

CRIMES CODE (18 PA.C.S.) - PROBABLE CAUSE ARRESTS IN DOMESTIC  
VIOLENCE CASES

Act of Apr. 16, 2018, P.L. 89, No. 14

Cl. 18

Session of 2018

No. 2018-14

SB 449

AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in assault, further providing for probable cause arrests in domestic violence cases.

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

Section 1. Section 2711(a) and (c)(2) of Title 18 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding subsections to read:

§ 2711. Probable cause arrests in domestic violence cases.

(a) General rule.--A police officer shall have the same right of arrest without a warrant as in a felony whenever he has probable cause to believe the defendant has violated section 2504 (relating to involuntary manslaughter), 2701 (relating to simple assault), 2702(a)(3), (4) and (5) (relating to aggravated assault), 2705 (relating to recklessly endangering another person), 2706 (relating to terroristic threats) [or], 2709.1 (relating to stalking) **or 2718 (relating to strangulation)** against 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).

\* \* \*

(c) Bail.--

\* \* \*

(2) In determining whether to admit the defendant to bail, the issuing authority shall consider whether the defendant poses a threat of danger to the victim. **In making a determination whether the defendant poses a threat of danger to the victim in cases under this section, the issuing authority may use a pretrial risk assessment tool as set forth in subsection (c.1).** If the issuing authority makes such a determination, it shall require as a condition of bail that the defendant shall refrain from entering the residence or household of the victim and the victim's place of employment and shall refrain from committing any further criminal conduct against the victim and shall so notify the defendant thereof at the time the defendant is admitted to bail. Such condition shall expire at the time of the preliminary hearing or upon the entry or the denial of the protection of abuse order by the court, whichever occurs first. A violation of this condition may be punishable by the revocation of any form of pretrial release or the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding him to custody or a modification of the terms of the bail. The defendant shall be provided a hearing on this matter.

(c.1) Pretrial risk assessment tool.--The president judge of a court of common pleas may adopt a pretrial risk assessment tool for use by the court of common pleas or by the Philadelphia Municipal Court, the Pittsburgh Magistrates Court or magisterial district judges when acting as the issuing authority in cases under this section. The issuing authority may use the pretrial risk assessment tool to aid in determining whether the defendant poses a threat of danger to the victim. However, the pretrial risk assessment tool may not be the only means of determining whether to admit the defendant to bail. Nothing in this subsection shall be construed to conflict with the issuing authority's ability to determine whether to admit the defendant to bail under the Pennsylvania Rules of Criminal Procedure.

(c.2) Pennsylvania Commission on Sentencing.--The following apply to the Pennsylvania Commission on Sentencing:

(1) The commission shall develop a model pretrial risk assessment tool which may be used by the issuing authority in cases under this section, as set forth in subsection (c.1).

(2) Subject to any inconsistent rule of court, in order to ensure that the model pretrial risk assessment tool or other pretrial risk assessment tool adopted under this section is effective, accurate and free from racial or economic bias, prior to the adoption of the tool, the commission shall publish a report of validation using information from cases from the judicial district where the tool is to be utilized. The report shall be updated every two years.

\* \* \*

Section 2. This act shall take effect as follows:

(1) The addition of 18 Pa.C.S. § 2711(c.2)(2) shall take effect in two years.

(2) The remainder of this act shall take effect in 60 days.

APPROVED--The 16th day of April, A.D. 2018.

TOM WOLF