

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1150 Session of
2003

INTRODUCED BY DAILEY, BEBKO-JONES, BROWNE, CAWLEY, CRAHALLA,
CREIGHTON, DALEY, DeWEESE, EGOLF, FRANKEL, FREEMAN, GEIST,
GILLESPIE, GRUCELA, HARHAI, HENNESSEY, HERMAN, LAUGHLIN,
LEACH, McGEEHAN, MCGILL, PERZEL, PETRARCA, PHILLIPS,
REICHLEY, SCHRODER, SOLOBAY, E. Z. TAYLOR, TIGUE, WASHINGTON,
WATSON, WEBER, WOJNAROSKI AND YOUNGBLOOD, APRIL 11, 2003

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 11, 2003

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for sentence enhancements
3 for domestic violence in the presence of a child.

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

6 Section 1. Title 18 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 2711.1. Sentence enhancements for domestic violence in the
9 presence of a child.

10 (a) General rule.--The sentence enhancements of this section
11 may be applied when the defendant has violated section 2504
12 (relating to involuntary manslaughter), 2701 (relating to simple
13 assault), 2702(a)(1) and (4) (relating to aggravated assault),
14 2705 (relating to recklessly endangering another person),
15 2706(a)(1) (relating to terroristic threats) or 2709 (relating
16 to harassment and stalking) against a family or household member

1 while in the presence of a child.

2 (b) Additional penalties.--In addition to any other penalty
3 provided by law:

4 (1) a person may be sentenced to an additional term of
5 imprisonment not to exceed three years' confinement and an
6 additional fine not to exceed \$5,000 where the person commits
7 a violation of section 2504, 2701, 2702(a)(4), 2705,
8 2706(a)(1) or 2709, if the violation is committed in the
9 presence of a child; and

10 (2) a person may be sentenced to an additional term of
11 imprisonment not to exceed five years' confinement and an
12 additional fine not to exceed \$10,000 where the person
13 committed a violation of section 2702(a)(1) in the presence
14 of a child.

15 (c) Restitution.--

16 (1) A person convicted of an offense and who is subject
17 to the additional penalties set forth in this section shall,
18 in addition to any other sentence imposed or restitution
19 ordered under 42 Pa.C.S. § 9721(c) (relating to sentencing
20 generally), be sentenced to pay restitution in an amount
21 equal to all paid and future expenses related to counseling
22 for the child performed by or under the supervision of a
23 psychiatrist, psychologist, licensed professional counselor
24 or licensed social worker until the child reaches 18 years of
25 age.

26 (2) The court may, in lieu of entering a restitution
27 order for future expenses for counseling pursuant to this
28 subsection, set aside a portion of additional fines imposed
29 by this section to be disbursed at the court's discretion to
30 pay for future expenses related to counseling.

1 (3) Notwithstanding any other provision of law to the
2 contrary, the court may, following sentence and until such
3 time as the child reaches 18 years of age, order the person
4 to pay additional amounts not to exceed \$15,000 to cover the
5 future expenses related to counseling.

6 (d) Inchoate crimes.--In addition to the offenses described
7 in subsection (a), this section applies to any attempt,
8 conspiracy or solicitation to commit an offense described in
9 subsection (a).

10 (e) Procedure.--The prosecution must indicate intent to
11 proceed under this section in the criminal information or other
12 filing which commences the prosecution.

13 (f) Definitions.--As used in this section, the following
14 words and phrases shall have the meanings given to them in this
15 subsection:

16 "Child." A person who is under 16 years of age.

17 "Family or household member." A spouse or person who has
18 been a spouse, person living as a spouse or who lived as a
19 spouse, parent and child, other person related by consanguinity
20 or affinity, current or former sexual or intimate partner or
21 person who shares biological parenthood.

22 "In the presence of a child." In the physical presence of a
23 child or knowing that a child is present and may see or hear an
24 act of domestic violence.

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