

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1272 Session of
1997

INTRODUCED BY OLIVER, GODSHALL, CALTAGIRONE, REBER, DONATUCCI,
McCALL, BISHOP, RIEGER, L. I. COHEN, YOUNGBLOOD, CURRY,
PETRONE, STABACK, TRELLO, ITKIN, JOSEPHS, LEDERER, MELIO,
M. COHEN, GIGLIOTTI, WASHINGTON, ROEBUCK, SHANER, BUNT,
RAYMOND, TRICH, PRESTON, A. H. WILLIAMS AND SAINATO,
APRIL 9, 1997

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED,
DECEMBER 9, 1997

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for the possession
3 of weapons on school property AND FOR RESTITUTION FOR
4 INJURIES TO PERSON OR PROPERTY. <—

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

7 Section 1. ~~Section 912~~ SECTIONS 912 AND 1106(A), (C), (E) <—
8 AND (F) of Title 18 of the Pennsylvania Consolidated Statutes ~~is~~ <—
9 ARE amended to read: <—

10 § 912. Possession of weapon on school property.

11 (a) Definition.--Notwithstanding the definition of "weapon"
12 in section 907 (relating to possessing instruments of crime),
13 "weapon" for purposes of this section shall include but not be
14 limited to any knife, cutting instrument, cutting tool, nun-
15 chuck stick, firearm, shotgun, rifle and any other tool,
16 instrument or implement capable of inflicting serious bodily

1 injury.

2 (b) Offense defined.--A person commits a misdemeanor of the
3 first degree if he possesses a weapon in the buildings of, on
4 the grounds of, or in any conveyance providing transportation to
5 or from any elementary or secondary publicly-funded educational
6 institution, any elementary or secondary private school licensed
7 by the Department of Education or any elementary or secondary
8 parochial school.

9 (b.1) Firearms.--

10 (1) Except as provided in paragraph (2), a person who
11 commits an offense under subsection (b) while in the
12 possession of a firearm as defined in section 6102 (relating
13 to definitions), commits a felony of the third degree.

14 (2) A person who commits an offense under subsection (b)
15 while in the possession of a firearm as defined in section
16 6102 and who is otherwise eligible to possess a valid license
17 as defined in section 6106 (relating to firearms not to be <—
18 carried without a license) 6109 (RELATING TO LICENSES), <—
19 commits a misdemeanor of the first degree.

20 (c) Defense.--It shall be a defense that the weapon is
21 possessed and used in conjunction with a lawful supervised
22 school activity or course or is possessed for other lawful
23 purpose.

24 § 1106. RESTITUTION FOR INJURIES TO PERSON OR PROPERTY. <—

25 (A) GENERAL RULE.--UPON CONVICTION FOR ANY CRIME WHEREIN
26 PROPERTY HAS BEEN STOLEN, CONVERTED OR OTHERWISE UNLAWFULLY
27 OBTAINED, OR ITS VALUE SUBSTANTIALLY DECREASED AS A DIRECT
28 RESULT OF THE CRIME, OR WHEREIN THE VICTIM SUFFERED PERSONAL
29 INJURY DIRECTLY RESULTING FROM THE CRIME, THE OFFENDER [MAY]
30 SHALL BE SENTENCED TO MAKE RESTITUTION IN ADDITION TO THE

1 PUNISHMENT PRESCRIBED THEREFOR.

2 * * *

3 (C) MANDATORY RESTITUTION.--

4 (1) THE COURT SHALL ORDER FULL RESTITUTION:

5 (I) REGARDLESS OF THE CURRENT FINANCIAL RESOURCES OF
6 THE DEFENDANT, SO AS TO PROVIDE THE VICTIM WITH THE
7 FULLEST COMPENSATION FOR THE LOSS. THE COURT SHALL NOT
8 REDUCE A RESTITUTION AWARD BY ANY AMOUNT THAT THE VICTIM
9 HAS RECEIVED FROM THE CRIME VICTIM'S COMPENSATION BOARD
10 OR OTHER GOVERNMENTAL AGENCY BUT SHALL ORDER THE
11 DEFENDANT TO PAY ANY RESTITUTION ORDERED FOR LOSS
12 PREVIOUSLY COMPENSATED BY THE BOARD TO THE CRIME VICTIM'S
13 COMPENSATION FUND OR OTHER DESIGNATED ACCOUNT WHEN THE
14 CLAIM INVOLVES A GOVERNMENT AGENCY IN ADDITION TO OR IN
15 PLACE OF THE BOARD. THE COURT SHALL NOT REDUCE A
16 RESTITUTION AWARD BY ANY AMOUNT THAT THE VICTIM HAS
17 RECEIVED FROM AN INSURANCE COMPANY BUT SHALL ORDER THE
18 DEFENDANT TO PAY ANY RESTITUTION ORDERED FOR LOSS
19 PREVIOUSLY COMPENSATED BY AN INSURANCE COMPANY TO THE
20 INSURANCE COMPANY.

21 (II) IF RESTITUTION TO MORE THAN ONE PERSON IS SET
22 AT THE SAME TIME, THE COURT SHALL SET PRIORITIES OF
23 PAYMENT. HOWEVER, WHEN ESTABLISHING PRIORITIES, THE COURT
24 SHALL ORDER PAYMENT IN THE FOLLOWING ORDER:

25 (A) THE VICTIM.

26 (B) THE CRIME VICTIM'S COMPENSATION BOARD.

27 (C) ANY OTHER GOVERNMENT AGENCY WHICH HAS
28 PROVIDED REIMBURSEMENT TO THE VICTIM AS A RESULT OF
29 THE DEFENDANT'S CRIMINAL CONDUCT.

30 (D) ANY INSURANCE COMPANY WHICH HAS PROVIDED

1 REIMBURSEMENT TO THE VICTIM AS A RESULT OF THE
2 DEFENDANT'S CRIMINAL CONDUCT.

3 (2) AT THE TIME OF SENTENCING THE COURT SHALL SPECIFY
4 THE AMOUNT AND METHOD OF RESTITUTION. IN DETERMINING THE
5 AMOUNT AND METHOD OF RESTITUTION, THE COURT:

6 (I) SHALL CONSIDER THE EXTENT OF INJURY SUFFERED BY
7 THE VICTIM, THE VICTIM'S REQUEST FOR RESTITUTION AS
8 PRESENTED TO THE DISTRICT ATTORNEY IN ACCORDANCE WITH
9 PARAGRAPH (4) AND SUCH OTHER MATTERS AS IT DEEMS
10 APPROPRIATE.

11 (II) MAY ORDER RESTITUTION IN A LUMP SUM, BY MONTHLY
12 INSTALLMENTS OR ACCORDING TO SUCH OTHER SCHEDULE AS IT
13 DEEMS JUST[, PROVIDED THAT THE PERIOD OF TIME DURING
14 WHICH THE OFFENDER IS ORDERED TO MAKE RESTITUTION SHALL
15 NOT EXCEED THE MAXIMUM TERM OF IMPRISONMENT TO WHICH THE
16 OFFENDER COULD HAVE BEEN SENTENCED FOR THE CRIME OF WHICH
17 HE WAS CONVICTED].

18 [(III) MAY AT ANY TIME ALTER OR AMEND ANY ORDER OF
19 RESTITUTION MADE PURSUANT TO THIS SECTION PROVIDING,
20 HOWEVER, THAT THE COURT STATE ITS REASONS AND CONCLUSIONS
21 AS A MATTER OF RECORD FOR ANY CHANGE OR AMENDMENT TO ANY
22 PREVIOUS ORDER.]

23 [(IV)] (III) SHALL NOT ORDER INCARCERATION OF A
24 DEFENDANT FOR FAILURE TO PAY RESTITUTION IF THE FAILURE
25 RESULTS FROM THE OFFENDER'S INABILITY TO PAY.

26 [(V)] (IV) SHALL CONSIDER ANY OTHER PREEXISTING
27 ORDERS IMPOSED ON THE DEFENDANT, INCLUDING, BUT NOT
28 LIMITED TO, ORDERS IMPOSED UNDER THIS TITLE OR ANY OTHER
29 TITLE.

30 (3) THE COURT MAY AT ANY TIME, OR UPON THE

1 RECOMMENDATION OF THE DISTRICT ATTORNEY THAT IS BASED ON
2 INFORMATION RECEIVED FROM THE VICTIM AND THE COUNTY PROBATION
3 DEPARTMENT OR ANY AGENT DESIGNATED BY THE COUNTY
4 COMMISSIONERS OF THE COUNTY TO COLLECT RESTITUTION, ALTER OR
5 AMEND ANY ORDER OF RESTITUTION MADE PURSUANT TO PARAGRAPH
6 (2), PROVIDED, HOWEVER, THAT THE COURT STATES ITS REASONS AND
7 CONCLUSIONS AS A MATTER OF RECORD FOR ANY CHANGE OR AMENDMENT
8 TO ANY PREVIOUS ORDER.

9 (4) (I) IT SHALL BE THE RESPONSIBILITY OF THE DISTRICT
10 ATTORNEYS OF THE RESPECTIVE COUNTIES TO MAKE A
11 RECOMMENDATION TO THE COURT AT OR PRIOR TO THE TIME OF
12 SENTENCING AS TO THE AMOUNT OF RESTITUTION TO BE ORDERED.
13 THIS RECOMMENDATION SHALL BE BASED UPON INFORMATION
14 SOLICITED BY THE DISTRICT ATTORNEY AND RECEIVED FROM THE
15 VICTIM.

16 (II) WHERE THE DISTRICT ATTORNEY HAS SOLICITED
17 INFORMATION FROM THE VICTIMS AS PROVIDED IN SUBPARAGRAPH
18 (I) AND HAS RECEIVED NO RESPONSE, THE DISTRICT ATTORNEY
19 SHALL, BASED ON OTHER AVAILABLE INFORMATION, MAKE A
20 RECOMMENDATION TO THE COURT FOR RESTITUTION.

21 (III) THE DISTRICT ATTORNEY MAY, AS APPROPRIATE,
22 RECOMMEND TO THE COURT THAT THE RESTITUTION ORDER BE
23 ALTERED OR AMENDED AS PROVIDED IN PARAGRAPH (3).

24 * * *

25 (E) RESTITUTION PAYMENTS AND RECORDS.--RESTITUTION, WHEN
26 ORDERED BY A JUDGE, SHALL BE MADE BY THE OFFENDER TO THE
27 PROBATION SECTION OF THE COUNTY IN WHICH HE WAS CONVICTED OR TO
28 AN AGENT DESIGNATED BY THE COUNTY COMMISSIONERS OF THE COUNTY TO
29 COLLECT RESTITUTION ACCORDING TO THE ORDER OF THE COURT OR, WHEN
30 ORDERED BY A DISTRICT JUSTICE, SHALL BE MADE TO THE DISTRICT

1 JUSTICE. THE PROBATION SECTION OR AN AGENT DESIGNATED BY THE
2 COUNTY COMMISSIONERS OF THE COUNTY TO COLLECT RESTITUTION AND
3 THE DISTRICT JUSTICE SHALL MAINTAIN RECORDS OF THE RESTITUTION
4 ORDER AND ITS SATISFACTION AND SHALL FORWARD TO THE VICTIM THE
5 PROPERTY OR PAYMENTS MADE PURSUANT TO THE RESTITUTION ORDER.

6 (F) NONCOMPLIANCE WITH RESTITUTION ORDER.--WHENEVER THE
7 OFFENDER SHALL FAIL TO MAKE RESTITUTION AS PROVIDED IN THE ORDER
8 OF A JUDGE, THE PROBATION SECTION OR AN AGENT DESIGNATED BY THE
9 COUNTY COMMISSIONERS OF THE COUNTY TO COLLECT RESTITUTION SHALL
10 NOTIFY THE COURT WITHIN 20 DAYS OF SUCH FAILURE. WHENEVER THE
11 OFFENDER SHALL FAIL TO MAKE RESTITUTION WITHIN 20 DAYS TO A
12 DISTRICT JUSTICE, AS ORDERED, THE DISTRICT JUSTICE SHALL DECLARE
13 THE OFFENDER IN CONTEMPT AND FORWARD THE CASE TO THE COURT OF
14 COMMON PLEAS. UPON SUCH NOTICE OF FAILURE TO MAKE RESTITUTION,
15 OR UPON RECEIPT OF THE CONTEMPT DECISION FROM A DISTRICT
16 JUSTICE, THE COURT SHALL ORDER A HEARING TO DETERMINE IF THE
17 OFFENDER IS IN CONTEMPT OF COURT OR HAS VIOLATED HIS PROBATION
18 OR PAROLE.

19 * * *

20 Section 2. This act shall take effect immediately.