
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 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for sentencing
3 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 standards.--In 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 referred to as the commission.

2 (b) Certification of record.--Upon receipt of a copy of
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
6 parties, the presentence investigation, if any, and the
7 transcript of the sentence proceeding which shall include a
8 statement of reasons for the sentence imposed by the sentencing
9 court.

10 (c) Review of record.--

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

13 (i) the sentencing court erroneously applied the
14 guidelines for sentencing promulgated by the commission;

15 (ii) the sentence imposed is within the guidelines
16 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.

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

23 (i) The nature and circumstances of the offense and
24 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 was
29 based.

30 (iv) The guidelines promulgated by the commission

1 and any statutory guidelines established under this
2 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 the
17 defendant:

18 (A) remand for imposition of a lesser sentence
19 to be determined by the sentencing court; or

20 (B) remand for further sentencing proceedings.

21 (ii) In the case of a petition for review by the
22 Commonwealth:

23 (A) remand for imposition of a greater sentence
24 to be determined by the sentencing court; or

25 (B) remand for further sentencing proceedings.

26 (3) In all other cases, the Superior Court shall affirm
27 the sentence imposed by the sentencing court.

28 (e) Limitation on appeal.--No appeal of the sentence imposed
29 shall be permitted beyond the Superior Court.

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

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.