

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1237 Session of
2008

INTRODUCED BY STACK, ORIE, COSTA, RAFFERTY, LOGAN, WASHINGTON,
O'PAKE, WOZNIAK, RHOADES, BOSCOLA, FERLO, HUGHES, BROWNE,
FUMO AND C. WILLIAMS, FEBRUARY 12, 2008

REFERRED TO JUDICIARY, FEBRUARY 12, 2008

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, further providing for sentence for murder and
4 murder of unborn child; providing for the offense of criminal
5 homicide of law enforcement officer and for the offense of
6 assault of law enforcement officer; imposing penalties; and
7 prescribing sentences for offenses committed against law
8 enforcement officer.

9 It is the intent of the General Assembly that this act
10 protect the men and women who protect our citizens and preserve
11 the peace, as well as honor those who have paid the ultimate
12 sacrifice for their dedication and devotion to duty, by creating
13 specific offenses and strict penalties for those who commit
14 violence against law enforcement officers in the performance of
15 duty.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Section 1102(a), (b) and (c) of Title 18 of the
19 Pennsylvania Consolidated Statutes are amended to read:

20 § 1102. Sentence for murder [and], murder of [an] unborn child

1 and murder of law enforcement officer.

2 (a) First degree.--

3 (1) A person who has been convicted of a murder of the
4 first degree or of murder of a law enforcement officer of the
5 first degree shall be sentenced to death or to a term of life
6 imprisonment in accordance with 42 Pa.C.S. § 9711 (relating
7 to sentencing procedure for murder of the first degree).

8 (2) The sentence for a person who has been convicted of
9 first degree murder of an unborn child shall be the same as
10 the sentence for murder of the first degree, except that the
11 death penalty shall not be imposed. This paragraph shall not
12 affect the determination of an aggravating circumstance under
13 42 Pa.C.S. § 9711(d)(17) for the killing of a pregnant woman.

14 (b) Second degree.--A person who has been convicted of
15 murder of the second degree [or], of second degree murder of an
16 unborn child or of second degree murder of a law enforcement
17 officer shall be sentenced to a term of life imprisonment.

18 (c) Attempt, solicitation and conspiracy to commit murder or
19 murder of an unborn child.--Notwithstanding section 1103(1)
20 (relating to sentence of imprisonment for felony), a person who
21 has been convicted of attempt, solicitation or conspiracy to
22 commit murder [or], murder of an unborn child or murder of a law
23 enforcement officer where serious bodily injury results may be
24 sentenced to a term of imprisonment which shall be fixed by the
25 court at not more than 40 years. Where serious bodily injury
26 does not result, the person may be sentenced to a term of
27 imprisonment which shall be fixed by the court at not more than
28 20 years.

29 * * *

30 Section 2. Title 18 is amended by adding sections to read:

1 § 2507. Criminal homicide of law enforcement officer.

2 (a) Murder of a law enforcement officer of the first
3 degree.--A person commits murder of a law enforcement officer of
4 the first degree who intentionally or knowingly kills a law
5 enforcement officer while in the performance of duty knowing the
6 victim is a law enforcement officer.

7 (b) Murder of a law enforcement officer of the second
8 degree.--A person commits murder of a law enforcement officer of
9 the second degree who engages as a principal or an accomplice in
10 the perpetration of a felony during which a law enforcement
11 officer is killed while in the performance of duty.

12 (c) Felony of the first degree.--A person commits a felony
13 of the first degree who as a direct result of the doing of any
14 act in a reckless or grossly negligent manner, or the doing of a
15 lawful act in a reckless or grossly negligent manner, causes the
16 death of a law enforcement officer in the performance of duty
17 where the person knows or should have known the victim is a law
18 enforcement officer.

19 (d) Definitions.--As used in this section, the following
20 words and phrases shall have the meanings given to them in this
21 subsection:

22 "Law enforcement officer." Any person who by virtue of his
23 office or public employment is vested by law with a duty to
24 maintain public order or to make arrests for offenses, whether
25 that duty extends to all offenses or is limited to specific
26 offenses.

27 "Perpetration of a felony." As defined in section 2502(d)
28 (relating to murder).

29 § 2702.1. Assault of law enforcement officer.

30 (a) Felony of the first degree.--A person commits a felony

1 of the first degree who attempts to cause or intentionally,
2 knowingly or recklessly causes serious bodily injury to a law
3 enforcement officer while in the performance of duty and knowing
4 the victim is a law enforcement officer.

5 (b) Felony of the second degree.--A person commits a felony
6 of the second degree who attempts to cause or intentionally or
7 knowingly causes bodily injury to a law enforcement officer
8 while in the performance of duty and knowing the victim is a law
9 enforcement officer.

10 (c) Misdemeanor of the first degree.--A person commits a
11 misdemeanor of the first degree who recklessly engages in
12 conduct which places or may place a law enforcement officer
13 while in the performance of duty in danger of death or serious
14 bodily injury.

15 (d) Definition.--As used in this section, the term "law
16 enforcement officer" means any person who by virtue of his
17 office or public employment is vested by law with a duty to
18 maintain public order or to make arrests for offenses, whether
19 that duty extends to all offenses or is limited to specific
20 offenses.

21 Section 3. Title 42 is amended by adding a section to read:
22 § 9719.1. Sentences for offenses committed against law
23 enforcement officer.

24 (a) Mandatory sentence.--A person convicted of the following
25 offenses shall be sentenced to a mandatory term of imprisonment
26 as follows:

27 18 Pa.C.S. § 2507(a) (relating to criminal homicide of
28 law enforcement officer) - not less than life imprisonment.

29 18 Pa.C.S. § 2507(b) - not less than life imprisonment.

30 18 Pa.C.S. 2702.1(a) (relating to assault of law

1 enforcement officer) - not less than 20 years.

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 sentencing court shall consider
9 evidence presented at trial and shall afford the Commonwealth
10 and the defendant an opportunity to present 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 (e) Definition.--As used in this section, the term "law
30 enforcement officer" means any person who by virtue of his

1 office or public employment is vested by law with a duty to
2 maintain public order or to make arrests for offenses, whether
3 that duty extends to all offenses or is limited to specific
4 offenses.

5 Section 4. This act shall take effect in 60 days.