

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1750 Session of
1991

INTRODUCED BY DERMODY AND CALTAGIRONE, JUNE 24, 1991

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 24, 1991

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for guidelines
3 for high-risk offenders; and further providing for
4 sentencing, for presentence reports and for confinement.

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

7 Section 1. Title 42 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 2154.2. Adoption of guidelines to identify high-risk
10 offenders.

11 (a) General rule.--The commission shall adopt guidelines to
12 be used to identify high-risk dangerous offenders. The
13 guidelines shall specify criteria which indicate whether there
14 is an undue risk that an offender, convicted of any of the
15 following, will pose a serious threat to public safety:

16 (1) Murder of the third degree.

17 (2) Voluntary manslaughter.

18 (3) Aggravated assault.

- 1 (4) Kidnapping.
- 2 (5) Rape.
- 3 (6) Statutory rape.
- 4 (7) Involuntary deviate sexual intercourse.
- 5 (8) Indecent assault.
- 6 (9) Arson endangering persons.
- 7 (10) Robbery.
- 8 (11) Burglary which constitutes a first degree felony.
- 9 (12) Incest.

10 (b) Criteria.--The criteria established by the commission
11 shall include, but not be limited to, such factors as:

- 12 (1) Age of the offender.
- 13 (2) Offender's prior criminal record.
- 14 (3) Age of the victim.
- 15 (4) Whether the offense involved multiple victims.
- 16 (5) Use of illegal drugs by the offender.
- 17 (6) Offender's failure to complete a prior sentence.
- 18 (7) Any mental illness or mental disability of the
19 offender.

20 Section 2. Section 9721 of Title 42 is amended by adding a
21 subsection to read:

22 § 9721. Sentencing generally.

23 * * *

24 (f) High-risk dangerous offenders.--When imposing a sentence
25 of total confinement the court shall determine whether the
26 defendant is a high-risk dangerous offender.

27 Section 3. Section 9732 of Title 42 is amended to read:

28 § 9732. Contents of presentence report.

29 The presentence report shall include a summary of the
30 circumstances attending the commission of the crime, the history

1 of delinquency or criminality, physical and mental condition,
2 family situation and background, economic status, education,
3 occupation and personal habits of the defendant, and any other
4 matters that the person preparing the report deems relevant or
5 that the court directs be included, including any information
6 necessary for a determination by the court as to whether the
7 defendant is a high-risk dangerous offender.

8 Section 4. Section 9756 of Title 42 is amended by adding a
9 subsection to read:

10 § 9756. Sentence of total confinement.

11 * * *

12 (e) High-risk dangerous offenders.--In imposing a sentence
13 of total confinement for the crimes of murder of the third
14 degree, voluntary manslaughter, aggravated assault, kidnapping,
15 rape, statutory rape, involuntary deviate sexual intercourse,
16 incest, indecent assault, arson endangering persons, robbery and
17 burglary which constitutes a first degree felony, the court
18 shall identify the defendant as a high-risk dangerous offender
19 if the offense included attempted or actual sexual contact with
20 the victim, was part of a demonstrated pattern of abuse, or
21 included a display of unusual cruelty by the offender during the
22 commission of the offense. Otherwise, the court shall determine
23 whether the defendant is a high-risk dangerous offender in
24 accordance with the guidelines adopted pursuant to section
25 2154.2 (relating to adoption of guidelines to identify high-risk
26 offenders). The court shall state on the sentencing order
27 whether the defendant has been identified or determined to be a
28 high-risk dangerous offender.

29 Section 5. Section 9762 of Title 42 is amended to read:

30 § 9762. Sentencing proceeding; place of confinement.

1 [All persons sentenced to total or partial confinement for:

2 (1) maximum terms of five or more years shall be
3 committed to the Bureau of Correction for confinement;

4 (2) maximum terms of two years or more but less than
5 five years may be committed to the Bureau of Correction for
6 confinement or may be committed to a county prison within the
7 jurisdiction of the court;

8 (3) maximum terms of less than two years shall be
9 committed to a county prison within the jurisdiction of the
10 court except that as facilities become available on dates and
11 in areas designated by the Governor in proclamations
12 declaring the availability of State correctional facilities,
13 such persons may be committed to the Bureau of Correction for
14 confinement.]

15 All persons convicted of a crime:

16 (1) Prior to January 1, 1993, and sentenced to total or
17 partial confinement for:

18 (i) Maximum terms of five or more years shall be
19 committed to the Department of Corrections for
20 confinement.

21 (ii) Maximum terms of two years or more, but less
22 than five years, may be committed to the Department of
23 Corrections for confinement or may be committed to a
24 county prison within the jurisdiction of the court.

25 (iii) Maximum terms of less than two years shall be
26 committed to a county prison within the jurisdiction of
27 the court.

28 (2) On or after January 1, 1993, and prior to January 1,
29 1994, and sentenced to total or partial confinement for:

30 (i) Maximum terms of four or more years shall be

1 committed to the Department of Corrections for
2 confinement.

3 (ii) Maximum terms of two years or more, but less
4 than four years, may be committed to the Department of
5 Corrections for confinement or may be committed to a
6 county prison within the jurisdiction of the court.

7 (iii) Maximum terms of less than two years shall be
8 committed to a county prison within the jurisdiction of
9 the court.

10 (3) On or after January 1, 1994, and prior to January 1,
11 1995, and sentenced to total or partial confinement for:

12 (i) Maximum terms of three or more years shall be
13 committed to the Department of Corrections for
14 confinement.

15 (ii) Maximum terms of two years or more, but less
16 than three years, may be committed to the Department of
17 Corrections for confinement or may be committed to a
18 county prison within the jurisdiction of the court.

19 (iii) Maximum terms of less than two years shall be
20 committed to a county prison within the jurisdiction of
21 the court.

22 (4) On or after January 1, 1995, and sentenced to total
23 or partial confinement for:

24 (i) Maximum terms of two or more years shall be
25 committed to the Department of Corrections for
26 confinement.

27 (ii) Maximum terms of less than two years shall be
28 committed to a county prison within the jurisdiction of
29 the court.

30 Section 6. This act shall take effect in 60 days.