

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1444 Session of
2000

INTRODUCED BY O'PAKE, TARTAGLIONE, COSTA, STAPLETON, WILLIAMS,
HART, MELLOW, PICCOLA, SCHWARTZ, BOSCOLA, KASUNIC AND MUSTO,
MAY 8, 2000

SENATE AMENDMENTS TO HOUSE AMENDMENTS, NOVEMBER 21, 2000

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for probable cause
3 arrests in domestic violence cases; defining the offense of
4 bomb threats; ~~providing for probable cause arrests in~~ <—
5 ~~misdemeanor sex offenses;~~ and further providing for FIREARMS <—
6 NOT TO BE CARRIED WITHOUT A LICENSE, FOR sale or transfer of
7 firearms AND for firearms background check advisory committee <—
8 ~~and for the definition of "bottle clubs."~~ <—

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. Section 2711(a) of Title 18 of the Pennsylvania
12 Consolidated Statutes is amended to read:

13 § 2711. Probable cause arrests in domestic violence cases.

14 (a) General rule.--A police officer shall have the same
15 right of arrest without a warrant as in a felony whenever he has
16 probable cause to believe the defendant has violated section
17 2504 (relating to involuntary manslaughter), 2701 (relating to
18 simple assault), 2702(a)(3), (4) and (5) (relating to aggravated
19 assault) [or], 2705 (relating to recklessly endangering another
20 person), 2706 (relating to terroristic threats) or 2709(b)

(relating to harassment and stalking) against [his spouse or other person with whom he resides or has formerly resided] a family or household member although the offense did not take place in the presence of the police officer. A police officer may not arrest a person pursuant to this section without first observing recent physical injury to the victim or other corroborative evidence. For the purposes of this subsection, the term "family or household member" has the meaning given that term in 23 Pa.C.S. § 6102 (relating to definitions).

* * *

Section 2. Title 18 is amended by adding ~~sections~~ A SECTION to read:

§ 2715. Bomb threats.

(a) Offense defined.--A person who intentionally:

(1) places or sets a bomb;

(2) causes the placement or setting of a bomb;

(3) reports without factual basis of knowledge the existence or potential existence of a bomb; or

(4) threatens by any means the placement or setting of a bomb;

commits an offense under this section. A separate offense shall occur for each placement or setting of a bomb or each threat to place or set a bomb.

(b) Penalty.--An offense under this section shall be graded as follows:

(1) a misdemeanor of the first degree for a first offense; or

(2) a felony of the third degree for a second or subsequent offense.

(c) Emergency response costs.--In addition to any fines,

1 fees, costs or restitution provided for by law, the court may
2 order a person convicted under this section to reimburse the
3 State, county or municipal corporation for the costs incurred
4 incident to a bomb threat for emergency response resources
5 reasonably necessary to protect life and property.

6 (d) Definition.--As used in this section, the term "bomb"
7 means an explosive device used for unlawful purposes.

8 ~~§ 3108. Probable cause arrests in misdemeanor sexual offenses.~~ <—

9 ~~A police officer shall have the same right of arrest without~~
10 ~~a warrant as in a felony whenever he has probable cause to~~
11 ~~believe the defendant has violated section 3126 (relating to~~
12 ~~indecent assault), 3127 (relating to indecent exposure) or 5901~~
13 ~~(relating to open lewdness) although the offense did not take~~
14 ~~place in the presence of the police officer. A police officer~~
15 ~~may not arrest a person pursuant to this section without first~~
16 ~~directly speaking with the victim or eyewitnesses to the~~
17 ~~offense.~~

18 ~~Section 3. Sections 6111(j) and 6126(d) and (e) of Title 18~~
19 ~~are amended to read:~~

20 SECTION 3. SECTION 6106(B) OF TITLE 18 IS AMENDED BY ADDING <—
21 A PARAGRAPH TO READ:

22 § 6106. FIREARMS NOT TO BE CARRIED WITHOUT A LICENSE.

23 * * *

24 (B) EXCEPTIONS.--THE PROVISIONS OF SUBSECTION (A) SHALL NOT
25 APPLY TO:

26 * * *

27 (13) ANY PERSON WHO IS OTHERWISE ELIGIBLE TO POSSESS A
28 FIREARM UNDER THIS CHAPTER AND WHO IS OPERATING A MOTOR
29 VEHICLE WHICH IS REGISTERED IN THE PERSON'S NAME, OR THE NAME
30 OF A SPOUSE OR PARENT, AND WHICH CONTAINS A FIREARM FOR WHICH

1 A VALID LICENSE HAS BEEN ISSUED PURSUANT TO SECTION 6109 TO
2 THE SPOUSE OR PARENT OWNING THE FIREARM.

3 * * *

4 SECTION 4. SECTION 6111(J) OF TITLE 18 IS AMENDED TO READ:

5 § 6111. Sale or transfer of firearms.

6 * * *

7 (j) Exemption.--The provisions of subsections (a) and (b)
8 shall not apply to sales [of firearms as defined in section
9 6102] between Federal firearms licensees.

10 ~~§ 6126. Firearms Background Check Advisory Committee.~~

<—

11 ~~* * *~~

12 ~~(d) Chairperson. The [Governor shall appoint the]~~
13 ~~chairperson of the advisory committee shall be selected by the~~
14 ~~vote of the majority of the members of the advisory committee.~~
15 ~~In the event that no majority exists in favor of one member as~~
16 ~~chairperson, then the Governor shall appoint the chairperson of~~
17 ~~the advisory committee.~~

18 SECTION 5. SECTION 6126 OF TITLE 18 IS REENACTED AND AMENDED
19 TO READ:

<—

20 § 6126. FIREARMS BACKGROUND CHECK ADVISORY COMMITTEE.

21 (A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED THE FIREARMS
22 BACKGROUND CHECK ADVISORY COMMITTEE WHICH SHALL CONSIST OF SIX
23 MEMBERS AS FOLLOWS:

24 (1) THE GOVERNOR OR A DESIGNEE.

25 (2) THE ATTORNEY GENERAL OR A DESIGNEE.

26 (3) THE MAJORITY LEADER OF THE SENATE OR A DESIGNEE.

27 (4) THE MINORITY LEADER OF THE SENATE OR A DESIGNEE.

28 (5) THE MAJORITY LEADER OF THE HOUSE OF REPRESENTATIVES
29 OR A DESIGNEE.

30 (6) THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES

OR A DESIGNEE.

(B) DUTIES.--TO FACILITATE COMPLIANCE WITH THIS CHAPTER AND THE INTENT THEREOF, THE FIREARMS BACKGROUND CHECK ADVISORY COMMITTEE SHALL, AS FOLLOWS:

(1) REVIEW THE OPERATIONS AND PROCEDURES OF THE PENNSYLVANIA STATE POLICE RELATING TO THE IMPLEMENTATION AND ADMINISTRATION OF THE CRIMINAL HISTORY, JUVENILE DELINQUENCY AND MENTAL HEALTH RECORDS BACKGROUND CHECKS.

(2) ADVISE THE PENNSYLVANIA STATE POLICE RELATING TO THE DEVELOPMENT AND MAINTENANCE OF THE INSTANTANEOUS RECORDS CHECK SYSTEM.

(3) PROVIDE ANNUAL REPORTS TO THE GOVERNOR AND THE GENERAL ASSEMBLY ON THE ADVISORY COMMITTEE'S FINDINGS AND RECOMMENDATIONS, INCLUDING DISCUSSIONS CONCERNING CONFORMANCE WITH THE PREAMBLE OF THE ACT OF JUNE 13, 1995 (1ST SP.SESS., P.L.1024, NO.17), ENTITLED, "AN ACT AMENDING TITLES 18 (CRIMES AND OFFENSES) AND 42 (JUDICIARY AND JUDICIAL PROCEDURE) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, FURTHER PROVIDING FOR THE POSSESSION OF FIREARMS; ESTABLISHING A SELECTED STATEWIDE JUVENILE OFFENDER REGISTRY; AND MAKING AN APPROPRIATION."

(C) TERMS.--MEMBERS OR THEIR DESIGNEES SHALL SERVE A TERM OF OFFICE CONCURRENT WITH THE TERM OF OFFICE FOR WHICH THE MEMBER WAS ELECTED. ANY VACANCY SHALL BE FILLED BY THE APPOINTING AUTHORITY.

(D) CHAIRPERSON.--THE GOVERNOR SHALL APPOINT THE CHAIRPERSON OF THE ADVISORY COMMITTEE.

(e) Expiration.--This section shall expire [July 1, 2001, or at the end of two years following the implementation of the instant records check, whichever is sooner] November 30, 2002.

1 ~~Section 4. The definition of "bottle club" in section~~ <—
2 ~~7329(c) of Title 18 is amended to read:~~

3 ~~§ 7329. Prohibition of certain types of entertainment on bottle~~
4 ~~club premises.~~

5 ~~* * *~~

6 ~~(c) Definitions. As used in this section, the following~~
7 ~~words and phrases shall have the meanings given to them in this~~
8 ~~subsection:~~

9 ~~"Bottle club." An establishment operated for profit or~~
10 ~~pecuniary gain, which has a capacity for the assemblage of 20 or~~
11 ~~more persons and in which alcoholic liquors, alcohol or malt or~~
12 ~~brewed beverages [are not legally sold but where alcoholic~~
13 ~~liquors, alcohol or malt or brewed beverages are either provided~~
14 ~~by the operator or agents or employees of the operator for~~
15 ~~consumption on the premises or] are brought into [or kept at]~~
16 ~~the establishment by the patrons or persons assembling there for~~
17 ~~use and consumption. The term shall not include a licensee under~~
18 ~~the act of April 12, 1951 (P.L.90, No.21), known as the Liquor~~
19 ~~Code, or any organization as set forth in section 6 of the act~~
20 ~~of December 19, 1990 (P.L.1200, No.202), known as the~~
21 ~~Solicitation of Funds for Charitable Purposes Act.~~

22 ~~* * *~~

23 ~~Section 5 6. This act shall take effect as follows:~~ <—

24 ~~(1) The amendment of the definition of "bottle club" in~~ <—
25 ~~18 Pa.C.S. § 7329(c) shall take effect immediately.~~

26 ~~(1) THE REENACTMENT AND AMENDMENT OF 18 PA.C.S. § 6126~~ <—
27 ~~SHALL TAKE EFFECT IMMEDIATELY.~~

28 ~~(2) This section shall take effect immediately.~~

29 ~~(3) The remainder of this act shall take effect in 60~~
30 ~~days.~~