

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 280 Session of
2003

INTRODUCED BY ORIE, LAVALLE, MUSTO, C. WILLIAMS, LOGAN,
RAFFERTY, TARTAGLIONE, BOSCOLA, RHOADES, KITCHEN AND KASUNIC,
FEBRUARY 12, 2003

REFERRED TO JUDICIARY, FEBRUARY 12, 2003

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for drug delivery
3 resulting in death.

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

6 Section 1. Section 2506 of Title 18 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 2506. Drug delivery resulting in death.

9 (a) General rule.--A person [commits murder of the third
10 degree] who administers, dispenses, delivers, gives, prescribes,
11 sells or distributes any controlled substance or counterfeit
12 controlled substance in violation of section 13(a)(14) or (30)
13 of the act of April 14, 1972 (P.L.233, No.64), known as The
14 Controlled Substance, Drug, Device and Cosmetic Act, [and
15 another person dies as a result of using the substance.] is
16 strictly liable for a death which results from the injection,
17 inhalation or ingestion of that substance.

18 (a.1) Grading.--

1 (1) An offense under subsection (a) constitutes a felony
2 of the first degree.

3 (2) Where a person commits an offense under subsection
4 (a) and the victim of the offense is 17 years of age or
5 younger, the offense constitutes murder of the third degree.

6 (b) Mandatory minimum sentence.--A person convicted under
7 subsection (a) shall be sentenced to a minimum sentence of at
8 least five years of total confinement and a fine of \$15,000, or
9 such larger amount as is sufficient to exhaust the assets
10 utilized in and the proceeds from the illegal activity,
11 notwithstanding any other provision of this title or other
12 statute to the contrary.

13 (c.1) Causation.--The provisions of section 303 (relating to
14 causal relationship between conduct and result) shall not apply
15 in a prosecution under this section. For purposes of this
16 offense, the defendant's act of administering, dispensing,
17 delivering, giving, prescribing, selling or distributing a
18 substance is the cause of a death when:

19 (1) the injection, inhalation or ingestion of the
20 substance is an antecedent but for which the death would not
21 have occurred; and

22 (2) the death was not:

23 (i) too remote in its occurrence as to have a just
24 bearing on the defendant's liability; or

25 (ii) too dependent upon conduct of another person
26 which was unrelated to the injection, inhalation or
27 ingestion of the substance or its effect as to have a
28 just bearing on the defendant's liability.

29 (c.2) Certain defense precluded.--It shall not be a defense
30 to a prosecution under this section that the decedent

1 contributed to his own death by his purposeful, knowing,
2 reckless or negligent injection, inhalation or ingestion of the
3 substance, or by his consenting to the administration of the
4 substance by another.

5 (c.3) Construction.--Nothing in this section shall be
6 construed to preclude or limit any prosecution for homicide.

7 (d) Authority of court in sentencing.--There shall be no
8 authority in any court to impose on an offender to which this
9 section is applicable a lesser sentence than provided for herein
10 or to place the offender on probation, parole, work release or
11 prerelease or to suspend sentence. Nothing in this section shall
12 prevent the sentencing court from imposing a sentence greater
13 than provided herein. Sentencing guidelines promulgated by the
14 Pennsylvania Commission on Sentencing shall not supersede the
15 mandatory sentences provided herein. Disposition under section
16 17 or 18 of The Controlled Substance, Drug, Device and Cosmetic
17 Act shall not be available to a defendant to which this section
18 applies.

19 (e) Appeal by Commonwealth.--If a sentencing court refuses
20 to apply subsection (b) where applicable, the Commonwealth shall
21 have the right to appellate review of the action of the
22 sentencing court. The appellate court shall vacate the sentence
23 and remand the case to the sentencing court for imposition of a
24 sentence in accordance with subsection (b) if it finds that the
25 sentence was imposed in violation of subsection (b).

26 (f) Forfeiture.--Assets against which a forfeiture petition
27 has been filed and is pending or against which the Commonwealth
28 has indicated an intention to file a forfeiture petition shall
29 not be subject to a fine. Nothing in this section shall prevent
30 a fine from being imposed on assets which have been subject to

1 an unsuccessful forfeiture petition.

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