

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 185 Session of
1993

INTRODUCED BY MELIO, DeLUCA, PESCI, SCHEETZ, BATTISTO, KIRKLAND,
DALEY, OLASZ, KING AND DONATUCCI, FEBRUARY 3, 1993

SENATOR LEWIS, JUDICIARY, IN SENATE, AS AMENDED, MARCH 30, 1993

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, ESTABLISHING AN ADDITIONAL CATEGORY OF <—
3 CRIMINAL HOMICIDE KNOWN AS HOMICIDE BY ABUSE; further
4 providing for GRADING OF CRIMINAL ATTEMPT, SOLICITATION AND <—
5 CONSPIRACY AND FOR aggravated assault; defining the offense
6 of concealment of child from law enforcement authorities;
7 providing for the crime of auto piracy; further providing for
8 the determination of antique slot machines, for purchase,
9 consumption, possession or transportation of alcohol by
10 certain persons and for possession of false identification to
11 obtain alcohol; and providing penalties for trafficking drugs <—
12 to minors; AND FURTHER PROVIDING FOR SENTENCES FOR OFFENSES <—
13 COMMITTED WITH FIREARMS.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 ~~Section 1. Section 2702 of Title 18 of the Pennsylvania~~ <—
17 ~~Consolidated Statutes is amended to read:~~

18 SECTION 1. SECTIONS 905(A) AND 2502(B) OF TITLE 18 OF THE <—
19 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

20 § 905. GRADING OF CRIMINAL ATTEMPT, SOLICITATION AND
21 CONSPIRACY.

22 (A) GRADING.--EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
23 ATTEMPT, SOLICITATION AND CONSPIRACY ARE CRIMES OF THE SAME

1 GRADE AND DEGREE AS THE MOST SERIOUS OFFENSE WHICH IS ATTEMPTED
2 OR SOLICITED OR IS AN OBJECT OF THE CONSPIRACY. AN ATTEMPT,
3 SOLICITATION OR CONSPIRACY TO COMMIT [MURDER OR] A FELONY OF THE
4 FIRST DEGREE IS A FELONY OF THE SECOND DEGREE. AN ATTEMPT,
5 SOLICITATION OR CONSPIRACY TO COMMIT MURDER OF THE FIRST DEGREE
6 IS A FELONY OF THE FIRST DEGREE.

7 * * *

8 § 2502. MURDER.

9 * * *

10 (B) MURDER OF THE SECOND DEGREE.--A CRIMINAL HOMICIDE
11 CONSTITUTES MURDER OF THE SECOND DEGREE WHEN IT IS COMMITTED
12 WHILE DEFENDANT WAS ENGAGED AS A PRINCIPAL OR AN ACCOMPLICE IN
13 THE PERPETRATION OF A FELONY OR WHEN IT IS DETERMINED TO BE
14 HOMICIDE BY ABUSE UNDER SECTION 2507 (RELATING TO HOMICIDE BY
15 ABUSE).

16 * * *

17 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ:
18 § 2507. HOMICIDE BY ABUSE.

19 (A) GENERAL RULE.--A PERSON COMMITS HOMICIDE BY ABUSE WHEN
20 THAT PERSON KILLS A CHILD 17 YEARS OF AGE OR YOUNGER, A
21 DEVELOPMENTALLY DISABLED PERSON OR A DEPENDENT ADULT, AND THE
22 DEATH RESULTS FROM ONE OR MORE INCIDENTS OF ABUSE OR THE DEATH
23 IS THE RESULT OF A DEMONSTRATED PATTERN OF ABUSE.

24 (B) CLASSIFICATION.--HOMICIDE BY ABUSE IS A MURDER OF THE
25 SECOND DEGREE.

26 (C) DEFINITION.--AS USED IN THIS SECTION, THE TERM
27 "DEPENDENT ADULT" MEANS A PERSON WHO, BECAUSE OF PHYSICAL OR
28 MENTAL DISABILITY OR BECAUSE OF EXTREME ADVANCED AGE, IS
29 DEPENDENT UPON ANOTHER PERSON TO PROVIDE THE BASIC NECESSITIES
30 OF LIFE.

SECTION 3. SECTION 2702 OF TITLE 18 IS AMENDED TO READ:

§ 2702. Aggravated assault.

(a) Offense defined.--A person is guilty of aggravated assault if he:

(1) attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life;

(2) attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to [a police officer, firefighter, county adult probation or parole officer, county juvenile probation or parole officer or an agent of the Pennsylvania Board of Probation and Parole in the performance of duty or to] any of the officers, agents, employees or other persons enumerated in subsection (c) or to an employee of an agency, company or other entity engaged in public transportation, while in the performance of duty;

(3) attempts to cause or intentionally or knowingly causes bodily injury to [a police officer, firefighter or county adult probation or parole officer, county juvenile probation or parole officer or an agent of the Pennsylvania Board of Probation and Parole] any of the officers, agents, employees or other persons enumerated in subsection (c), in the performance of duty;

(4) attempts to cause or intentionally or knowingly causes bodily injury to another with a deadly weapon; [or]

(5) attempts to cause or intentionally or knowingly causes bodily injury to a teaching staff member, school board member, other employee or student of any elementary or secondary publicly-funded educational institution, any

1 elementary or secondary private school licensed by the
2 Department of Education or any elementary or secondary
3 parochial school while acting in the scope of his or her
4 employment or because of his or her employment relationship
5 to the school[.]~~;- or~~ OR RELATIONSHIP AS A STUDENT OF THE <—
6 SCHOOL.

7 ~~(6) attempts by physical menace to put any of the~~ <—
8 ~~officers, agents, employees or other persons enumerated in~~
9 ~~subsection (c), while in the performance of duty, in fear of~~
10 ~~imminent serious bodily injury.~~

11 (b) Grading.--Aggravated assault under subsection (a)(1) and
12 (2) is a felony of the first degree. Aggravated assault under
13 subsection (a)(3), (4) ~~and (5)~~, ~~(5) and (6)~~ is a felony of the <—
14 second degree.

15 (c) Officers, employees, etc. enumerated.--The officers,
16 agents, employees and other persons referred to in subsection
17 (a) shall be as follows:

- 18 (1) A police officer.
19 (2) A firefighter.
20 (3) A county adult probation or parole officer.
21 (4) A county juvenile probation or parole officer.
22 (5) An agent of the Pennsylvania Board of Probation and
23 Parole.
24 (6) A sheriff.
25 (7) A deputy sheriff.
26 (8) A liquor control enforcement agent.
27 (9) An officer or employee of a correctional
28 institution.
29 (10) A judge of any court in the unified judicial
30 system.

1 (11) The Attorney General.

2 (12) A deputy attorney general.

3 (13) A district attorney.

4 (14) An assistant district attorney.

5 (15) A Federal law enforcement official.

6 (16) A State law enforcement official.

7 (17) A local law enforcement official.

8 (18) Any person employed to assist or who assists any
9 Federal, State or local law enforcement official.

10 (19) An employee of an institution, youth development
11 center, camp or other facility for delinquent children
12 operated under the direction or supervision of the court or
13 other public authority and approved by the Department of
14 Public Welfare.

15 (20) An officer or employee of a county domestic
16 relations office.

17 (21) An emergency medical technician or emergency
18 medical technician-paramedic, as defined in section 3 of the
19 act of July 3, 1985 (P.L.164, No.45), known as the Emergency
20 Medical Services Act.

21 Section 2 4. Title 18 is amended by adding sections to read: <—

22 § 2911. Concealment of child from law enforcement authorities.

23 A person who knowingly or recklessly conceals a child from a
24 law enforcement officer who is investigating a report of a
25 missing child commits a misdemeanor of the second degree.

26 § 3702. Auto piracy.

27 A person commits a felony of the first degree who, whether
28 armed or unarmed, by force or violence, by threat of force or
29 violence, or by putting a person in fear of death or bodily
30 harm, robs, steals or takes a motor vehicle from another person

1 in the presence of that person or any other person in lawful
2 possession of the motor vehicle.

3 Section 3 5. Sections 5513(c), 6308(b), 6310.3(b) and <—
4 ~~6314(b)~~, 6314(B) AND 9712(A) of Title 18 are amended to read: <—
5 § 5513. Gambling devices, gambling, etc.

6 * * *

7 (c) Antique slot machines.--

8 (1) A slot machine shall be established as an antique
9 slot machine if the defendant shows by a preponderance of the
10 evidence that it was manufactured [prior to 1941] ~~more than~~ <—

11 ~~25 years prior to the current year~~ AT LEAST 25 YEARS PRIOR TO <—
12 THE DATE OF THE VIOLATION OF SUBSECTION (A) and that it was

13 not used or attempted to be used for any unlawful purposes.

14 Notwithstanding subsection (b), no antique slot machine

15 seized from any defendant shall be destroyed or otherwise

16 altered until the defendant is given an opportunity to

17 establish that the slot machine is an antique slot machine.

18 After a final court determination that the slot machine is an

19 antique slot machine, the slot machine shall be returned

20 pursuant to the provisions of law providing for the return of

21 property; otherwise, the slot machine shall be destroyed.

22 (2) It is the purpose of this subsection to protect the
23 collection and restoration of antique slot machines not
24 presently utilized for gambling purposes.

25 § 6308. Purchase, consumption, possession or transportation of
26 liquor or malt or brewed beverages.

27 * * *

28 (b) ~~[-Penalty] Minimum penalty~~.--In addition to the penalty <—
29 imposed pursuant to section 6310.4 (relating to restriction of
30 operating privileges), a person convicted of violating

1 subsection (a) ~~{may} shall~~ be sentenced to pay a fine of not <—
2 more than \$500 [for the second and each subsequent violation].

3 ~~There shall be no authority in any court to impose on an~~ <—
4 ~~offender any lesser sentence than the minimum sentence mandated~~
5 ~~by this subsection. No court shall have the authority to suspend~~
6 ~~any sentence as defined in this section.~~

7 * * *

8 § 6310.3. Carrying a false identification card.

9 * * *

10 (b) Minimum penalty.--In addition to any other penalty
11 imposed pursuant to section 6310.4 (relating to restriction of
12 operating privileges) or any other statute, a person who is
13 convicted of violating subsection (a) shall be sentenced to pay
14 a fine of not more than \$500 [for the second and subsequent
15 violations]. No court shall have the authority to suspend any
16 sentence as defined in this section.

17 * * *

18 § 6314. Sentencing and penalties for trafficking drugs to
19 minors.

20 * * *

21 (b) Additional penalties.--In addition to the mandatory
22 minimum sentence set forth in subsection (a), the person shall
23 be sentenced to an additional minimum sentence of at least two
24 years total confinement, notwithstanding any other provision of
25 this title or other statute to the contrary, if the person did
26 any of the following:

27 (1) Committed the offense with the intent to promote the
28 habitual use of the controlled substance.

29 (2) Intended to engage the minor in the trafficking,
30 transportation, delivery, manufacturing, sale or conveyance.

(3) Committed the offense within 1,000 feet of the real property on which is located a public, private or parochial school or a college or university.

(4) Committed the offense on a school bus.

(5) Committed the offense within ~~1,000~~ 100 feet of a school bus stop ON THOSE DAYS AND AT THOSE TIMES AS SCHOOL STUDENTS ARE AWAITING TRANSPORTATION OR ARE BEING DISCHARGED AT THESE LOCATIONS.

(6) Committed the offense within ~~1,000~~ 100 feet of the real property of a public playground.

* * *

§ 9712. SENTENCES FOR OFFENSES COMMITTED WITH FIREARMS.

(A) MANDATORY SENTENCE.--ANY PERSON WHO IS CONVICTED IN ANY COURT OF THIS COMMONWEALTH OF MURDER OF THE THIRD DEGREE, VOLUNTARY MANSLAUGHTER, RAPE, INVOLUNTARY DEVIATE SEXUAL INTERCOURSE, ROBBERY AS DEFINED IN 18 PA.C.S. § 3701(A)(1)(I), (II) OR (III) (RELATING TO ROBBERY), AGGRAVATED ASSAULT AS DEFINED IN 18 PA.C.S. § 2702(A)(1) (RELATING TO AGGRAVATED ASSAULT) OR KIDNAPPING, OR WHO IS CONVICTED OF ATTEMPT TO COMMIT ANY OF THESE CRIMES, INCLUDING AN ATTEMPT TO COMMIT MURDER OF THE FIRST DEGREE, SHALL, IF THE PERSON VISIBLY POSSESSED A FIREARM DURING THE COMMISSION OF THE OFFENSE, BE SENTENCED TO A MINIMUM SENTENCE OF AT LEAST FIVE YEARS OF TOTAL CONFINEMENT NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE OR OTHER STATUTE TO THE CONTRARY.

* * *

Section ~~4~~ 6. The amendment of 18 Pa.C.S. §§ 6308(b) and 6310.3(b) shall apply to sentences imposed on or after the effective date of this act.

Section ~~5~~ 7. This act shall take effect in 60 days.