

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 108

Special Session No. 1 of
1995

INTRODUCED BY FISHER, HECKLER, BELL, SHAFFER, TOMLINSON, CORMAN,
SALVATORE, DELP, MOWERY, HELFRICK, RHOADES, ROBBINS, ULIANA
AND LEMMOND, JUNE 29, 1995

REFERRED TO JUDICIARY, JUNE 29, 1995

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for the
3 sentencing of high risk dangerous offenders; and further
4 providing for sentences of total confinement.

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

7 Section 1. Section 9721 of Title 42 of the Pennsylvania
8 Consolidated Statutes is amended by adding a subsection to read:
9 § 9721. Sentencing generally.

10 * * *

11 (f) High risk dangerous offenders.--

12 (1) When a defendant convicted of murder of the third
13 degree, voluntary manslaughter, rape, statutory rape,
14 involuntary deviate sexual intercourse, incest, sexual
15 assault, aggravated indecent assault, robbery as defined in
16 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to
17 robbery), robbery of a motor vehicle, burglary which
18 constitutes a felony of the first degree, aggravated assault,

1 arson, endangering persons or kidnapping, the defendant shall
2 be determined to be a high risk dangerous offender if the
3 offense included attempted or actual sexual contact with the
4 victim and the offense was part of a demonstrated pattern of
5 abuse or included a display of unusual cruelty by the
6 offender during the commission of the crime.

7 (2) In imposing a sentence of total confinement for
8 offenses not listed in paragraph (1), the court shall
9 determine whether the defendant is a high risk dangerous
10 offender based on whether there is an undue risk that the
11 offender will pose a serious threat to public safety. In
12 determining the threat to public safety, the court shall
13 consider, but not be limited to, the following factors:

14 (i) The nature and circumstances of the current
15 offense.

16 (ii) The use of a deadly weapon as defined in 18
17 Pa.C.S. § 2301 (relating to definitions) during the
18 commission of the current offense.

19 (iii) The defendant's prior criminal record.

20 (iv) The impact of the current offense on the victim
21 and the extent of injury caused to the victim as a result
22 of the current offense.

23 (v) The uses of illegal substances or alcohol by the
24 offender.

25 (vi) The offender's failure to complete a prior
26 imposed sentence.

27 (vii) Any mental illness or mental disability of the
28 offender.

29 (viii) The current offense is a violation of the act
30 of April 14, 1972 (P.L.233, No.64), known as The

1 Controlled Substance, Drug, Device and Cosmetic Act,
2 which is punishable under 18 Pa.C.S. § 6314 (relating to
3 sentencing and penalties for trafficking drugs to minors)
4 or 7508(a)(1)(i), (ii) or (iii), (2)(ii) or (iii), 3(ii)
5 or (iii), 4(ii) or (iii), (5) or (6)(ii) (relating to
6 drug trafficking sentencing and penalties).

7 Section 2. Section 9756 of Title 42 is amended to read:

8 § 9756. Sentence of total confinement.

9 (a) General rule.--

10 (1) In imposing a sentence of total confinement the
11 court shall at the time of sentencing specify any maximum
12 period up to the limit authorized by law and whether the
13 sentence shall commence in a correctional or other
14 appropriate institution.

15 (2) In imposing a sentence of total confinement, the
16 court shall at the time of sentencing determine whether the
17 offender is a high risk dangerous offender under section
18 9721(f) (relating to sentencing generally) and specify the
19 period of total confinement for that offender.

20 (a.1) Additional term for high risk dangerous offenders.--In
21 addition to the maximum sentence imposed on high risk dangerous
22 offenders, the sentencing court shall impose an additional term
23 of six months to three years for the purpose of post-release
24 supervision to be conducted in the same manner as supervised
25 probation, including requirements that the defendant to comply
26 with terms and conditions established by the court.

27 (b) Minimum sentence.--

28 (1) The court shall impose a minimum sentence of
29 confinement which [shall not] may exceed one-half of the
30 maximum sentence imposed.

1 (2) The court may not impose a minimum sentence of
2 confinement for a defendant determined to be a high risk
3 dangerous offender.

4 (c) Prohibition of parole.--Except in the case of murder of
5 the first degree, the court may impose a sentence to
6 imprisonment without the right to parole only when:

7 (1) a summary offense is charged;

8 (2) sentence is imposed for nonpayment of fines or
9 costs, or both, in which case the sentence shall specify the
10 number of days to be served; [and]

11 (3) the maximum term or terms of imprisonment imposed on
12 one or more indictments to run consecutively or concurrently
13 total less than 30 days[.]; and

14 (4) the defendant has been determined by the court to be
15 a high risk dangerous offender under section 9721(f).

16 (c.1) Prior sentences.--

17 (1) In cases where the offender was sentenced prior to
18 the effective date of subsection (c)(4) and no determination
19 as to whether the offender is a high risk dangerous offender
20 has been made, the sentencing court, administrative judge of
21 the criminal section or the president judge of the court
22 shall be notified not later than 90 days prior to the minimum
23 sentence date of an offender convicted of a crime of violence
24 and given an opportunity to submit a statement expressing
25 concerns or recommendation regarding the parole or parole
26 supervision of the offender.

27 (2) Any recommendation submitted pursuant to paragraph
28 (1) shall be controlling and no inmate shall receive parole
29 if the sentencing court recommends that parole should not be
30 granted.

1 (3) The procedures required in paragraphs (1) and (2)
2 shall apply each time the offender is considered for parole.

3 (d) Prisoner release plans.--

4 (1) This section shall not be interpreted as limiting
5 the authority of the Bureau of Correction as set forth in the
6 act of July 16, 1968 (P.L.351, No.173), as amended, relating
7 to prisoner pre-release centers and release plans, or the
8 authority of the court as set forth in the act of August 13,
9 1963 (P.L.774, No.390), as amended, relating to prisoner
10 release for occupational and other purposes.

11 (2) The Department of Corrections shall require all
12 defendants determined to be high risk dangerous offenders to
13 successfully complete one year in a pre-release center prior
14 to release from confinement.

15 (e) Increase of total confinement period.--

16 (1) The Department of Corrections is authorized to
17 increase the period of total confinement of any convicted
18 offender who has been sentenced to confinement in a
19 correctional facility, if the offender is found to have
20 violated any of the rules of the correctional facility to
21 which the offender has been sentenced or is currently
22 located.

23 (2) In accordance with paragraph (1), the Department of
24 Corrections shall establish guidelines in cooperation with
25 the Pennsylvania Commission on Sentencing setting forth the
26 amount of time to be added to the period of total confinement
27 for each violation of the rules of the correctional facility.

28 (3) In accordance with paragraph (1), the Department of
29 Corrections shall establish guidelines for the provision of
30 due process protections to persons receiving additional

- 1 periods of confinement under this subsection.
- 2 Section 3. This act shall take effect in 60 days.