

**IN THE SUPREME COURT OF PENNSYLVANIA**

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**No. 22 EAP 2021**

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**JASMINE WEEKS, ARNELL HOWARD, PATRICIA SHALLICK,  
individually and on behalf of all others similarly situated,**

**Appellants,**

**v.**

**DEPARTMENT OF HUMAN SERVICES  
OF THE COMMONWEALTH OF PENNSYLVANIA,**

**Appellee.**

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**APPELLANTS' REPLY BRIEF**

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Appeal from the Order of the Commonwealth Court, *Weeks v. Department of Human Services*, 409 M.D. 2019 (May 13, 2021).

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**JANUARY 18, 2022**

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## INTRODUCTION AND SUMMARY OF ARGUMENT

Appellee, the Department of Human Services (“Department”) argues that the provision of health care for low-income individuals is the subject and purpose of both the original and final bill. This is not true, and it reveals the crux of the constitutional issues at stake. The sole purpose of the bill introduced in January 2019 as House Bill 33 was to eliminate General Assistance cash benefits. General Assistance cash benefits are not health care. The misleading titles of the original and final bill, together with the amendments, have confused this issue throughout this litigation. The elimination of General Assistance cash benefits is *not* related to the provision of health care.

Elimination of General Assistance cash benefits remained the sole purpose and subject of the bill until the amendments were introduced on June 18, 2019, less than two weeks before the bill was enacted and the budget for Fiscal Year 2019-20 had to be finalized. The amendments added unrelated provisions regarding the Philadelphia Hospital Assessments, Nursing Facility Incentive Payments, and the Statewide Quality Care Assessment. These provisions were essential to the state budget and had been introduced in freestanding legislation. Amending them into House Bill 33 changed the purpose of the bill and made it into a multi-subject, omnibus bill. This is the kind of logrolling Article III was designed to prevent. The amendments were not about the provision of health care or other benefits to low-income individuals; they were about revenue and spending. The amendment

of these provisions into House Bill 33, rather than passing those provisions in freestanding legislation, is the source of the constitutional violations here.

The fact that the Department continues to argue that the bill's subject and purpose is the provision of health care shows how effectively the legislature's unconstitutional procedures changed the narrative about this bill. The misleading bill title and the amendments create the appearance that Act 12 is about revenue and spending for health care, through hospitals and nursing homes, for low-income Pennsylvanians. The unconstitutional procedures successfully obscured the bill's original purpose and subject, which was to terminate a cash assistance program providing \$205 per month, issued in two installments of \$102.50, for indigent Pennsylvanians who have disabilities or who are fleeing domestic violence.

Although this appeal is from the Commonwealth Court's dismissal of the Amended Petition on preliminary objections, the Department does not address the standard for review in such appeals, *i.e.*, that preliminary objections "should be sustained only in cases that clearly and without a doubt fail to state a claim for which relief may be granted." *Raynor v. D'Annunzio*, 243 A.3d 41, 52 (Pa. 2020). Instead, the Department refers only to the "extremely deferential" standard applied to a statute challenged on constitutional grounds, *i.e.*, the standard of review on the merits. Appellee Br., 1, 12-13.

Whether this Court decides this appeal in the current procedural posture or reaches the merits of the constitutional issues, Appellants should prevail.

Appellants have readily stated claims and have shown that Act 12 was enacted in violation of Article III, Sections 1 and 3 of the Pennsylvania Constitution, because its original purpose changed, its title is deceptive, and its provisions address more than a single subject.

If the Court decides this case on the merits, the legal standard is high but not insurmountable. This Court cannot abdicate its role in reviewing legislation for constitutionality. Indeed, this Court has found legislation unconstitutional for failure to comply with Article III in *Washington v. Department of Public Welfare*, 188 A.3d 1135 (Pa. 2018); *Leach v. Commonwealth*, 141 A.3d 426 (Pa. 2016); *Commonwealth v. Neiman*, 84 A. 3d 603 (Pa. 2013); *Pa. State Association of Jury Commissioners v. Commonwealth*, 64 A.3d 611 (Pa. 2013); and *City of Philadelphia v. Commonwealth*, 838 A.2d 566 (Pa. 2003).

## ARGUMENT

**The Commonwealth Court erred in sustaining the preliminary objections and dismissing the amended petition; the amended petition states a claim that Act 12 violates Article III, Sections 1 and 3 of the Pennsylvania Constitution.**

**A. Act 12 violates Article III, Section 1, because the amendments changed the purpose of the legislation and because the title was deceptive.**

**1. The original purpose of the bill was to end General Assistance cash benefits and was not related to health care.**

The Department argues that the purpose of the original bill “was to amend existing provisions of the Human Services Code providing medical assistance to low-income individuals.” Appellee Br., 16. This is wrong. This misimpression is due both to the bill’s deceptive title as well as to the Department’s attempts to fit the original bill into the purposes of the final bill. The purpose of the original bill was to terminate General Assistance cash benefits, in express response to this Court’s 2018 decision in *Washington v. Dep’t of Pub. Welfare*, 188 A.3d 1135 (Pa. 2018).

The only effect of the original bill was to end General Assistance cash benefits; it made no changes to General Assistance medical assistance, a tiny, state-funded health insurance program. As set forth in Appellants’ Initial Brief at 31-32, the references in the original and final bill to General Assistance medical assistance served only to preserve that program unchanged despite the termination of General Assistance cash benefits; principally, the changes removed cross-references to General Assistance cash benefits. In fact, the Department has

conceded that “General Assistance medical assistance is not affected” by the legislation. Declaration of Cathy Buhrig, ¶ 4 (July 29, 2019), R. 383a.

The bill’s sponsor entitled the co-sponsorship memorandum, “Re-enacting the elimination of the General Assistance cash benefit program,” and explained in the memorandum, “The general assistance cash benefit program ended on August 1, 2012 under the provisions of Act 80 of 2012. . . . This reenactment is necessary because Act 80 was recently overturned by the courts on procedural grounds.”

Memorandum, Dec. 21, 2018, R. 529a.<sup>1</sup> When the bill was considered in the House Health Committee, the bill synopsis described the purpose of the bill:

“Amends the Human Services Code to eliminate the general assistance cash benefit program, which was recently reinstated by the PA Supreme Court due to asserted procedural violations.” H.B. 33, P.N. 47 (March 20, 2019) House Health Committee Bill Summary (W. Metzler, Esq.), R. 207a.

In addition, this Court has recognized that “H.B. 33 originally had only three provisions, all relating in some way to cash assistance.” *Weeks v. Department of Human Services*, 222 A.3d 722, 731 (Pa. 2019). Thus, the original purpose of the bill was the elimination of General Assistance cash benefits.

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<sup>1</sup> This memorandum and other parts of the legislative history of House Bill 33 are also available on the Pennsylvania Legislature’s website at: <https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2019&sInd=0&body=H&type=B&bn=0033>; the memorandum is here: <https://www.legis.state.pa.us//cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20190&cosponId=27172> (last accessed Jan. 10, 2022).



**2. The amended, final bill had a different purpose.**

A reviewing court considers “the original purpose of the legislation and compare[s] it to the final purpose and determine[s] whether there has been an alteration or amendment so as to change the original purpose.” *Pennsylvanians Against Gambling Expansion Fund, Inc., v. Commonwealth*, 877 A.2d 383, 408-09 (Pa. 2005) (“PAGE”). Here, Act 12 had a different purpose than the original bill, H.B. 33, P.N. 47. The Department’s arguments that the amendments to the bill did not change its original purpose are not persuasive.

The amendments to House Bill 33 reauthorized the Philadelphia Hospital Assessments and extended and increased funding for the Nursing Facility Incentive Payments, both of which were essential to the state budget. As explained in the Co-sponsorship Memorandum for S.B. 695, the freestanding bill that contained the Philadelphia Hospital Assessments and the Nursing Facility Incentive Payments, the purpose of that bill was:

to complete our budgetary obligations for Fiscal Year 2019-20 and beyond. Specifically, the following provisions of the Human Services Code require reauthorization from the General Assembly before they sunset on June 30, 2019.

Co-sponsorship Memorandum, May 15, 2019, R. 556a. The Philadelphia Hospital Assessments draw down \$165 million in federal Medicaid dollars per year for five years, for a total fiscal impact of \$825 million. *See* Senate Appropriations Fiscal Note, H.B. 33, P.N. 2182 (June 20, 2019), R. 527a. The assessments were set to

sunset on June 30, 2019. The Nursing Facility Incentive Payments were set to sunset on the same date.

The amendment of these provisions into the bill to end General Assistance cash benefits changed the original purpose of the bill. The original purpose of the bill was to terminate the cash benefits program. The purpose of the separate bill to reauthorize the Philadelphia Hospital Assessments and increase the Nursing Facility Incentive Payments was to raise revenue and reauthorize tax and spending provisions that would otherwise sunset.

Unlike the cases relied upon by the Department, where the amendments expanded but did not change the bill's original purpose, these amendments added new purposes to the bill. The new purposes were wholly unrelated to General Assistance cash benefits for survivors of domestic violence and people with disabilities: increasing state revenues and reauthorization of hospital taxes and nursing home funds. In *PAGE*, as the Department concedes, the original bill was about the horse racing industry, and the final bill included provisions relating to the same broad purpose: the regulation of gaming. *PAGE*, 877 A.2d 409. In *Stilp*, the original bill established compensation in the Executive Branch, and the amended bill addressed compensation for all three branches of government. *Stilp v. Commonwealth*, 905 A.2d 918, 957 (Pa. 2006).

The other case relied upon by the Department was initially about nursing home inspection, and amendments were added which solely addressed the

regulation of nursing homes. *Christ the King Manor v. Dep't of Pub. Welfare*, 911 A.2d 624 (Pa.Cmwlth. 2006). Strikingly, *Christ the King* was always only about regulation of nursing homes, whereas this bill initially had the sole purpose of eliminating General Assistance cash benefits; it was later amended to include additional purposes.

Although a reviewing court is permitted to hypothesize “a reasonably broad original purpose” for a bill, *PAGE*, 877 A.2d at 409, neither “provision of health care to low-income individuals” nor “provision of benefits pertaining to the necessities of life to low-income individuals” passes muster in an Article III, Section 1 analysis.

The legislative history is clear that the original purpose of the bill was to eliminate General Assistance cash benefits, in response to this Court’s 2018 decision in *Washington*. Even if a reasonably broad purpose for legislation could be “provision of health care to low-income individuals,” that purpose does not encompass the single stated purpose of the original bill – elimination of General Assistance cash benefits – since cash benefits are not health care.

Assuming *arguendo* that a reasonably broad purpose including elimination of General Assistance cash benefits could be “provision of benefits pertaining to the necessities of life to low-income individuals,” Appellee Br., 18,<sup>2</sup> that purpose

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<sup>2</sup> As detailed in Appellants’ Brief at 55-56, the subject “benefits pertaining to the necessities of life for low-income individuals” is unconstitutionally overbroad.

does not survive the second step of the analysis. In the second step, the court considers whether amendments changed the original purpose. Here, the amendments had the stated purpose of meeting budget obligations and reauthorizing expiring tax and spending provisions. Co-sponsorship Memorandum, May 15, 2019, R. 556a. The amendments were necessary to ensure \$825 million in revenue over five years. *See* Senate Appropriations Fiscal Note, H.B. 33, P.N. 2182, June 20, 2019), R. 527a. The purpose of the amendments was not the provision of benefits to low-income individuals; the purpose was to draw down \$825 million in revenue, expand permitted uses of that revenue, increase payments to nursing facilities, amend the Statewide Quality Care Assessment, and reauthorize the Philadelphia Hospital Assessment and the Nursing Facility Incentive Payments, both of which were due to sunset. The amendments changed the original purpose of the bill.

**3. The title of the bill was deceptive.**

The Department's brief conflates the deceptive title analysis under Article III, Section 1, which is at issue here, with the clear title analysis under Article III, Section 3, which Appellants have not raised. The Department's references to *PAGE* and *Phantom Fireworks* address claims raised under Article III, Section 3's clear title requirement. Appellee Br., 20-21 (citing *PAGE*, 877 A.2d at 405;<sup>3</sup>

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<sup>3</sup> In *PAGE*, this Court separately considered both Article III, Section 3 clear title (877 A.2d, 404-406) and Article III, Section 1 deceptive title (877 A.2d, 408-410),

*Phantom Fireworks Showrooms, LLC, v. Wolf*, 198 A.3d 1205, 1224 (Pa.Cmwlth. 2008)). Although the Department criticizes Appellants’ brief as “apparently unsatisfied with applicable Pennsylvania precedent,” Appellee Br., 21,<sup>4</sup> the authority relied upon by the Department is not applicable to this case.

As this Court explained in *PAGE*, the deceptive title analysis is a second and independent prong of an Article III, Section 1 inquiry. It is not the same as a clear title inquiry. The analysis includes only “whether the title and the content of the bill in final form were deceptive,” explained as “whether the title placed reasonable persons on notice of the subject of the bill.” *PAGE*, 877 A.2d at 409. The deceptive title analysis does not require an intent to deceive or specific allegations that lawmakers were deceived. The Department’s argument to the contrary is unsupported by precedent. Appellee Br., 24. There is no requirement for specific allegations that any lawmaker did not have reasonable notice, and in fact such a requirement might run afoul of the enrolled bill doctrine, which generally bars courts from considering lawmakers’ statements outside the legislative history.

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but the Department cited to the discussion and standard for Article III, Section 3 clear title. Appellee Br., 21.

<sup>4</sup> The Department questions Appellants’ reliance on authority from other state supreme courts applying the same or similar deceptive title provisions from their state constitutions. Appellee Br., 21. This Court, however, recently undertook an extensive review of state supreme court decisions on Article XI, § 1, the single subject rule for constitutional amendments, calling the tests applied by other courts “instructive” and “relevan[t].” *League of Women Voters of Pa. v. Secretary*, No. 4 MAP 2021 (Pa., Dec. 21, 2021), Slip Op. 41-46. Similarly, the tests other states apply to deceptive title cases are instructive and relevant here.

The Department concedes that a “glaringly deceptive” title would run afoul of Article III, Section 1. Appellee Br., 21-22. It is difficult to imagine a more glaringly deceptive title than that of Act 12. As set forth in Appellants’ Initial Brief, the title of Act 12 omits the crucial fact that the bill ends General Assistance cash benefits. Indeed, it does not mention General Assistance cash benefits at all. Appellants’ Br., 38-45. By failing to “place[] reasonable persons on notice of the subject of the bill,” *PAGE*, 877 A.3d at 409, the bill’s title is deceptive. Omitting reference to a subject of a bill, while using phrasing that is so general as to obscure the change imposed by the legislation, is the type of “glaringly false, deceptive and misleading” title found unconstitutional in the authority relied upon in Appellants’ Brief at pp. 41-44 (quoting *Painter v. Mattfeldt*, 87 A. 413, 416-17 (Md. 1913)).

Contrary to the Department’s argument, the authority from other states is persuasive here. Each of the cases relied upon in Appellants’ Brief finds a bill’s title misleading because it omits a significant component or effect of the bill. In Montana, a title is deceptive if its title is about a specific law, but the bill itself “nullif[ies] and defeat[s]” that law “without reference thereto in the title.” *City of Helena v. Omholt*, 468 P.2d 764, 768-69 (Mont. 1970). Maryland also finds bill titles deceptive when an omission in the title “diverts attention from the matters contained in the body of the act.” *Painter v. Mattfeldt*, 87 A.13 at 416-17. Similarly here, Act 12 nullifies General Assistance cash benefits without referring to those benefits or their elimination in the title. Tennessee, New Jersey and

Wisconsin have found unconstitutional bills affecting a single county or city, where the general title of the bill does not specify the city or county affected. *Warren v. Walker*, 71 S.W. 2d 1057, 1059 (Tenn. 1934); *Warren, Coutieri v. City of New Brunswick*, 44 N.J.L. 58, 59 (N.J. 1882); *Durkee v. City of Janesville*, 29 Wis. 697 (1870). Applying the tests articulated in these cases, the title of Act 12, by failing to refer to General Assistance cash benefits, is deceptive and misleading.

Moreover, the Department's effort to contrast the title of Act 12 with the title of Act 80-2012, the bill which eliminated General Assistance cash benefits and was struck down as unconstitutional in *Washington, Appellee Br.*, 23-25, is unavailing. The title of Act 80 explicitly included the phrase, "providing for the cessation of the general assistance cash program," *Washington*, 188 A.3d at 1141, n.18, while the title of Act 12 does not reference cash benefits or the elimination of the program at all.<sup>5</sup>

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<sup>5</sup> The Department's assertion that the elimination of General Assistance in Act 80 was "buried" among a multitude of other provisions, *Appellee Br.*, 25, misses the point that the Legislature explicitly announced in the title of Act 80 that it eliminated General Assistance cash benefits while the title of Act 12, at issue here, made no reference whatsoever to General Assistance cash benefits.

**B. Act 12 violates Article III, Section 3, because its disparate subjects do not have a nexus to a common purpose and unifying scheme.**

The Department argues that the unifying subject for Act 12 is the provision of health care to low-income individuals. As part of that argument, the Department takes the position that the original bill made changes to General Assistance medical assistance, and that the unifying scheme of the amendments is the provision of health care to low-income individuals. But Act 12 made no changes to General Assistance medical assistance, the subject of the bill is not the provision of health care, and the amendments, which are about the budget, are not part of a unifying scheme to accomplish a singular purpose.

**1. Act 12 made no changes to General Assistance medical assistance.**

The Department argues that Act 12, in its original and final versions, made changes to the General Assistance medical assistance program. Appellee Br., 29. This is incorrect. As set forth in detail in the Amended Petition, ¶ 42, and in Appellants' Brief, pp. 31-34, Act 12 made no changes to the General Assistance medical assistance program. It merely removed cross-references to the eliminated General Assistance cash benefits program. The Department submitted a sworn declaration earlier in this litigation stating, "General Assistance medical assistance is not affected by Act 12." Buhrig Decl., ¶ 4 (July 29, 2019), R. 383a. The Department's position that no factual disputes are at issue, Appellee Br. 10, further



shows that it is undisputed that Act 12 made no changes to General Assistance medical assistance.

**2. The subject of Act 12 is not the provision of health care.**

The Department argues that the unifying subject of the bill is “the provision of health care for certain low-income individuals.” Appellee Br., 30. As set forth in Appellants’ Initial Brief and in Part A of this brief, the elimination of General Assistance cash benefits is not the provision of health care. To the contrary, the assertion that the subject of Act 12 is the provision of health care shows how successful the legislature’s efforts were to obscure the original subject of the bill and add additional subjects. The deceptive title and the amendments about the Philadelphia Hospital Assessments, the Nursing Facility Incentive Payments, and the Statewide Quality Care Assessments make it appear that the bill is about institutional health care providers such as hospitals and nursing homes.

**3. Neither the subject “health care for low-income individuals” nor “the provision of benefits for low-income individuals” has a sufficient nexus or unifying purpose with all of the provisions of Act 12.**

A unifying subject must not only be constitutionally narrow, but also must fit the provisions of the bill. Here, neither of the Department’s proposed unifying subjects has a close enough fit with the provisions of Act 12.

Single-subject review requires a court to “examine the various subjects contained within a legislative enactment and determine whether they have a nexus to a common purpose. . . . to ascertain whether the various components of the

enactment are part of ‘a unifying scheme to accomplish a single purpose.’” *Commonwealth v. Neiman*, 84 A.3d 603, 612 (Pa. 2013) (internal citations omitted). As this Court recently explained in regard to constitutional amendments, the single-subject test is whether “the[] changes function in an interrelated fashion to accomplish one singular objective, which means that [the court] must determine whether the changes depend on one another for the fulfillment of that objective.” *League of Women Voters*, Slip Op. at 49.

The role of the reviewing court is not only to hypothesize a unifying subject, but also to ensure that the bill’s provisions have a nexus to that subject by sharing a common purpose. Under this framework, neither the provision of health care to low-income individuals nor the provision of benefits to low-income individuals is a valid unifying subject, because the amendments do not share a common unifying scheme and do not function to accomplish one singular objective.

Appellants contend that “the provision of basic necessities for low-income individuals” is too broad to constitute a constitutionally valid unifying subject. Appellants’ Br., 55-56. Assuming *arguendo* that it were not, it could not save Act 12. The amendments about the Philadelphia Hospital Assessments, the Nursing Facility Incentive Payments, and the Statewide Quality Care Assessments affect the state budget and institutional health care funding for hospitals and nursing homes. Their primary purpose, as explained above, was not to provide benefits to low-income individuals. The changes to the Philadelphia Hospital Assessments

also permit municipal spending of assessment revenue on public health programs. Those programs are neither benefits nor means-tested; rather, they serve all Philadelphia residents. *See* Appellants' Br., 49, 56-57. The amendments have no impact on eligibility of individuals for health care coverage through Medicaid, or on the range of services available to individuals who receive Medicaid.

The General Assembly's primary purpose in those amendments was to "complete budgetary obligations" and "reauthorize provisions" that would otherwise sunset. Co-sponsorship Memorandum, May 15, 2019, R. 556a. Because the "primary purpose" of the provisions was not the provision of benefits to low-income individuals, that cannot be the unifying subject for the bill. *Cf. Robinson Township v. Commonwealth*, 147 A.3d 536, 539 (Pa. 2016) (holding that bill satisfies single-subject inquiry by examining the "primary purpose" of various provisions).

**4. The passage of Act 12 was unconstitutional logrolling both in the legislature and between the legislature and the Governor.**

As the Department concedes, "logrolling is the combining of several *distinct* matters, which would not pass in their own right, to secure passage." Appellee Br., 36. The Department does not contest Appellants' position that the provisions were combined in order to secure votes from those who might have opposed the elimination of General Assistance cash benefits on its own. Instead, the Department argues that the amendments to Act 12 do not amount to logrolling,

because they are related to a unifying topic. This is wrong. As set forth in Appellants' Brief and above, the amendments do not share a unifying scheme to accomplish a single purpose. The various provisions of Act 12 do not function to accomplish one singular objective. Their combination into a single bill limited the legislature's ability to independently consider each subject, and thus it was logrolling.

Conspicuously, the Department does not respond to Appellants' argument that the passage of Act 12 was unconstitutional logrolling that undermines the Governor's veto power. *See* Appellants' Br., 57-59. For the reasons in Appellants' Initial Brief and in this brief, the inclusion of disparate subjects in Act 12 unconstitutionally limited the Governor's veto power.

**C. This Court can and should consider all of the facts in the Amended Petition regarding the passage of Act 12.**

The Department argues that the Amended Petition includes facts this Court may not consider under the enrolled bill doctrine. Appellee Br., 15-16 n.6 (specifying press reports in the Amended Petition, ¶¶ 51, 52, 56, 58, R. 486a-489a). The Department overstates the breadth of this doctrine. Applying the enrolled bill doctrine correctly, all facts in the Amended Petition may be considered. In particular, this Court can and should consider the press reports of the Governor's statements about Act 12.

The enrolled bill doctrine limits courts from considering “subjective, individualized motivations or impressions of specific legislators” when determining a statute’s validity. *City of Philadelphia*, 838 A.2d at 580. Courts do not consider legislators’ words, because to do so “would be ‘going behind’ the statute as enacted and inappropriately delving into the mental processes of the legislators who voted on it.” *Id.*

The enrolled bill doctrine does not restrict courts from reviewing versions of a bill and its legislative history. The Department concedes that this Court “can and should consider” the legislative history, “including the two versions of H.B. 33, the certified copy of the enrolled bill that became Act 12, and the limited procedural history available from General Assembly official sources, including on the General Assembly’s website.” Appellee Br., 15-16 n.6. Based on this concession, the Department does not object to the following documents referenced in the Amended Petition: various versions of H.B. 33 and S.B. 695 (Am. Pet. ¶¶39, 42, 49, 61-62); the amendments (Am. Pet. ¶¶45-48, 64); the co-sponsorship memorandum (Am. Pet. ¶40); the votes in committee and on the floor (Am. Pet. ¶¶43, 44, 50, 55-56, 63, 65); and the other official legislative history documents (Am. Pet. ¶41 (House Health Committee bill analysis); ¶53 (Senate Health Committee, Pennsylvania Legislative Service report); ¶59 (Pennsylvania Bulletin)).

As set forth above, the enrolled bill doctrine prevents courts from improperly looking behind the legislative process. As such, the doctrine applies to

the legislative process only. It does not apply to sources unrelated to the legislative process, including, as here, the Governor's public comments about the bill. *See, e.g.*, Am. Pet. ¶¶51-52, 58. Because the Governor's comments are outside the legislative process, they are not encompassed in the enrolled bill doctrine and should be considered by this Court.

Notably, the Department does not take factual issue with the fact that the Governor made the statements to the press or the accuracy of the press reports. The Department states there are no factual disputes with the Amended Petition. Appellee Br., 10. Particularly here, where the parties do not dispute the fact that the statements were made, it is appropriate for this Court to take judicial notice of the Governor's statements referenced in the Amended Petition at ¶¶51-52 and 58. *See Pa.R.E. 201(b)(2)* ("the court may judicially notice a fact that is not subject to reasonable dispute because it can be accurately and readily determined from sources whose accuracy cannot readily be questioned.").

Further, these statements are relevant to the impact of logrolling, as discussed in Appellants' Initial Brief and above, which unconstitutionally undermined the Governor's veto power.

## **CONCLUSION**

For the reasons set forth above and in the Initial Brief, Appellants respectfully request that this Court reverse the lower court's order sustaining the preliminary objections and dismissing the amended petition. In addition or in the

alternative, Appellants request that this Court address the merits and find that Act 12 violates the Pennsylvania Constitution, Article III §§ 1 & 3. Appellants also request oral argument.

Respectfully submitted,

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January 18, 2022

## CERTIFICATE OF COMPLIANCE

I certify that, according to the word processing system used to prepare this brief, the brief, excluding supplementary materials, is approximately 4,573 words.

/s/ Maria Pulzetti  
Maria Pulzetti

Dated: January 18, 2022

## CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

/s/ Maria Pulzetti  
Maria Pulzetti

Dated: January 18, 2022



IN THE SUPREME COURT OF PENNSYLVANIA  
EASTERN DISTRICT

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JASMINE WEEKS, ARNELL HOWARD,  
PATRICIA SHALLICK,  
individually and on behalf of all others  
similarly situated,

Appellants,

v.

DEPARTMENT OF HUMAN SERVICES  
OF THE COMMONWEALTH OF  
PENNSYLVANIA,

Appellee.

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No. 22 EAP 2021

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18th day of January, 2022, true and correct copies of the foregoing Appellants' Brief were served upon the following persons in the manner indicated, satisfying the requirements of Pa.R.A.P. 121:

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