

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1130 Session of 1987

INTRODUCED BY MARKOSEK, BOOK, TRUMAN, J. TAYLOR, BLAUM, BOWLEY, GLADECK, ACOSTA, BURD, JADLOWIEC, SCHEETZ, MRKONIC, TRELLO, BATTISTO, KUKOVICH, GAMBLE, GEIST, JOHNSON, HERMAN, SHOWERS, ARTY, J. L. WRIGHT, BUNT, GODSHALL, PHILLIPS, FARMER, COLE, SAURMAN, FOX, McHALE, MELIO, D. W. SNYDER, WOGAN, SEMMEL, MICOZZIE, DeLUCA, CLYMER, KENNEY, RAYMOND, CIVERA, NAHILL, TIGUE, PRESTON, PERZEL, MERRY, HAYDEN, DUFFY, FLICK, KASUNIC, KOSINSKI, STAIRS, MAYERNIK, BORTNER, STABACK, HERSHEY, OLASZ, E. Z. TAYLOR, MICHLOVIC, VEON, RICHARDSON, COLAFELLA, LANGTRY AND BELARDI, APRIL 22, 1987

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, IN SENATE, OCTOBER 20, 1987

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, ADDING PROVISIONS RELATING TO THE <—
3 ESTABLISHMENT AND OPERATION OF THE PENNSYLVANIA COMMISSION ON
4 SENTENCING; increasing the penalties for false reports to law
5 enforcement authorities; AND MAKING REPEALS. <—

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

8 ~~Section 1. Section 4906 of Title 18 of the Pennsylvania~~ <—
9 ~~Consolidated Statutes is amended to read:~~

10 SECTION 1. CHAPTER 13 OF TITLE 18 OF THE PENNSYLVANIA <—
11 CONSOLIDATED STATUTES IS AMENDED BY ADDING A SUBCHAPTER TO READ:

12 CHAPTER 13
13 AUTHORITY OF COURT IN SENTENCING

14 * * *

1 SUBCHAPTER G

2 PENNSYLVANIA COMMISSION ON SENTENCING

3 SEC.

4 3181. PENNSYLVANIA COMMISSION ON SENTENCING.

5 3182. COMPOSITION OF COMMISSION.

6 3183. POWERS AND DUTIES.

7 3184. ADOPTION OF GUIDELINES FOR SENTENCING.

8 3185. PUBLICATION OF GUIDELINES FOR SENTENCING.

9 3186. SEVERABILITY OF SUBCHAPTER.

10 § 3181. PENNSYLVANIA COMMISSION ON SENTENCING.

11 (A) GENERAL RULE.--THE PENNSYLVANIA COMMISSION ON SENTENCING
12 SHALL BE ESTABLISHED AS AN AGENCY OF THE GENERAL ASSEMBLY AND
13 SHALL CONSIST OF 11 PERSONS SELECTED AS PROVIDED IN THIS
14 SUBCHAPTER.

15 (B) SEAL.--THE PENNSYLVANIA COMMISSION ON SENTENCING SHALL
16 HAVE A SEAL ENGRAVED WITH ITS NAME AND SUCH OTHER INSCRIPTION AS
17 MAY BE SPECIFIED BY REGULATION OF THE COMMISSION.

18 § 3182. COMPOSITION OF COMMISSION.

19 (A) GENERAL RULE.--THE PENNSYLVANIA COMMISSION ON SENTENCING
20 SHALL CONSIST OF:

21 (1) TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES SELECTED
22 BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, NO MORE THAN
23 ONE OF WHOM SHALL BE OF THE SAME POLITICAL PARTY.

24 (2) TWO MEMBERS OF THE SENATE SELECTED BY THE PRESIDENT
25 PRO TEMPORE OF THE SENATE, NO MORE THAN ONE OF WHOM SHALL BE
26 OF THE SAME POLITICAL PARTY.

27 (3) FOUR JUDGES OF COURTS OF RECORD SELECTED BY THE
28 CHIEF JUSTICE OF PENNSYLVANIA.

29 (4) THREE PERSONS APPOINTED BY THE GOVERNOR, WHO SHALL
30 BE, RESPECTIVELY:

- 1 (I) A DISTRICT ATTORNEY.
2 (II) A DEFENSE ATTORNEY.
3 (III) EITHER A PROFESSOR OF LAW OR A CRIMINOLOGIST.

4 (B) TERMS OF OFFICE.--THE MEMBERS OF THE COMMISSION SHALL
5 SERVE FOR TERMS OF TWO YEARS AND UNTIL A SUCCESSOR HAS BEEN
6 SELECTED AND QUALIFIED. A VACANCY ON THE COMMISSION SHALL BE
7 FILLED FOR THE BALANCE OF THE TERM.

8 (C) CHAIRMAN AND EXECUTIVE DIRECTOR.--THE COMMISSION SHALL
9 SELECT A CHAIRMAN FROM ITS MEMBERS AND AN EXECUTIVE DIRECTOR.

10 THE CHAIRMAN SHALL:

11 (1) PRESIDE AT MEETINGS OF THE COMMISSION.

12 (2) DIRECT THE PREPARATION OF REQUESTS FOR
13 APPROPRIATIONS FOR THE COMMISSION AND THE USE OF FUNDS MADE
14 AVAILABLE TO THE COMMISSION.

15 (D) MEETINGS AND QUORUM.--

16 (1) THE COMMISSION SHALL MEET AT LEAST FOUR TIMES A YEAR
17 AND NOT LESS THAN SEMIANNUALLY TO ESTABLISH ITS GENERAL
18 POLICIES AND RULES.

19 (2) THE COMMISSION SHALL BE DEEMED AN "AGENCY" WITHIN
20 THE MEANING OF AND SHALL BE SUBJECT TO THE PROVISIONS OF THE
21 ACT OF JULY 3, 1986 (P.L.388, NO.84), KNOWN AS THE SUNSHINE
22 ACT.

23 (3) SEVEN COMMISSIONERS SHALL CONSTITUTE A QUORUM FOR
24 THE PURPOSE OF ADOPTING PROPOSED INITIAL AND INITIAL AND
25 SUBSEQUENT GUIDELINES. A MAJORITY OF COMMISSIONERS SHALL
26 CONSTITUTE A QUORUM FOR ALL OTHER PURPOSES.

27 (4) MINUTES OF MEETINGS SHALL BE KEPT BY THE EXECUTIVE
28 DIRECTOR AND FILED AT THE EXECUTIVE OFFICE OF THE COMMISSION.

29 (E) RECORDS OF ACTION.--EXCEPT AS OTHERWISE PROVIDED BY
30 STATUTE, THE COMMISSION SHALL MAINTAIN AND MAKE AVAILABLE FOR

1 PUBLIC INSPECTION A RECORD OF THE FINAL VOTE OF EACH MEMBER ON
2 ANY ACTION TAKEN BY IT.

3 (F) EXPENSES.--EACH COMMISSIONER SHALL BE ENTITLED TO
4 REIMBURSEMENT FOR HIS ACCOUNTABLE EXPENSES INCURRED WHILE
5 ENGAGED IN THE BUSINESS OF THE COMMISSION.

6 § 3183. POWERS AND DUTIES.

7 (A) GENERAL RULE.--THE COMMISSION, PURSUANT TO RULES AND
8 REGULATIONS, SHALL HAVE THE POWER TO:

9 (1) ESTABLISH GENERAL POLICIES AND PROMULGATE SUCH RULES
10 AND REGULATIONS FOR THE COMMISSION AS ARE NECESSARY TO CARRY
11 OUT THE PURPOSES OF THIS SUBCHAPTER AND 42 PA.C.S. CH. 97
12 (RELATING TO SENTENCING).

13 (2) UTILIZE, WITH THEIR CONSENT, THE SERVICES,
14 EQUIPMENT, PERSONNEL, INFORMATION AND FACILITIES OF FEDERAL,
15 STATE, LOCAL AND PRIVATE AGENCIES AND INSTRUMENTALITIES WITH
16 OR WITHOUT REIMBURSEMENT THEREFOR.

17 (3) ENTER INTO AND PERFORM SUCH CONTRACTS, LEASES,
18 COOPERATIVE AGREEMENTS AND OTHER TRANSACTIONS AS MAY BE
19 NECESSARY IN THE CONDUCT OF THE FUNCTIONS OF THE COMMISSION,
20 WITH ANY PUBLIC AGENCY OR WITH ANY PERSON, FIRM, ASSOCIATION,
21 CORPORATION, EDUCATIONAL INSTITUTION OR NONPROFIT
22 ORGANIZATION.

23 (4) REQUEST SUCH INFORMATION, DATA AND REPORTS FROM ANY
24 OFFICER OR AGENCY OF THE COMMONWEALTH GOVERNMENT AS THE
25 COMMISSION MAY FROM TIME TO TIME REQUIRE AND AS MAY BE
26 PRODUCED CONSISTENT WITH OTHER LAW.

27 (5) ARRANGE WITH THE HEAD OF ANY GOVERNMENT UNIT FOR THE
28 PERFORMANCE BY THE GOVERNMENT UNIT OF ANY FUNCTION OF THE
29 COMMISSION, WITH OR WITHOUT REIMBURSEMENT.

30 (6) ISSUE INVITATIONS REQUESTING THE ATTENDANCE AND

1 TESTIMONY OF WITNESSES AND THE PRODUCTION OF ANY EVIDENCE
2 THAT RELATES DIRECTLY TO A MATTER WITH RESPECT TO WHICH THE
3 COMMISSION OR ANY MEMBER THEREOF IS EMPOWERED TO MAKE A
4 DETERMINATION UNDER THIS SUBCHAPTER.

5 (7) ESTABLISH A RESEARCH AND DEVELOPMENT PROGRAM WITHIN
6 THE COMMISSION FOR THE PURPOSE OF:

7 (I) SERVING AS A CLEARINGHOUSE AND INFORMATION
8 CENTER FOR THE COLLECTION, PREPARATION AND DISSEMINATION
9 OF INFORMATION ON COMMONWEALTH SENTENCING PRACTICES.

10 (II) ASSISTING AND SERVING IN A CONSULTING CAPACITY
11 TO STATE COURTS, DEPARTMENTS AND AGENCIES IN THE
12 DEVELOPMENT, MAINTENANCE AND COORDINATION OF SOUND
13 SENTENCING PRACTICES.

14 (8) COLLECT SYSTEMATICALLY THE DATA OBTAINED FROM
15 STUDIES, RESEARCH AND THE EMPIRICAL EXPERIENCE OF PUBLIC AND
16 PRIVATE AGENCIES CONCERNING THE SENTENCING PROCESSES.

17 (9) PUBLISH DATA CONCERNING THE SENTENCING PROCESSES.

18 (10) COLLECT SYSTEMATICALLY AND DISSEMINATE INFORMATION
19 CONCERNING SENTENCES ACTUALLY IMPOSED.

20 (11) COLLECT SYSTEMATICALLY AND DISSEMINATE INFORMATION
21 REGARDING EFFECTIVENESS OF SENTENCES IMPOSED.

22 (12) MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY
23 CONCERNING MODIFICATION OR ENACTMENT OF SENTENCING AND
24 CORRECTIONAL STATUTES WHICH THE COMMISSION FINDS TO BE
25 NECESSARY AND ADVISABLE TO CARRY OUT AN EFFECTIVE, HUMANE AND
26 RATIONAL SENTENCING POLICY.

27 (13) ESTABLISH A PLAN AND TIMETABLE TO COLLECT AND
28 DISSEMINATE INFORMATION RELATING TO INCAPACITATION,
29 RECIDIVISM, DETERRENCE AND OVERALL EFFECTIVENESS OF SENTENCES
30 IMPOSED.

1 (14) ESTABLISH A PROGRAM TO SYSTEMATICALLY MONITOR
2 COMPLIANCE WITH THE GUIDELINES AND WITH MANDATORY SENTENCING
3 LAWS BY:

4 (I) PROMULGATING FORMS WHICH DOCUMENT THE
5 APPLICATION OF THE GUIDELINES OR MANDATORY SENTENCING
6 LAWS, OR BOTH.

7 (II) REQUIRING THE TIMELY COMPLETION AND SUBMISSION
8 OF SUCH FORMS TO THE COMMISSION.

9 (B) ANNUAL REPORTS.--THE COMMISSION SHALL REPORT ANNUALLY TO
10 THE GENERAL ASSEMBLY, THE ADMINISTRATIVE OFFICE OF PENNSYLVANIA
11 COURTS AND THE GOVERNOR ON THE ACTIVITIES OF THE COMMISSION.

12 (C) ADDITIONAL POWERS AND DUTIES.--THE COMMISSION SHALL HAVE
13 SUCH OTHER POWERS AND DUTIES AND SHALL PERFORM SUCH OTHER
14 FUNCTIONS AS MAY BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS
15 SUBCHAPTER OR AS MAY BE PROVIDED UNDER ANY OTHER PROVISION OF
16 LAW AND MAY DELEGATE TO ANY COMMISSIONER OR DESIGNATED PERSON
17 SUCH POWERS AS MAY BE APPROPRIATE OTHER THAN THE POWER TO
18 ESTABLISH GENERAL POLICIES, GUIDELINES, RULES AND FACTORS UNDER
19 SUBSECTION (A)(1).

20 § 3184. ADOPTION OF GUIDELINES FOR SENTENCING.

21 (A) GENERAL RULE.--THE COMMISSION SHALL ADOPT GUIDELINES FOR
22 SENTENCING WITHIN THE LIMITS ESTABLISHED BY LAW WHICH SHALL BE
23 CONSIDERED BY THE SENTENCING COURT IN DETERMINING THE
24 APPROPRIATE SENTENCE FOR DEFENDANTS WHO PLEAD GUILTY OR NOLO
25 CONTENDERE TO, OR WHO WERE FOUND GUILTY OF, FELONIES AND
26 MISDEMEANORS. THE GUIDELINES SHALL:

27 (1) SPECIFY THE RANGE OF SENTENCES APPLICABLE TO CRIMES
28 OF A GIVEN DEGREE OF GRAVITY.

29 (2) SPECIFY A RANGE OF SENTENCES OF INCREASED SEVERITY
30 FOR DEFENDANTS PREVIOUSLY CONVICTED OF OR ADJUDICATED

1 DELINQUENT FOR ONE OR MORE MISDEMEANOR OR FELONY OFFENSES
2 COMMITTED PRIOR TO THE CURRENT OFFENSE. FOR PURPOSES OF THIS
3 SECTION "PREVIOUSLY CONVICTED OR ADJUDICATED DELINQUENT"
4 SHALL INCLUDE ANY FINDING OF GUILT OR ADJUDICATION OF
5 DELINQUENCY WHETHER OR NOT SENTENCE HAS BEEN IMPOSED OR
6 DISPOSITION ORDERED PRIOR TO THE COMMISSION OF THE CURRENT
7 OFFENSE.

8 (3) SPECIFY A RANGE OF SENTENCES OF INCREASED SEVERITY
9 FOR DEFENDANTS WHO POSSESSED A DEADLY WEAPON DURING THE
10 COMMISSION OF THE CURRENT CONVICTION OFFENSE.

11 (4) PRESCRIBE VARIATIONS FROM THE RANGE OF SENTENCES
12 APPLICABLE ON ACCOUNT OF AGGRAVATING OR MITIGATING
13 CIRCUMSTANCES.

14 (B) DEFINITION.--AS USED IN THIS SECTION THE TERM
15 "POSSESSED" MEANS ON THE DEFENDANT'S PERSON OR WITHIN HIS
16 IMMEDIATE PHYSICAL CONTROL.

17 § 3185. PUBLICATION OF GUIDELINES FOR SENTENCING.

18 (A) GENERAL RULE.--THE COMMISSION SHALL:

19 (1) PRIOR TO ADOPTION, PUBLISH IN THE PENNSYLVANIA
20 BULLETIN ALL PROPOSED SENTENCING GUIDELINES AND HOLD PUBLIC
21 HEARINGS NOT EARLIER THAN 30 DAYS AND NOT LATER THAN 60 DAYS
22 THEREAFTER TO AFFORD AN OPPORTUNITY FOR THE FOLLOWING PERSONS
23 AND ORGANIZATIONS TO TESTIFY:

24 (I) PENNSYLVANIA DISTRICT ATTORNEYS ASSOCIATION.

25 (II) CHIEFS OF POLICE ASSOCIATIONS.

26 (III) FRATERNAL ORDER OF POLICE.

27 (IV) PUBLIC DEFENDERS ORGANIZATION.

28 (V) LAW SCHOOL FACULTY MEMBERS.

29 (VI) STATE BOARD OF PROBATION AND PAROLE.

30 (VII) BUREAU OF CORRECTION.

- 1 (VIII) PENNSYLVANIA BAR ASSOCIATION.
- 2 (IX) PENNSYLVANIA WARDENS ASSOCIATION.
- 3 (X) PENNSYLVANIA ASSOCIATION ON PROBATION, PAROLE
- 4 AND CORRECTIONS.
- 5 (XI) PENNSYLVANIA CONFERENCE OF STATE TRIAL JUDGES.
- 6 (XII) ANY OTHER INTERESTED PERSON OR ORGANIZATION.

7 (2) PUBLISH IN THE PENNSYLVANIA BULLETIN SENTENCING
8 GUIDELINES AS ADOPTED BY THE COMMISSION.

9 (B) REJECTION BY GENERAL ASSEMBLY.--SUBJECT TO GUBERNATORIAL
10 REVIEW PURSUANT TO SECTION 9 OF ARTICLE III OF THE CONSTITUTION
11 OF PENNSYLVANIA, THE GENERAL ASSEMBLY MAY BY CONCURRENT
12 RESOLUTION REJECT IN THEIR ENTIRETY ANY GUIDELINES ADOPTED BY
13 THE COMMISSION WITHIN 90 DAYS OF THEIR PUBLICATION IN THE
14 PENNSYLVANIA BULLETIN PURSUANT TO SUBSECTION (A)(2).

15 (C) EFFECTIVE DATE.--SENTENCING GUIDELINES ADOPTED BY THE
16 COMMISSION SHALL BECOME EFFECTIVE 180 DAYS AFTER PUBLICATION IN
17 THE PENNSYLVANIA BULLETIN PURSUANT TO SUBSECTION (A)(2) UNLESS
18 DISAPPROVED PURSUANT TO SUBSECTION (B). IF NOT DISAPPROVED, THE
19 COMMISSIONERS SHALL CONDUCT TRAINING AND ORIENTATION FOR TRIAL
20 COURT JUDGES PRIOR TO THE EFFECTIVE DATE OF THE GUIDELINES.

21 § 3186. SEVERABILITY OF SUBCHAPTER.

22 THE PROVISIONS OF THIS SUBCHAPTER ARE SEVERABLE. IF ANY
23 PROVISION OF THIS SUBCHAPTER OR ITS APPLICATION TO ANY PERSON OR
24 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT
25 OTHER PROVISIONS OR APPLICATIONS OF THIS SUBCHAPTER WHICH CAN BE
26 GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

27 SECTION 2. SECTION 4906 OF TITLE 18 IS AMENDED TO READ:

28 § 4906. False reports to law enforcement authorities.

29 (a) Falsely incriminating another.--A person who knowingly
30 gives false information to any law enforcement officer with

1 intent to implicate another commits a misdemeanor of the [second
2 degree] first degree.

3 (b) Fictitious reports.--A person commits a misdemeanor of
4 the [third degree] first degree if he:

5 (1) reports to law enforcement authorities an offense or
6 other incident within their concern knowing that it did not
7 occur; or

8 (2) pretends to furnish such authorities with
9 information relating to an offense or incident when he knows
10 he has no information relating to such offense or incident.

11 ~~Section 2. This act shall take effect in 60 days.~~ <—

12 SECTION 3. ANY SENTENCING GUIDELINES ADOPTED BY THE <—
13 PENNSYLVANIA COMMISSION ON SENTENCING AND DISAPPROVED BY THE
14 GENERAL ASSEMBLY PRIOR TO THE EFFECTIVE DATE OF THIS ACT SHALL
15 BE DEEMED NULL AND VOID UPON THE ADOPTION OF SENTENCING
16 GUIDELINES SUBSEQUENT TO THE EFFECTIVE DATE OF THIS ACT AND
17 PURSUANT TO THIS SECTION OF THIS ACT. NOTWITHSTANDING THE
18 REQUIREMENTS SET FORTH IN 18 PA.C.S. § 3185 (RELATING TO
19 PUBLICATION OF GUIDELINES FOR SENTENCING), SAID GUIDELINES SHALL
20 BE ADOPTED BY THE COMMISSION AND PUBLISHED IN THE PENNSYLVANIA
21 BULLETIN WITHIN 20 DAYS OF THE EFFECTIVE DATE OF THIS ACT. THE
22 GENERAL ASSEMBLY SHALL TAKE ANY ACTION PERMITTED PURSUANT TO 18
23 PA.C.S. § 3185(B) WITHIN 30 DAYS FROM THE DATE THAT THE
24 GUIDELINES ARE PUBLISHED IN THE PENNSYLVANIA BULLETIN, AND SAID
25 GUIDELINES SHALL BECOME EFFECTIVE 30 DAYS AFTER PUBLICATION IN
26 THE PENNSYLVANIA BULLETIN UNLESS DISAPPROVED PURSUANT TO 18
27 PA.C.S. § 3185(B). THE GUIDELINES SHALL APPLY TO ALL OFFENSES
28 COMMITTED ON OR AFTER THE EFFECTIVE DATE OF THE ADOPTED
29 GUIDELINES.

30 SECTION 4. THE FOLLOWING ACTS OR PARTS OF ACTS ARE REPEALED.

1 42 PA.C.S. CH. 21 SUBCH. F (RELATING TO PENNSYLVANIA
2 COMMISSION ON SENTENCING).

3 AS MUCH OF THE SECOND SENTENCE OF 42 PA.C.S. 9721(B) AS READS
4 AS FOLLOWS: ". . . AND TAKING EFFECT PURSUANT TO SECTION 2155
5 (RELATING TO PUBLICATION OF GUIDELINES FOR SENTENCING) . . ."

6 AS MUCH OF THE FOURTH SENTENCE OF 42 PA.C.S. 9721(B) AS READS
7 AS FOLLOWS: ". . . PURSUANT TO SECTION 2154 (RELATING TO
8 ADOPTION OF GUIDELINES FOR SENTENCING) AND MADE EFFECTIVE
9 PURSUANT TO SECTION 2155 . . ."

10 SECTION 5. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

11 (1) SECTION 2 (RELATING TO SECTION 4906) SHALL TAKE
12 EFFECT IN 60 DAYS.

13 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
14 IMMEDIATELY.