law as Act 55 of 2018. The RUAA was first introduced in 2007 to update Pennsylvania’s arbitration law by addressing higher ethical standards for arbitrators, greater discovery tools, summary judgment, default provision in arbitration agreements, etc. Pennsylvania’s Collaborative Law Act standardizes collaborative law practice. Getting Act 55 signed by the governor was nail-bitingly tense as his office had questions about the language prior to the bill’s final passage.

• Act 164 of 2018 — this amends the Sexual Assault Testing and Evidence Collection Act to address the backlog of untested rape kits. The PBA was integral in getting the legislation passed after the original prime sponsor resigned from the general assembly.

• Act 34 of 2018 — the PBA was heavily involved in the original drafting of this bill that provides for the acquisition of real property by adverse possession through an action in quiet title after 10 years, rather than 21 as under original law, for properties no more than one-half acre.

• Act 33 of 2017 — before it was approved by the governor, the PBA successfully secured amendments in the House on this bill that allows eligible patients with a terminal illness to use investigational drugs, biological products and medical devices not yet approved by the U.S. Food and Drug Administration.

• Act 102 of 2018 — Prior to the bill’s introduction, the PBA was successful in preventing the expansion of the scope of this bill that prohibits the award of alimony pendente lite or spousal support to a party who has been convicted of a personal injury crime against the obligor.

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competing for the same members and are all in the same family, so to speak. We need to find more ways of doing that and find more ways to work in partnership with county bars.”

PBA conducted a public education campaign this year, Understanding When Grandparents and Others Can Seek Custody, with basic information about Act 21 of 2018 that expands who can request custody of a minor child. The project was a joint effort of the PBA, 27 county bar associations, the Pennsylvania Bar Insurance and Trust Fund, the PBA Community and Public Relations Committee, the PBA Family Law Section, the Pennsylvania NewsMedia Association, the Pennsylvania Association of Broadcasters and the Elizabeth Loranzo iCare Foundation.

This year, the Pennsylvania Bar Institute and the PBA consolidated administrative functions. Simpson admitted there are challenges. “The first is to keep the extremely great quality CLE offerings and find more ways to deliver those. We are adding a lot of on-demand courses and increasing the capabilities to create those.”

PBI was originally part of the PBA but separated in 1970. In 1992 when mandatory CLEs came into being, PBI took off. Now, there are more than 200 CLE providers. Simpson said, “Law firms, local bar associations and the government offer free or low cost CLEs. We recognize our market share is down and revenue is down, so we had to rethink how we market.”

After some reassignments and departures, the PBI staff is now an appropriate size for its functions, Simpson said. The organization chart is divided into two function areas: content development and content delivery. PBI is now ready for on-demand CLEs. It increased its capacity to produce them, to include creating a studio to produce high-quality CLEs rather than just a videotaped live CLE. “The quality of content is still there, and the ease of delivery is greater now,” Simpson said.

The PBA Legislative Department is “a great success story,” Simpson said. With two lawyers and a legislative assistant working with members, the department has seen victories this year. (See article above.)

In its mission to promote the administration of justice, the PBA continues to search for ways to make certain everyone has access to legal services. One way is to ensure that there are enough lawyers. Simpson said, “There are fewer people at the law school level and fewer older ones retiring from practice, so the total pie is being pinched from both ends. For some young people, the lure of public service is tempered by economic decisions.”

The PBA recognizes this challenge, Simpson said, and is responding by involvement in programs such as the Constitution Day, the First Amendment program, the Constitution education videos and a lot of programs with students to introduce them to the possibilities of a law career.

Looking ahead to 2019, Simpson said, “We will focus on growing and serving the membership. For me, the challenge is to integrate the PBI into the PBA successfully. The rewards are more opportunities for sections and committees to be involved in the development and presentation of content. There is a lot of potential when people start to think differently.”

He said the PBA will continue to work hard in getting different entities working together. “We want people from across the state, in different practice areas, to get together. Technology helps with that. We already have a good model in our western Pennsylvania office. It is working very well. Having a presence there is making a difference.”

Simpson thanked all PBA members. “Your involvement is the strength of the organization.”