

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2413 Session of
1990

INTRODUCED BY BISHOP, RUDY, RITTER, OLIVER, RIEGER, DONATUCCI,
MELIO, HUGHES, HAYDEN, WILLIAMS, RICHARDSON, MAINE, TELEK,
WILSON, ADOLPH, CARN, HAGARTY, FOX, J. H. CLARK, GRUPPO,
FARMER, LANGTRY, RYAN, DeWEESE, LAUGHLIN, SALOOM, COLAIZZO,
COWELL, ITKIN AND D. R. WRIGHT, MARCH 28, 1990

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 28, 1990

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, further providing for simple assault and for
4 probable cause in domestic violence cases; and further
5 providing for bail.

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

8 Section 1. Sections 2701(b) and 2711(c)(2) and (d) of Title
9 18 of the Pennsylvania Consolidated Statutes are amended to
10 read:

11 § 2701. Simple assault.

12 * * *

13 (b) Grading.--Simple assault is a misdemeanor of the second
14 degree unless committed:

15 (1) in a fight or scuffle entered into by mutual
16 consent, in which case it is a misdemeanor of the third
17 degree; [or]

18 (2) against a child under 12 years of age by an adult 21

1 years of age or older, in which case it is a misdemeanor of
2 the first degree[.]; or

3 (3) against a victim who shares a residence with the
4 perpetrator, in which case it is a misdemeanor of the first
5 degree.

6 § 2711. Probable cause arrests in domestic violence cases.

7 * * *

8 (c) Bail.--

9 * * *

10 (2) In determining whether to admit the defendant to
11 bail, the issuing authority shall consider whether the
12 defendant poses a threat of danger to the victim. If the
13 issuing authority makes such a determination, it shall deny
14 bail; or it shall require as a condition of bail that the
15 defendant shall refrain from entering the residence or
16 household of the victim and the victim's place of employment
17 and shall refrain from committing any further criminal
18 conduct against the victim and shall so notify the defendant
19 thereof at the time the defendant is admitted to bail. Such
20 condition shall expire at the time of the preliminary hearing
21 or upon the entry or the denial of the protection of abuse
22 order by the court, whichever occurs first. A violation of
23 this condition may be punishable by the revocation of any
24 form of pretrial release or the forfeiture of bail and the
25 issuance of a bench warrant for the defendant's arrest or
26 remanding him to custody or a modification of the terms of
27 the bail. The defendant shall be provided a hearing on this
28 matter. If the victim has furnished a notification form under
29 subsection (d), the issuing authority shall, prior to the
30 defendant's release, make a reasonable attempt to notify the

1 victim of the defendant's admission to bail.

2 (d) Notice of rights.--Upon responding to a domestic
3 violence case, the police officer shall, orally or in writing,
4 notify the victim of the availability of a shelter, including
5 its telephone number, or other services in the community. [Said
6 notice] If an arrest is made, the police officer shall inform
7 the victim of the victim's right to be notified of the
8 defendant's release on bail and, if the victim so desires, shall
9 complete a notification form containing a telephone number for
10 reaching the victim. Notice under this subsection shall include
11 the following statement: "If you are the victim of domestic
12 violence, you have the right to go to court and file a petition
13 requesting an order for protection from domestic abuse pursuant
14 to the act of October 7, 1976 (P.L.1090, No.218), known as the
15 Protection From Abuse Act, which could include the following:
16 (1) An order restraining the abuser from further
17 acts of abuse.
18 (2) An order directing the abuser to leave your
19 household.
20 (3) An order preventing the abuser from entering
21 your residence, school, business or place of employment.
22 (4) An order awarding you or the other parent
23 temporary custody of or temporary visitation with your
24 child or children.
25 (5) An order directing the abuser to pay support to
26 you and the minor children if the abuser has a legal
27 obligation to do so."

28 Section 2. Section 5701 of Title 42 is amended to read:

29 § 5701. Right to bail.

30 All prisoners shall be bailable by sufficient sureties,

1 unless for capital offenses when the proof is evident or
2 presumption great or as provided in 18 Pa.C.S. § 2711(c)(2)
3 (relating to probable cause arrests in domestic violence cases).
4 Excessive bail shall not be required.

5 Section 3. This act shall apply as follows:

6 (1) Section 1 (18 Pa.C.S. § 2701) shall apply to conduct
7 which occurs on or after the effective date of this act.

8 (2) Sections 1 (18 Pa.C.S. § 2711) and 2 (42 Pa.C.S. §
9 5701) shall apply to preliminary arraignments which take
10 place on or after the effective date of this act.

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