
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1959 Session of
1977

INTRODUCED BY GAMBLE, MRKONIC, DUFFY, VALICENTI, TRELLO, LOGUE,
ABRAHAM, MISCEVICH, NOVAK, GILLETTE, KERNICK AND COWELL,
DECEMBER 7, 1977

REFERRED TO COMMITTEE ON JUDICIARY, DECEMBER 7, 1977

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for sentencing for
3 first degree murder.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Subsections (c) and (d) of section 1311 of Title
7 18 (Crimes and Offenses), act of November 25, 1970 (P.L.707,
8 No.230), known as the Pennsylvania Consolidated Statutes, are
9 amended to read:

10 § 1311. Sentencing for murder.

11 * * *

12 (c) Procedure at sentencing hearing.--After such verdict is
13 recorded and before the jury is permitted to separate, the court
14 shall proceed to receive such additional evidence not previously
15 received from the trial as may be relevant and admissible upon
16 the question of aggravating and mitigating circumstances and
17 shall permit such argument by counsel, and deliver such charge
18 thereon as may be just and proper in the circumstances.

1 Aggravating circumstances must be proved beyond a reasonable
2 doubt. [Mitigating circumstances must be proved by a
3 preponderance of the evidence.] The jury shall then retire and
4 consider the aggravating and mitigating circumstances and render
5 such verdict respecting them as they shall agree upon. A failure
6 of the jury to agree upon the aggravating and mitigating
7 circumstances shall not be held to impeach or in any way affect
8 the validity of the verdict already recorded, and whenever the
9 court shall be of the opinion that further deliberation by the
10 jury will not result in an agreement upon the aggravating and
11 mitigating circumstances, it may, in its discretion, discharge
12 the jury from further consideration thereof, in which event if
13 no retrial is directed, the court shall sentence the defendant
14 to life imprisonment upon the verdict theretofore rendered by
15 the jury and recorded as aforesaid and the jury shall be so
16 informed prior to their deliberations. The court shall impose
17 the sentence so fixed as in other cases.

18 (d) Aggravating and mitigating circumstances.--If a murder
19 of the first degree is accompanied by at least one of the
20 following aggravating circumstances and [none of the following
21 mitigating circumstances] there is a finding that no mitigating
22 circumstance sufficiently substantial to call for leniency
23 exists, the person convicted shall be sentenced to death. If a
24 murder of the first degree is not accompanied by any of the
25 following aggravating circumstances or [is accompanied by at
26 least one of the following mitigating circumstances] there is a
27 finding of a mitigating circumstance sufficiently substantial to
28 call for leniency, the person convicted shall be sentenced to
29 life imprisonment:

30 (1) Aggravating circumstances.--

1 (i) The victim was a fireman, peace officer or
2 public servant concerned in official detention as defined
3 in section 5121 [of this title] (relating to escape), who
4 was killed in the performance of his duties.

5 (ii) The defendant paid or was paid by another
6 person or had contracted to pay or be paid by another
7 person or had conspired to pay or be paid by another
8 person for the killing of the victim.

9 (iii) The victim was being held by the defendant for
10 ransom or reward, or as a shield or hostage.

11 (iv) The death of the victim occurred while
12 defendant was engaged in the hijacking of an aircraft.

13 (v) The victim was a witness to a murder or other
14 felony committed by the defendant and was killed for the
15 purpose of preventing his testimony against the defendant
16 in any grand jury or criminal proceeding involving such
17 offenses.

18 (vi) The defendant committed a killing while in the
19 perpetration of a felony.

20 (vii) In the commission of the offense the defendant
21 knowingly created a grave risk of death to another person
22 in addition to the victim of the offense.

23 (viii) The offense was committed by means of
24 torture.

25 (ix) The defendant has been convicted of another
26 Federal or State offense, committed either before or at
27 the time of the offense at issue, for which a sentence of
28 life imprisonment or death was imposable or the defendant
29 was undergoing a sentence of life imprisonment for any
30 reason at the time of the commission of the offense.

1 (2) Mitigating circumstances.--

2 (i) The age, lack of maturity, or youth of the
3 defendant at the time of the killing.

4 (ii) The victim was a participant in or consented to
5 the defendant's conduct as set forth in section 1311(d)
6 [of this title] or was a participant in or consented to
7 the killing.

8 (iii) The defendant was under duress although not
9 such duress as to constitute a defense to prosecution
10 under section 309 [of this title] (relating to duress).

11 (iv) Any other circumstance relating to the
12 character and record of the defendant sufficiently
13 substantial to call for leniency.

14 * * *

15 Section 2. This act shall take effect in 60 days and shall
16 apply to offenses committed thereafter.