THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL No. 197 Session of 1977

INTRODUCED BY MESSRS. SCIRICA, BERSON, SPENCER, MANDERINO, W. D. HUTCHINSON, O'DONNELL, IRVIS, DOYLE, FISHER, YOHN, PRATT, WAGNER AND RHODES, FEBRUARY 9, 1977

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 9, 1977

AN ACT

1 2 3	Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for sentencing alternatives and appellate review of sentences.
4	The General Assembly of the Commonwealth of Pennsylvania
5	hereby enacts as follows:
6	Section 1. Subsection (b) of section 1321 of Title 18, act
7	of November 25, 1970 (P.L.707, No.230), known as the
8	Pennsylvania Consolidated Statutes, is amended to read:
9	§ 1321. Sentencing generally.
10	* * *
11	(b) General standardsIn selecting from the alternatives
12	set forth in subsection (a) [of this section] the court shall
13	follow the general principle that the sentence imposed should
14	call for the minimum amount of confinement that is consistent
15	with the protection of the public, the gravity of the offense,
16	and the rehabilitative needs of the defendant. The court shall
17	also consider any guidelines for sentencing promulgated by the
18	Pennsylvania Commission on Sentencing, established by the act of

1	(P.L. , No.), entitled "
2	." In every case in which the court imposes a
3	sentence, the court shall make as a part of the record, and
4	disclose in open court at the time of sentencing, a statement of
5	the reason or reasons for the sentence imposed. Failure to
б	comply shall be grounds for vacating the sentence and
7	resentencing the defendant.
8	* * *
9	Section 2. Subchapter G of Chapter 13 of Title 18 is
10	repealed.
11	Section 3. Chapter 13 of Title 18 is amended by adding a
12	subchapter to read:
13	CHAPTER 13
14	AUTHORITY OF COURT IN SENTENCING
15	* * *
16	SUBCHAPTER G
17	APPELLATE REVIEW OF SENTENCES
18	Sec.
19	1381. Review of sentence.
20	§ 1381. Review of sentence.
21	(a) Filing of petitionA petition for review of sentence
22	may be filed with the Superior Court and a copy of such petition
23	filed with the sentencing court by:
24	(1) the defendant within the time specified for the
25	filing of a notice of appeal; or
26	(2) the Commonwealth within the time specified for the
27	defendant's filing of notice of appeal if the sentence
28	includes a fine or term of imprisonment less than the minimum
29	established by the guideline for sentencing promulgated by
30	the Pennsylvania Commission on Sentencing hereinafter
197	70H0197B0217 - 2 -

1 referred to as the commission.

(b) Certification of record. -- Upon receipt of a copy of 2 3 petition for review, the court that imposed the sentence shall 4 certify to the Superior Court that portion of the record in the 5 case that is designated as pertinent by either or both of the parties, the presentence investigation, if any, and the 6 transcript of the sentence proceeding which shall include a 7 statement of reasons for the sentence imposed by the sentencing 8 9 court.

10 (c) Review of record.--

11 (1) Upon review of the record, the Superior Court shall 12 determine whether:

(i) the sentencing court erroneously applied the
guidelines for sentencing promulgated by the commission;
(ii) the sentence imposed is within the guidelines
for sentencing promulgated by the commission and is

17 clearly unreasonable; or

18 (iii) the sentence imposed is outside the guidelines
19 for sentencing promulgated by the commission and is
20 unreasonable.

(2) In making the determination required in paragraph(1), the Superior Court shall have regard for:

23 (i) The nature and circumstances of the offense and24 the history and characteristics of the defendant.

25 (ii) The opportunity of the sentencing court to
26 observe the defendant, including any presentence
27 investigation.

28 (iii) The findings upon which the sentence was29 based.

30 (iv) The guidelines promulgated by the commission 19770H0197B0217 - 3 - and any statutory guidelines established under this
 chapter.

3 (d) Appellate determination.--

4 (1) If the Superior Court determines that the guidelines 5 for sentencing promulgated by the commission were erroneously 6 applied by the sentencing court, the Superior Court shall set 7 aside the sentence and remand the case for further sentencing 8 proceedings.

9 (2) If the Superior Court determines that the guidelines 10 for sentencing promulgated by the commission were properly 11 applied, but that the sentence imposed by the sentencing 12 court was either within the guidelines established by the 13 commission and clearly unreasonable, or outside the 14 guidelines for sentencing established by the commission and 15 unreasonable, then the Superior Court shall:

16 (i) In the case of a petition for review by the17 defendant:

(A) remand for imposition of a lesser sentence
to be determined by the sentencing court; or
(B) remand for further sentencing proceedings.
(ii) In the case of a petition for review by the
Commonwealth:
(A) remand for imposition of a greater sentence

to be determined by the sentencing court; or
(B) remand for further sentencing proceedings.
(3) In all other cases, the Superior Court shall affirm
the sentence imposed by the sentencing court.

(e) Limitation on appeal.--No appeal of the sentence imposedshall be permitted beyond the Superior Court.

30 (f) Additional procedures authorized.--The Supreme Court may 19770H0197B0217 - 4 -

- 1 by rule prescribe additional procedures to implement the
- 2 provisions of this subchapter.
- 3 Section 4. This act shall take effect in 60 days.