

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2486 Session of 2010

INTRODUCED BY REICHLEY, BAKER, CLYMER, EVERETT, FLECK, FRANKEL, GINGRICH, GOODMAN, GROVE, HARHART, HARKINS, HARRIS, HICKERNELL, HORNAMAN, KNOWLES, LONGIETTI, MILLARD, MOUL, MURT, O'NEILL, PHILLIPS, RAPP, READSHAW, REESE, SABATINA, SIPTROTH, SWANGER, J. TAYLOR AND TURZAI, MAY 5, 2010

REFERRED TO COMMITTEE ON JUDICIARY, MAY 5, 2010

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for sentencing
3 for offenses committed in association with a criminal street
4 gang.

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

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

9 § 9720.3. Sentencing for offenses committed in association with
10 a criminal street gang.

11 (a) Sentencing enhancement.--The Pennsylvania Commission on
12 Sentencing shall provide for a sentence enhancement for crimes
13 of violence if the offense was knowingly committed at the
14 direction of or for the purpose of benefiting, promoting or
15 furthering the interests of a criminal street gang.

16 (b) Proof at sentencing.--The provisions of this section
17 shall not be an element of the crime and notice of the

provisions of this section to the defendant shall not be
required prior to conviction, but reasonable notice of the
Commonwealth's intention to proceed under this section shall be
provided after conviction and before sentencing.

(c) Applicability.--The applicability of this section shall
be determined at sentencing. The court shall consider any
evidence presented at trial and shall afford the Commonwealth
and the defendant an opportunity to present any necessary
additional evidence and shall determine, by a preponderance of
the evidence, if this section is applicable.

(d) Definitions.--As used in this section, the following
words and phrases shall have the meanings given to them in this
subsection unless the context clearly indicates otherwise:

"Criminal street gang." A formal or informal confederation,
alliance, network, conspiracy, understanding or similar
conjoining of persons who operate individually or collectively
as a group or subgroup, with or without an established
hierarchy, that, through its membership obtained by pledge,
oath, swearing, ritual, distinct membership markings, symbolism,
common identifiers or other criteria that law enforcement
personnel use to identify the groups or subgroups, engages in
criminal activity.

"Crimes of violence." An offense under any of the following:

(1) 18 Pa.C.S. § 901 (relating to criminal attempt),
involving an attempt to commit murder or any of the offenses
under paragraph (3), (4), (5), (6), (7), (8), (9), (10),
(11), (12), (13), (14), (15), (16) or (17).

(2) 18 Pa.C.S. § 902 (relating to criminal
solicitation), involving solicitation to commit murder or any
of the offenses under paragraph (3), (4), (5), (6), (7), (8),

1 (9), (10), (11), (12), (13), (14), (15), (16) or (17).

2 (3) 18 Pa.C.S. § 903 (relating to criminal conspiracy),
3 involving conspiracy to commit murder or any of the offenses
4 under paragraph (3), (4), (5), (6), (7), (8), (9), (10),
5 (11), (12), (13), (14), (15), (16) or (17).

6 (4) 18 Pa.C.S. § 2502(c) (relating to murder).

7 (5) 18 Pa.C.S. § 2503 (relating to voluntary
8 manslaughter).

9 (6) 18 Pa.C.S. § 2506 (relating to drug delivery
10 resulting in death).

11 (7) 18 Pa.C.S. § 2507(c) or (d) (relating to criminal
12 homicide of law enforcement officer).

13 (8) 18 Pa.C.S. § 2701(a)(3) (relating to simple
14 assault).

15 (9) 18 Pa.C.S. § 2702(a)(1) or (2) (relating to
16 aggravated assault).

17 (10) 18 Pa.C.S. § 2702.1 (relating to assault of law
18 enforcement officer).

19 (11) 18 Pa.C.S. § 2901 (relating to kidnapping).

20 (12) 18 Pa.C.S. § 3121 (relating to rape).

21 (13) 18 Pa.C.S. § 3123 (relating to involuntary deviate
22 sexual intercourse).

23 (14) 18 Pa.C.S. § 3124.1 (relating to sexual assault).

24 (15) 18 Pa.C.S. § 3125 (relating to aggravated indecent
25 assault).

26 (16) 18 Pa.C.S. § 3301(a) (relating to arson and related
27 offenses).

28 (17) 18 Pa.C.S. § 3502 (relating to burglary), if at the
29 time of the offense the structure entered was adapted for
30 overnight accommodation.

1 (18) 18 Pa.C.S. § 3701 (relating to robbery).

2 (19) 18 Pa.C.S. § 3702 (relating to robbery of motor
3 vehicle).

4 (20) A crime equivalent to one listed under paragraph
5 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11),
6 (12), (13), (14), (15), (16), (17) or (18) under the laws of
7 this Commonwealth in effect at the time of the commission of
8 the offense.

9 (21) A crime equivalent to one listed under paragraph
10 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11),
11 (12), (13), (14), (15), (16), (17), (18) or (19) under
12 Federal law or in a jurisdiction outside this Commonwealth.

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