

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL  
No. 789 Session of  
1989

INTRODUCED BY LESCOVITZ, KUKOVICH, VEON AND JOSEPHS,  
MARCH 14, 1989

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 14, 1989

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, further providing for the  
3 sentencing procedure for murder of the first degree.

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

6 Section 1. Section 9711 of Title 42 of the Pennsylvania  
7 Consolidated Statutes is amended by adding a subsection to read:  
8 § 9711. Sentencing procedure for murder of the first degree.

9 \* \* \*

10 (e.1) Mental retardation.--A person who is mentally retarded  
11 may not be sentenced to death. For purposes of this subsection,  
12 "mentally retarded" means having significantly subaverage  
13 general intellectual functioning existing concurrently with  
14 deficits in adaptive behavior. An intelligence quotient of 70 or  
15 below on a reliably administered intelligence quotient test may  
16 be presumptive evidence of mental retardation. The burden of  
17 proof of mental retardation shall be with the defendant. Mental  
18 retardation must be proven by a preponderance of the evidence.

1       \* \* \*

2       Section 2. This act shall apply to sentences rendered on or  
3 after the effective date of this act.

4       Section 3. This act shall take effect in 60 days.