

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1745 Session of
1997

INTRODUCED BY BIRMELIN, BATTISTO, CLYMER, OLASZ, BELARDI,
PHILLIPS, HENNESSEY, MARSICO, B. SMITH, ORIE, GODSHALL,
MASLAND, LYNCH, DALEY, M. N. WRIGHT, FLEAGLE, COY, STABACK,
WILT, GEIST, WAUGH, ROONEY, PLATTS, KENNEY, RAYMOND, ALLEN,
BROWN, FICHTER, BOSCOLA, MELIO, READSHAW, DeLUCA, SERAFINI,
BROWNE, BAKER, HUTCHINSON, S. H. SMITH, NICKOL, BARD, FARGO,
MAITLAND, SAYLOR, LEDERER, HARHART, TRELLO, DALLY, SANTONI,
HESS, BENNINGHOFF, STERN, ADOLPH, TRUE, DRUCE, LEH, MILLER,
WALKO, ARMSTRONG, ITKIN, ROHRER, E. Z. TAYLOR, EGOLF AND
JOSEPHS, SEPTEMBER 3, 1997

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 3, 1997

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for restitution for
3 injuries to person or property.

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

6 Section 1. Section 1106(a) and (c) of Title 18 of the
7 Pennsylvania Consolidated Statutes are amended to read:

8 § 1106. Restitution for injuries to person or property.

9 (a) General rule.--Upon conviction for any crime wherein
10 property has been stolen, converted or otherwise unlawfully
11 obtained, or its value substantially decreased as a direct
12 result of the crime, or wherein the victim suffered personal
13 injury directly resulting from the crime, the offender [may]
14 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 which
14 the offender is ordered to make restitution shall not
15 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, alter or amend any
3 order of restitution made pursuant to paragraph (2),
4 provided, however, that the court states its reasons and
5 conclusions as a matter of record for any change or amendment
6 to any previous order.

7 (4) (i) It shall be the responsibility of the district
8 attorneys of the respective counties to make a
9 recommendation to the court at or prior to the time of
10 sentencing as to the amount of restitution to be ordered.
11 This recommendation shall be based upon information
12 solicited by the district attorney and received from the
13 victim.

14 (ii) Where the district attorney has solicited
15 information from the victims as provided in subparagraph
16 (i) and has received no response, the district attorney
17 shall, based on other available information, make a
18 recommendation to the court for restitution.

19 (iii) The district attorney may, as appropriate,
20 recommend to the court that the restitution order be
21 altered or amended as provided in paragraph (3).

22 * * *

23 Section 2. This act shall take effect in 60 days.