

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 858 Session of
1999

INTRODUCED BY KASUNIC, O'PAKE, BOSCOLA, COSTA, HART, MELLOW,
MUSTO, BELAN, RHOADES, STAPLETON AND WAUGH, APRIL 28, 1999

REFERRED TO JUDICIARY, APRIL 28, 1999

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing a mandatory
3 minimum sentence for corrections officers or other
4 correctional facility employees who supply controlled
5 substances to prison inmates.

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

8 Section 1. Title 42 of the Pennsylvania Consolidated
9 Statutes is amended by adding a section to read:

10 § 9720.1. Sentencing for corrections officers supplying inmates
11 with controlled substances.

12 (a) Mandatory sentence.--A corrections officer or other
13 employee of a correctional facility, jail or prison who is
14 convicted of delivery of a controlled substance, as defined by
15 the act of April 14, 1972 (P.L.233, No.64), known as The
16 Controlled Substance, Drug, Device and Cosmetic Act, to an
17 inmate of a correctional facility, jail or prison shall be
18 sentenced to a minimum sentence of five years of total
19 confinement notwithstanding any other provision of this title or

1 other statute to the contrary.

2 (b) Proof at sentencing.--Provisions of this section shall
3 not be an element of the crime and notice thereof to the
4 defendant shall not be required prior to conviction, but
5 reasonable notice of the Commonwealth's intention to proceed
6 under this section shall be provided after conviction and before
7 sentencing. The applicability of this section shall be
8 determined at sentencing. The court shall consider any evidence
9 presented at trial and shall afford the Commonwealth and the
10 defendant an opportunity to present any necessary additional
11 evidence and shall determine, by a preponderance of the
12 evidence, if this section is applicable.

13 (c) Authority of court in sentencing.--There shall be no
14 authority in any court to impose on an offender to which this
15 section is applicable any lesser sentence than provided for in
16 subsection (a) or to place such offender on probation or to
17 suspend sentence. Nothing in this section shall prevent the
18 sentencing court from imposing a sentence greater than that
19 provided in this section. Sentencing guidelines promulgated by
20 the Pennsylvania Commission on Sentencing shall not supersede
21 the mandatory sentences provided in this section.

22 (d) Appeal by Commonwealth.--If a sentencing court refuses
23 to apply this section where applicable, the Commonwealth shall
24 have the right to appellate review of the action of the
25 sentencing court. The appellate court shall vacate the sentence
26 and remand the case to the sentencing court for imposition of a
27 sentence in accordance with this section if it finds that the
28 sentence was imposed in violation of this section.

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