

---

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

---

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 9, 1998

---

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~~; AND PROVIDING FOR RETALIATION <—  
5 AGAINST PROSECUTOR OR JUDICIAL OFFICIAL.

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

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

11 SECTION 1. SECTION 912 OF TITLE 18 OF THE PENNSYLVANIA <—  
12 CONSOLIDATED STATUTES IS AMENDED TO READ:

13 § 912. Possession of weapon on school property.

14 (a) Definition.--Notwithstanding the definition of "weapon"  
15 in section 907 (relating to possessing instruments of crime),  
16 "weapon" for purposes of this section shall include but not be

1 limited to any knife, cutting instrument, cutting tool, nun-  
2 chuck stick, firearm, shotgun, rifle and any other tool,  
3 instrument or implement capable of inflicting serious bodily  
4 injury.

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

12 (b.1) Firearms.--

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

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

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

27 ~~§ 1106. RESTITUTION FOR INJURIES TO PERSON OR PROPERTY.~~ <—

28 ~~(A) GENERAL RULE. UPON CONVICTION FOR ANY CRIME WHEREIN~~  
29 ~~PROPERTY HAS BEEN STOLEN, CONVERTED OR OTHERWISE UNLAWFULLY~~  
30 ~~OBTAINED, OR ITS VALUE SUBSTANTIALLY DECREASED AS A DIRECT~~

1 ~~RESULT OF THE CRIME, OR WHEREIN THE VICTIM SUFFERED PERSONAL~~  
2 ~~INJURY DIRECTLY RESULTING FROM THE CRIME, THE OFFENDER [MAY]~~  
3 ~~SHALL BE SENTENCED TO MAKE RESTITUTION IN ADDITION TO THE~~  
4 ~~PUNISHMENT PRESCRIBED THEREFOR.~~

5       ~~\* \* \*~~

6       ~~(C) MANDATORY RESTITUTION.—~~

7           ~~(1) THE COURT SHALL ORDER FULL RESTITUTION:~~

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

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

28                      ~~(A) THE VICTIM.~~

29                      ~~(B) THE CRIME VICTIM'S COMPENSATION BOARD.~~

30                      ~~(C) ANY OTHER GOVERNMENT AGENCY WHICH HAS~~

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

3           ~~(D) ANY INSURANCE COMPANY WHICH HAS PROVIDED~~  
4           ~~REIMBURSEMENT TO THE VICTIM AS A RESULT OF THE~~  
5           ~~DEFENDANT'S CRIMINAL CONDUCT.~~

6           ~~(2) AT THE TIME OF SENTENCING THE COURT SHALL SPECIFY~~  
7           ~~THE AMOUNT AND METHOD OF RESTITUTION. IN DETERMINING THE~~  
8           ~~AMOUNT AND METHOD OF RESTITUTION, THE COURT:~~

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

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

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

26           ~~[(IV)] (III) SHALL NOT ORDER INCARCERATION OF A~~  
27           ~~DEFENDANT FOR FAILURE TO PAY RESTITUTION IF THE FAILURE~~  
28           ~~RESULTS FROM THE OFFENDER'S INABILITY TO PAY.~~

29           ~~[(V)] (IV) SHALL CONSIDER ANY OTHER PREEXISTING~~  
30           ~~ORDERS IMPOSED ON THE DEFENDANT, INCLUDING, BUT NOT~~

1           ~~LIMITED TO, ORDERS IMPOSED UNDER THIS TITLE OR ANY OTHER~~  
2           ~~TITLE.~~

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

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

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

24          ~~(III) THE DISTRICT ATTORNEY MAY, AS APPROPRIATE,~~  
25          ~~RECOMMEND TO THE COURT THAT THE RESTITUTION ORDER BE~~  
26          ~~ALTERED OR AMENDED AS PROVIDED IN PARAGRAPH (3).~~

27          \* \* \*

28          ~~(E) RESTITUTION PAYMENTS AND RECORDS. RESTITUTION, WHEN~~  
29          ~~ORDERED BY A JUDGE, SHALL BE MADE BY THE OFFENDER TO THE~~  
30          ~~PROBATION SECTION OF THE COUNTY IN WHICH HE WAS CONVICTED OR TO~~

~~AN AGENT DESIGNATED BY THE COUNTY COMMISSIONERS OF THE COUNTY TO  
COLLECT RESTITUTION ACCORDING TO THE ORDER OF THE COURT OR, WHEN  
ORDERED BY A DISTRICT JUSTICE, SHALL BE MADE TO THE DISTRICT  
JUSTICE. THE PROBATION SECTION OR AN AGENT DESIGNATED BY THE  
COUNTY COMMISSIONERS OF THE COUNTY TO COLLECT RESTITUTION AND  
THE DISTRICT JUSTICE SHALL MAINTAIN RECORDS OF THE RESTITUTION  
ORDER AND ITS SATISFACTION AND SHALL FORWARD TO THE VICTIM THE  
PROPERTY OR PAYMENTS MADE PURSUANT TO THE RESTITUTION ORDER.~~

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

~~\* \* \*~~

SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ: <—  
§ 4953.1. RETALIATION AGAINST PROSECUTOR OR JUDICIAL OFFICIAL.

(A) OFFENSE DEFINED.--A PERSON COMMITS AN OFFENSE IF HE  
HARMS OR ATTEMPTS TO HARM ANOTHER OR THE TANGIBLE PROPERTY OF  
ANOTHER BY ANY UNLAWFUL ACT IN RETALIATION FOR ANYTHING LAWFULLY  
DONE IN THE OFFICIAL CAPACITY OF A PROSECUTOR OR JUDICIAL  
OFFICIAL.

(B) GRADING.--THE OFFENSE IS A FELONY OF THE SECOND DEGREE

1 IF:

2       (1) THE ACTOR EMPLOYS FORCE, VIOLENCE OR DECEPTION, OR  
3       ATTEMPTS OR THREATENS TO EMPLOY FORCE, VIOLENCE OR DECEPTION,  
4       UPON THE PROSECUTOR OR JUDICIAL OFFICIAL OR, WITH THE  
5       REQUISITE INTENT OR KNOWLEDGE, UPON ANY OTHER PERSON.

6       (2) THE ACTOR'S CONDUCT IS IN FURTHERANCE OF A  
7       CONSPIRACY TO RETALIATE AGAINST A PROSECUTOR OR JUDICIAL  
8       OFFICIAL.

9       (3) THE ACTOR SOLICITS ANOTHER TO OR ACCEPTS OR AGREES  
10       TO ACCEPT ANY PECUNIARY OR OTHER BENEFIT TO RETALIATE AGAINST  
11       A PROSECUTOR OR JUDICIAL OFFICIAL.

12       (4) THE ACTOR HAS SUFFERED ANY PRIOR CONVICTION FOR ANY  
13       VIOLATION OF THIS TITLE OR ANY PREDECESSOR LAW HERETO, OR HAS  
14       BEEN CONVICTED, UNDER ANY FEDERAL STATUTE OR STATUTE OF ANY  
15       OTHER STATE, OF AN ACT WHICH WOULD BE A VIOLATION OF THIS  
16       TITLE IF COMMITTED IN THIS COMMONWEALTH.

17       (5) THE ACTOR CAUSES PROPERTY DAMAGE OR LOSS IN EXCESS  
18       OF \$1,000.

19 OTHERWISE THE OFFENSE IS A MISDEMEANOR OF THE FIRST DEGREE.

20       (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
21       WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
22       SUBSECTION:

23       "JUDICIAL OFFICIAL." ANY PERSON WHO IS A:

24               (1) JUDGE OF THE COURT OF COMMON PLEAS;

25               (2) JUDGE OF THE COMMONWEALTH COURT;

26               (3) JUDGE OF THE SUPERIOR COURT;

27               (4) JUSTICE OF THE SUPREME COURT;

28               (5) DISTRICT JUSTICE;

29               (6) JUDGE OF THE PITTSBURGH MAGISTRATE'S COURT;

30               (7) JUDGE OF THE PHILADELPHIA MUNICIPAL COURT;

1           (8) JUDGE OF THE TRAFFIC COURT OF PHILADELPHIA; OR  
2           (9) MASTER APPOINTED BY A JUDGE OF A COURT OF COMMON  
3           PLEAS.

4           "PROSECUTOR." ANY PERSON WHO IS:

5           (1) AN ATTORNEY GENERAL;

6           (2) A DEPUTY ATTORNEY GENERAL;

7           (3) A DISTRICT ATTORNEY; OR

8           (4) AN ASSISTANT DISTRICT ATTORNEY.

9           Section ~~2~~ 3. This act shall take effect immediately.

<—