

AMENDMENTS TO HOUSE BILL NO. 1845

Sponsor: SENATOR STACK

Printer's No. 4522

1 Amend Title, page 1, line 3, by inserting after "Statutes,"

2 further providing for sentence for murder and murder of unborn
3 child; providing for the offense of criminal homicide of law
4 enforcement officer and for the offense of assault of law
5 enforcement officer; imposing penalties;

6 Amend Title, page 1, line 14, by inserting after "actions;"

7 prescribing sentences for offenses committed against
8 law enforcement officer;

9 Amend Bill, page 1, lines 17 and 18, by striking out all of
10 said lines and inserting

11 Section 1. Section 1102(a), (b) and (c) of Title 18 of the
12 Pennsylvania Consolidated Statutes are amended to read:

13 1102. Sentence for murder [and], murder of [an] unborn child
14 and murder of law enforcement officer.

15 (a) First degree.--

16 (1) A person who has been convicted of a murder of the
17 first degree or of murder of a law enforcement officer of the
18 first degree shall be sentenced to death or to a term of life
19 imprisonment in accordance with 42 Pa.C.S. 9711 (relating
20 to sentencing procedure for murder of the first degree).

21 (2) The sentence for a person who has been convicted of
22 first degree murder of an unborn child shall be the same as
23 the sentence for murder of the first degree, except that the
24 death penalty shall not be imposed. This paragraph shall not
25 affect the determination of an aggravating circumstance under
26 42 Pa.C.S. 9711(d)(17) for the killing of a pregnant woman.

27 (b) Second degree.--A person who has been convicted of
28 murder of the second degree [or], of second degree murder of an
29 unborn child or of second degree murder of a law enforcement
30 officer shall be sentenced to a term of life imprisonment.

31 (c) Attempt, solicitation and conspiracy [to commit murder
32 or murder of an unborn child].--Notwithstanding section 1103(1)
33 (relating to sentence of imprisonment for felony), a person who
34 has been convicted of attempt, solicitation or conspiracy to
35 commit murder [or], murder of an unborn child or murder of a law
36 enforcement officer where serious bodily injury results may be
37 sentenced to a term of imprisonment which shall be fixed by the
38 court at not more than 40 years. Where serious bodily injury

1 does not result, the person may be sentenced to a term of
2 imprisonment which shall be fixed by the court at not more than
3 20 years.

4 * * *

5 Section 1.1. Title 18 is amended by adding sections to read:

6 2507. Criminal homicide of law enforcement officer.

7 (a) Murder of a law enforcement officer of the first
8 degree.--A person commits murder of a law enforcement officer of
9 the first degree who intentionally kills a law enforcement
10 officer while in the performance of duty knowing the victim is a
11 law enforcement officer.

12 (b) Murder of a law enforcement officer of the second
13 degree.--A person commits murder of a law enforcement officer of
14 the second degree who engages as a principal or an accomplice in
15 the perpetration of a felony during which a law enforcement
16 officer is killed while in the performance of duty.

17 (c) Manslaughter of a law enforcement officer in the first
18 degree.--A person commits a felony in the first degree who does
19 any of the following:

20 (1) Without lawful justification kills a law enforcement
21 officer while in the performance of duty and with knowledge
22 that the victim was a law enforcement officer, if at the time
23 of the killing:

24 (i) the person is acting under a sudden and intense
25 passion resulting from serious provocation by the victim
26 killed; or

27 (ii) the person is acting under a sudden and intense
28 passion resulting from serious provocation by another
29 individual whom the actor endeavors to kill, but the
30 person negligently or accidentally causes the death of
31 the victim.

32 (2) Intentionally or knowingly kills a law enforcement
33 officer while in the performance of duty and with knowledge
34 that the victim was a law enforcement officer, if at the time
35 of the killing the person believes the circumstances to be
36 such that, if they existed, would justify the killing under
37 Chapter 5 (relating to general principles of justification),
38 but his belief is unreasonable.

39 (d) Manslaughter of a law enforcement officer in the second
40 degree.--A person commits a felony of the second degree who, as
41 a direct result of the doing of an unlawful or lawful act in a
42 reckless or grossly negligent manner, causes the death of a law
43 enforcement officer while in the performance of duty and the
44 person knew or should have known the victim was a law
45 enforcement officer.

46 (e) Definitions.--As used in this section, the following
47 words and phrases shall have the meanings given to them in this
48 subsection:

49 "Law enforcement officer." This term shall have the same
50 meaning as the term "peace officer" is given under section 501
51 (relating to definitions).

52 "Perpetration of a felony." As defined under section 2502(d)
53 (relating to murder).

54 2702.1. Assault of law enforcement officer.

55 (a) Assault of a law enforcement officer in the first
56 degree.--A person commits a felony of the first degree who
57 attempts to cause or intentionally or knowingly causes bodily
58 injury to a law enforcement officer, while in the performance of
59 duty and with knowledge that the victim is a law enforcement

officer, by discharging a firearm.

(b) Penalties.--Notwithstanding section 1103(1) (relating to sentence of imprisonment for felony), a person convicted under subsection (a) shall be sentenced to a term of imprisonment fixed by the court at not more than 40 years.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Law enforcement officer." The term shall have the same meaning as the term "peace officer" is given under section 501 (relating to definitions).

"Firearm." As defined under 42 Pa.C.S. 9712(e) (relating to sentences for offenses committed with firearms).

Section 1.2. Sections 4906(c) and 6105(b) of Title 18 are amended to read:

Amend Bill, page 26, by inserting between lines 7 and 8

Section 9.1. Title 42 is amended by adding a section to read:

9719.1. Sentences for offenses committed against law enforcement officer.

(a) Mandatory sentence.--A person convicted of the following offense shall be sentenced to a mandatory term of imprisonment as follows:

18 Pa.C.S. 2702.1(a) (relating to assault of law enforcement officer) - not less than 20 years.

(b) Authority of court in sentencing.--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(c) Appeal by Commonwealth.--If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Law enforcement officer." The term shall have the same meaning as the term "peace officer" is given under 18 Pa.C.S. 501 (relating to definitions).