

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 953

Session of  
1977

INTRODUCED BY SCIRICA, BERSON, SPENCER, IRVIS, RHODES,  
MANDERINO, FISHER, O'DONNELL, W. D. HUTCHINSON, YOHN, COLE,  
PYLES, BROWN, REED, HOFFEL, BERLIN, PRATT, DOYLE, WHITE,  
GILLETTE, SCHMITT, SWEET, YAHNER, VROON, RICHARDSON, FREIND,  
GARZIA, HARPER, DeMEDIO, KNEPPER, DONATUCCI, SIRIANNI,  
HASKELL, DUFFY AND WAGNER, APRIL 25, 1977

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 25, 1977

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, creating the Pennsylvania Commission  
3 on Sentencing, establishing guidelines for criminal  
4 sentencing to be used by trial courts, and further providing  
5 for sentencing alternatives and appellate review of sentence.

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

8 Section 1. Subsection (b) of section 1321 of Title 18, act  
9 of November 25, 1970 (P.L.707, No.230), known as the  
10 Pennsylvania Consolidated Statutes, is amended to read:

11 § 1321. Sentencing generally.

12 \* \* \*

13 (b) General standards.--In selecting from the alternatives  
14 set forth in subsection (a) [of this section] the court shall  
15 follow the general principle that the sentence imposed should  
16 call for the minimum amount of confinement that is consistent  
17 with the protection of the public, the gravity of the offense,

1 and the rehabilitative needs of the defendant. The court shall  
2 also consider any guidelines for sentencing promulgated by the  
3 Pennsylvania Commission on Sentencing, established by section  
4 1391 (relating to commission established). In every case in  
5 which the court imposes a sentence, the court shall make as a  
6 part of the record, and disclose in open court at the time of  
7 sentencing, a statement of the reason or reasons for the  
8 sentence imposed. Failure to comply shall be grounds for  
9 vacating the sentence and resentencing the defendant.

10 \* \* \*

11 Section 2. Subchapter G of Chapter 13 is repealed.

12 Section 3. Chapter 13 is amended by adding a subchapter to  
13 read:

14 SUBCHAPTER G

15 APPELLATE REVIEW OF SENTENCE

16 § 1381. Appellate review of sentence.

17 (a) Petition for review.--The defendant or the Commonwealth  
18 may file a petition for review of sentence to the Superior  
19 Court, except in the case of a sentence upon conviction for  
20 felonious homicide, in which event the petition for review shall  
21 lie to the Supreme Court.

22 (b) Appellate determination.--The appellate court shall  
23 vacate the sentence, and remand the case to the sentencing court  
24 with instructions if it finds:

25 (1) the sentencing court purported to sentence within  
26 the sentencing guidelines but applied such guidelines  
27 erroneously;

28 (2) the sentencing court sentenced within the sentencing  
29 guidelines but the case involves circumstances where the  
30 application of such guidelines would be clearly unreasonable;

1 or

2 (3) the sentencing court sentenced outside the  
3 sentencing guidelines and such sentence is unreasonable.

4 In all other cases the appellate court shall affirm the sentence  
5 imposed by the sentencing court.

6 (c) Review of record.--In reviewing the record the appellate  
7 court shall have regard for:

8 (1) The nature and circumstances of the offense and the  
9 history and characteristics of the defendant.

10 (2) The opportunity of the sentencing court to observe  
11 the defendant, including any presentence investigation.

12 (3) The findings upon which the sentence was based.

13 (4) The guidelines promulgated by the commission.

14 (d) Final sentence.--No sentence imposed by a sentencing  
15 court shall be considered final unless:

16 (1) the period for filing a petition for review has  
17 expired; or

18 (2) the sentence has been affirmed by the appellate  
19 court.

20 (e) Limitation on appeal.--No appeal of the sentence imposed  
21 shall be permitted beyond the Superior Court, except in the case  
22 of felonious homicide where the petition for review shall lie to  
23 the Supreme Court.

24 (f) The Supreme Court shall by rule prescribe procedures to  
25 implement the provisions of this chapter.

26 Section 4. Chapter 13 is amended by adding a subchapter to  
27 read:

28 SUBCHAPTER H

29 PENNSYLVANIA COMMISSION ON SENTENCING

30 § 1391. Commission established.

1       The Pennsylvania Commission on Sentencing is hereby created.  
2       It shall consist of 15 members, four to be appointed by the  
3       Speaker of the House of Representatives, four to be appointed by  
4       the President pro tempore of the Senate and seven to be  
5       appointed by the Chief Justice of the Supreme Court of  
6       Pennsylvania. The appointments made by the Speaker of the House  
7       of Representatives shall be members of the House of  
8       Representatives no more than two of which shall be of the same  
9       political party. The appointments made by the President pro  
10      tempore shall be members of the Senate no more than two of which  
11      shall be of the same political party, and the appointments by  
12      the Chief Justice shall be a justice or judge of a court of  
13      record. The terms of the members of the commission shall be two  
14      years except that of those members first appointed by the  
15      Speaker and the President pro tempore, half shall be appointed  
16      for two years and half for one year. In the case of the members  
17      appointed by the Chief Justice of the Supreme Court, four shall  
18      be appointed for two years and three shall be appointed for one  
19      year.

20   § 1392. Powers and duties of the commission.

21       (a) Organization of commission; guidelines for sentencing.--  
22      The commission, by majority vote, shall:

23           (1) Select a chairman from its membership.

24           (2) Select an executive director.

25           (3) Promulgate guidelines for sentencing which shall be  
26      considered by the sentencing court in determining the  
27      appropriate sentence for a defendant. Such guidelines shall:

28           (i) Prescribe presumptive sentences for crimes, in  
29      accordance with their gravity.

30           (ii) Prescribe variations from the presumptive

1 sentence that shall be permitted on account of  
2 aggravating or mitigating circumstances.

3 (iii) Specify the sentence, or range of sentences,  
4 that shall normally be applicable to the crimes of a  
5 given degree of gravity.

6 (b) Publication of guidelines.--The commission shall:

7 (1) Prior to final adoption, publish in the Pennsylvania  
8 Bulletin all proposed sentencing guidelines, and hold public  
9 hearings not earlier than 30 days and not later than 60 days  
10 thereafter to afford an opportunity for the following persons  
11 and organizations to testify:

12 (i) Pennsylvania District Attorneys Association.

13 (ii) Chiefs of Police Associations.

14 (iii) Fraternal Order of Police.

15 (iv) Public Defenders Organization.

16 (v) Representatives of Law Schools.

17 (vi) State Board of Probation and Parole.

18 (vii) Bureau of Correction.

19 (viii) Pennsylvania Bar Association.

20 (ix) Any other interested persons or organizations.

21 (2) Publish in the Pennsylvania Bulletin all finally  
22 adopted sentencing guidelines. The initial sentencing  
23 guidelines shall be promulgated within one year of the  
24 effective date of this subchapter.

25 (c) Powers of commission.--The commission, by majority vote,  
26 and pursuant to rules and regulations, shall have the power to:

27 (1) Establish general policies and promulgate such rules  
28 and regulations for the commission as are necessary to carry  
29 out the purposes of this subchapter.

30 (2) Utilize, with their consent, the services,

1 equipment, personnel, information, and facilities of Federal,  
2 State, local, and private agencies and instrumentalities with  
3 or without reimbursement therefor.

4 (3) Enter into and perform such contracts, leases,  
5 cooperative agreements, and other transactions as may be  
6 necessary in the conduct of the functions of the commission,  
7 with any public agency, or with any person, firm,  
8 association, corporation, educational institution or  
9 nonprofit organization.

10 (4) Request such information, data and reports from any  
11 Commonwealth agency or judicial officer as the commission may  
12 from time to time require and as may be produced consistent  
13 with other law.

14 (5) Arrange with the head of any other Commonwealth  
15 agency for the performance by such agency of any function of  
16 the commission, with or without reimbursement.

17 (6) Issue subpoenas requiring the attendance and  
18 testimony of witnesses and the production of any evidence  
19 that relates directly to a matter with respect to which the  
20 commission or any commissioner or agent of the commission is  
21 empowered to make a determination under this subchapter. The  
22 attendance of such witnesses and the production of evidence  
23 may be required from any place within this Commonwealth at  
24 any designated place of hearings within this Commonwealth.

25 (7) Establish a research and development program within  
26 the commission for the purpose of:

27 (i) Serving as a clearinghouse and information  
28 center for the collection, preparation and dissemination  
29 of information on Commonwealth sentencing practices.

30 (ii) Assisting and serving in a consulting capacity

1 to State courts, departments, and agencies in the  
2 development, maintenance and coordination of sound  
3 sentencing practices.

4 (8) Collect systematically the data obtained from  
5 studies, research and the empirical experience of public and  
6 private agencies concerning the sentencing processes.

7 (9) Publish data concerning the sentencing processes.

8 (10) Collect systematically and disseminate information  
9 concerning sentences actually imposed.

10 (11) Collect systematically and disseminate information  
11 regarding effectiveness of sentences imposed.

12 (12) Make recommendations to the General Assembly  
13 concerning modification or enactment of sentencing and  
14 correctional statutes which the commission finds to be  
15 necessary and advisable to carry out an effective, humane and  
16 rational sentencing policy.

17 (13) The commission shall have such other powers and  
18 duties and shall perform such other functions as may be  
19 necessary to carry out the purposes of this subchapter or as  
20 may be provided under any other provisions of law and may  
21 delegate to any commissioner or designated person such powers  
22 as may be appropriate other than the power to establish  
23 general policies, guidelines, rules and factors under  
24 subsection (b)(1).

25 (d) Meetings of commission.--The commission shall meet not  
26 less frequently than quarterly to establish its general policies  
27 and rules.

28 (e) Records of action.--Except as otherwise provided by law,  
29 the commission shall maintain and make available for public  
30 inspection a record of the final vote of each member on any

1 action taken by it.

2 § 1393. Commonwealth agency cooperation.

3 Upon the request of the commission, each Commonwealth agency  
4 is authorized and directed to make its services, equipment,  
5 personnel, facilities and information available to the greatest  
6 practicable extent to the commission in the execution of its  
7 functions.

8 § 1394. Powers and duties of chairman.

9 The chairman shall:

10 (1) Preside at meetings of the commission.

11 (2) Direct the preparation of requests for  
12 appropriations for the commission, and the use of funds made  
13 available to the commission.

14 (3) Appoint and fix the basic pay of personnel of the  
15 commission.

16 § 1395. Annual report.

17 The commission shall report annually to the General Assembly,  
18 the Administrative Office of Pennsylvania Courts and the  
19 Governor on the activities of the commission.

20 Section 5. Sections 1, 2 and 3 shall take effect immediately  
21 but, shall not be applicable until final adoption of the initial  
22 sentencing guidelines; section 4 shall take effect in 30 days.