

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

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 26, 1987

AN ACT

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

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

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

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

14 SECTION 1. SECTION 509 OF TITLE 18 OF THE PENNSYLVANIA <—  
15 CONSOLIDATED STATUTES IS AMENDED TO READ:

16 § 509. USE OF FORCE BY PERSONS WITH SPECIAL RESPONSIBILITY FOR

1 CARE, DISCIPLINE OR SAFETY OF OTHERS.

2 (A) GENERAL RULE. --THE USE OF FORCE UPON OR TOWARD THE  
3 PERSON OF ANOTHER IS JUSTIFIABLE IF:

4 (1) THE ACTOR IS THE PARENT OR GUARDIAN OR OTHER PERSON  
5 SIMILARLY RESPONSIBLE FOR THE GENERAL CARE AND SUPERVISION OF  
6 A MINOR OR A PERSON ACTING AT THE REQUEST OF SUCH PARENT,  
7 GUARDIAN OR OTHER RESPONSIBLE PERSON AND:

8 (I) THE FORCE IS USED FOR THE PURPOSE OF  
9 SAFEGUARDING OR PROMOTING THE WELFARE OF THE MINOR,  
10 INCLUDING THE PREVENTING OR PUNISHMENT OF HIS MISCONDUCT;  
11 AND

12 (II) THE FORCE USED IS NOT DESIGNED TO CAUSE OR  
13 KNOWN TO CREATE A SUBSTANTIAL RISK OF CAUSING DEATH,  
14 SERIOUS BODILY INJURY, DISFIGUREMENT, EXTREME PAIN OR  
15 MENTAL DISTRESS OR GROSS DEGRADATION.

16 (2) THE ACTOR IS A TEACHER OR PERSON OTHERWISE ENTRUSTED  
17 WITH THE CARE OR SUPERVISION FOR A SPECIAL PURPOSE OF A MINOR  
18 AND:

19 (I) THE ACTOR BELIEVES THAT THE FORCE USED IS  
20 NECESSARY TO FURTHER SUCH SPECIAL PURPOSE, INCLUDING THE  
21 MAINTENANCE OF REASONABLE DISCIPLINE IN A SCHOOL, CLASS  
22 OR OTHER GROUP, AND THAT THE USE OF SUCH FORCE IS  
23 CONSISTENT WITH THE WELFARE OF THE MINOR; AND

24 (II) THE DEGREE OF FORCE, IF IT HAD BEEN USED BY THE  
25 PARENT OR GUARDIAN OF THE MINOR, WOULD NOT BE  
26 UNJUSTIFIABLE UNDER [SUBPARAGRAPH (1)(II) OF THIS  
27 SECTION] PARAGRAPH (1)(II).

28 (3) THE ACTOR IS THE GUARDIAN OR OTHER PERSON SIMILARLY  
29 RESPONSIBLE FOR THE GENERAL CARE AND SUPERVISION OF AN  
30 INCOMPETENT, MENTALLY ILL OR MENTALLY RETARDED PERSON; AND:

1 (I) THE FORCE IS [USED] NECESSARY FOR THE PURPOSE OF  
2 SAFEGUARDING OR PROMOTING THE WELFARE OF THE INCOMPETENT,  
3 MENTALLY ILL OR MENTALLY RETARDED PERSON, INCLUDING THE  
4 PREVENTION OF HIS MISCONDUCT[, OR, WHEN SUCH INCOMPETENT  
5 PERSON IS IN A HOSPITAL OR OTHER INSTITUTION FOR HIS CARE  
6 AND CUSTODY, FOR THE MAINTENANCE OF REASONABLE DISCIPLINE  
7 IN SUCH INSTITUTION]; AND

8 (II) THE FORCE USED IS NOT DESIGNED TO CAUSE OR  
9 KNOWN TO CREATE A SUBSTANTIAL RISK OF CAUSING DEATH,  
10 [SERIOUS] BODILY INJURY, DISFIGUREMENT, [EXTREME OR  
11 UNNECESSARY] PAIN, MENTAL DISTRESS, OR HUMILIATION BEYOND  
12 THAT JUSTIFIABLE UNDER SUBPARAGRAPH (I).

13 (4) THE ACTOR IS A DOCTOR OR OTHER THERAPIST OR A PERSON  
14 ASSISTING HIM AT HIS DIRECTION; AND:

15 (I) THE FORCE IS USED FOR THE PURPOSE OF  
16 ADMINISTERING A RECOGNIZED FORM OF TREATMENT NOT  
17 PROHIBITED BY LAW OF THIS COMMONWEALTH WHICH THE ACTOR  
18 BELIEVES TO BE ADAPTED TO PROMOTING THE PHYSICAL OR  
19 MENTAL HEALTH OF THE PATIENT; AND

20 (II) THE TREATMENT IS ADMINISTERED WITH THE CONSENT  
21 OF THE PATIENT, OR, IF THE PATIENT IS A MINOR OR AN  
22 INCOMPETENT PERSON WITH THE CONSENT OF HIS PARENT OR  
23 GUARDIAN OR OTHER PERSON LEGALLY COMPETENT TO CONSENT IN  
24 HIS BEHALF, OR THE TREATMENT IS ADMINISTERED IN AN  
25 EMERGENCY WHEN THE ACTOR BELIEVES THAT NO ONE COMPETENT  
26 TO CONSENT CAN BE CONSULTED AND THAT A REASONABLE PERSON,  
27 WISHING TO SAFEGUARD THE WELFARE OF THE PATIENT, WOULD  
28 CONSENT.

29 (5) THE ACTOR IS A WARDEN OR OTHER AUTHORIZED OFFICIAL  
30 OF A CORRECTIONAL INSTITUTION; AND:

1 (I) HE BELIEVES THAT THE FORCE USED IS NECESSARY FOR  
2 THE PURPOSE OF ENFORCING THE LAWFUL RULES OR PROCEDURES  
3 OF THE INSTITUTION, UNLESS HIS BELIEF IN THE LAWFULNESS  
4 OF THE RULE OR PROCEDURE SOUGHT TO BE ENFORCED IS  
5 ERRONEOUS AND HIS ERROR IS DUE TO IGNORANCE OR MISTAKE AS  
6 TO THE PROVISIONS OF THIS TITLE, ANY OTHER PROVISION OF  
7 THE CRIMINAL LAW OR THE LAW GOVERNING THE ADMINISTRATION  
8 OF THE INSTITUTION;

9 (II) THE NATURE OR DEGREE OF FORCE USED IS NOT  
10 FORBIDDEN BY LAW; AND

11 (III) IF DEADLY FORCE IS USED, ITS USE IS OTHERWISE  
12 JUSTIFIABLE UNDER THIS CHAPTER.

13 (6) THE ACTOR IS A PERSON RESPONSIBLE FOR THE SAFETY OF  
14 A VESSEL OR AN AIRCRAFT OR A PERSON ACTING AT HIS DIRECTION;  
15 AND:

16 (I) HE BELIEVES THAT THE FORCE USED IS NECESSARY TO  
17 PREVENT INTERFERENCE WITH THE OPERATION OF THE VESSEL OR  
18 AIRCRAFT OR OBSTRUCTION OF THE EXECUTION OF A LAWFUL  
19 ORDER, UNLESS HIS BELIEF IN THE LAWFULNESS OF THE ORDER  
20 IS ERRONEOUS AND HIS ERROR IS DUE TO IGNORANCE OR MISTAKE  
21 AS TO THE LAW DEFINING HIS AUTHORITY; AND

22 (II) IF DEADLY FORCE IS USED, ITS USE IS OTHERWISE  
23 JUSTIFIABLE UNDER THIS CHAPTER.

24 (7) THE ACTOR IS A PERSON WHO IS AUTHORIZED OR REQUIRED  
25 BY LAW TO MAINTAIN ORDER OR DECORUM IN A VEHICLE, TRAIN OR  
26 OTHER CARRIER OR IN A PLACE WHERE OTHERS ARE ASSEMBLED; AND:

27 (I) HE BELIEVES THAT THE FORCE USED IS NECESSARY FOR  
28 SUCH PURPOSE; AND

29 (II) THE FORCE USED IS NOT DESIGNED TO CAUSE DEATH,  
30 OR KNOWN TO CREATE A SUBSTANTIAL RISK OF CAUSING DEATH,

1 BODILY INJURY, OR EXTREME MENTAL DISTRESS.

2 (B) NECESSARY FORCE.--AS USED IN SUBSECTION (A)(3)(I), FORCE  
3 SHALL BE DEEMED NECESSARY ONLY IF NO REASONABLE ALTERNATIVE IS  
4 AVAILABLE AND THE FORCE USED IS LIMITED TO THAT WHICH IS  
5 REQUIRED TO PREVENT IMMINENT PHYSICAL INJURY TO THE ACTOR, THE  
6 INCOMPETENT PERSON, MENTALLY ILL OR MENTALLY RETARDED PERSON OR  
7 ANOTHER PERSON.

8 SECTION 2. CHAPTER 13 OF TITLE 18 IS AMENDED BY ADDING A  
9 SUBCHAPTER TO READ:

10 CHAPTER 13

11 AUTHORITY OF COURT IN SENTENCING

12 \* \* \*

13 SUBCHAPTER G

14 PENNSYLVANIA COMMISSION ON SENTENCING

15 SEC.

16 1381. PENNSYLVANIA COMMISSION ON SENTENCING.

17 1382. COMPOSITION OF COMMISSION.

18 1383. POWERS AND DUTIES.

19 1384. ADOPTION OF GUIDELINES FOR SENTENCING.

20 1385. PUBLICATION OF GUIDELINES FOR SENTENCING.

21 1386. SEVERABILITY OF SUBCHAPTER.

22 § 1381. PENNSYLVANIA COMMISSION ON SENTENCING.

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

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

30 § 1382. COMPOSITION OF COMMISSION.

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

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

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

9 (3) FOUR JUDGES OF COURTS OF RECORD SELECTED BY THE  
10 CHIEF JUSTICE OF PENNSYLVANIA.

11 (4) THREE PERSONS APPOINTED BY THE GOVERNOR, WHO SHALL  
12 BE, RESPECTIVELY:

13 (I) A DISTRICT ATTORNEY.

14 (II) A DEFENSE ATTORNEY.

15 (III) EITHER A PROFESSOR OF LAW OR A CRIMINOLOGIST.

16 (B) TERMS OF OFFICE.--THE MEMBERS OF THE COMMISSION SHALL  
17 SERVE FOR TERMS OF TWO YEARS AND UNTIL A SUCCESSOR HAS BEEN  
18 SELECTED AND QUALIFIED. A VACANCY ON THE COMMISSION SHALL BE  
19 FILLED FOR THE BALANCE OF THE TERM.

20 (C) CHAIRMAN AND EXECUTIVE DIRECTOR.--THE COMMISSION SHALL  
21 SELECT A CHAIRMAN FROM ITS MEMBERS AND AN EXECUTIVE DIRECTOR.  
22 THE CHAIRMAN SHALL:

23 (1) PRESIDE AT MEETINGS OF THE COMMISSION.

24 (2) DIRECT THE PREPARATION OF REQUESTS FOR  
25 APPROPRIATIONS FOR THE COMMISSION AND THE USE OF FUNDS MADE  
26 AVAILABLE TO THE COMMISSION.

27 (D) MEETINGS AND QUORUM.--

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

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

5           (3) SEVEN COMMISSIONERS SHALL CONSTITUTE A QUORUM FOR  
6 THE PURPOSE OF ADOPTING PROPOSED INITIAL AND INITIAL AND  
7 SUBSEQUENT GUIDELINES. A MAJORITY OF COMMISSIONERS SHALL  
8 CONSTITUTE A QUORUM FOR ALL OTHER PURPOSES.

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

11          (E) RECORDS OF ACTION.--EXCEPT AS OTHERWISE PROVIDED BY  
12 STATUTE, THE COMMISSION SHALL MAINTAIN AND MAKE AVAILABLE FOR  
13 PUBLIC INSPECTION A RECORD OF THE FINAL VOTE OF EACH MEMBER ON  
14 ANY ACTION TAKEN BY IT.

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

18 § 1383. POWERS AND DUTIES.

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

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

25           (2) UTILIZE, WITH THEIR CONSENT, THE SERVICES,  
26 EQUIPMENT, PERSONNEL, INFORMATION AND FACILITIES OF FEDERAL,  
27 STATE, LOCAL AND PRIVATE AGENCIES AND INSTRUMENTALITIES WITH  
28 OR WITHOUT REIMBURSEMENT THEREFOR.

29           (3) ENTER INTO AND PERFORM SUCH CONTRACTS, LEASES,  
30 COOPERATIVE AGREEMENTS AND OTHER TRANSACTIONS AS MAY BE

1 NECESSARY IN THE CONDUCT OF THE FUNCTIONS OF THE COMMISSION,  
2 WITH ANY PUBLIC AGENCY OR WITH ANY PERSON, FIRM, ASSOCIATION,  
3 CORPORATION, EDUCATIONAL INSTITUTION OR NONPROFIT  
4 ORGANIZATION.

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

9 (5) ARRANGE WITH THE HEAD OF ANY GOVERNMENT UNIT FOR THE  
10 PERFORMANCE BY THE GOVERNMENT UNIT OF ANY FUNCTION OF THE  
11 COMMISSION, WITH OR WITHOUT REIMBURSEMENT.

12 (6) ISSUE INVITATIONS REQUESTING THE ATTENDANCE AND  
13 TESTIMONY OF WITNESSES AND THE PRODUCTION OF ANY EVIDENCE  
14 THAT RELATES DIRECTLY TO A MATTER WITH RESPECT TO WHICH THE  
15 COMMISSION OR ANY MEMBER THEREOF IS EMPOWERED TO MAKE A  
16 DETERMINATION UNDER THIS SUBCHAPTER.

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

19 (I) SERVING AS A CLEARINGHOUSE AND INFORMATION  
20 CENTER FOR THE COLLECTION, PREPARATION AND DISSEMINATION  
21 OF INFORMATION ON COMMONWEALTH SENTENCING PRACTICES.

22 (II) ASSISTING AND SERVING IN A CONSULTING CAPACITY  
23 TO STATE COURTS, DEPARTMENTS AND AGENCIES IN THE  
24 DEVELOPMENT, MAINTENANCE AND COORDINATION OF SOUND  
25 SENTENCING PRACTICES.

26 (8) COLLECT SYSTEMATICALLY THE DATA OBTAINED FROM  
27 STUDIES, RESEARCH AND THE EMPIRICAL EXPERIENCE OF PUBLIC AND  
28 PRIVATE AGENCIES CONCERNING THE SENTENCING PROCESSES.

29 (9) PUBLISH DATA CONCERNING THE SENTENCING PROCESSES.

30 (10) COLLECT SYSTEMATICALLY AND DISSEMINATE INFORMATION



1 CONCERNING SENTENCES ACTUALLY IMPOSED.

2 (11) COLLECT SYSTEMATICALLY AND DISSEMINATE INFORMATION  
3 REGARDING EFFECTIVENESS OF SENTENCES IMPOSED.

4 (12) MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY  
5 CONCERNING MODIFICATION OR ENACTMENT OF SENTENCING AND  
6 CORRECTIONAL STATUTES WHICH THE COMMISSION FINDS TO BE  
7 NECESSARY AND ADVISABLE TO CARRY OUT AN EFFECTIVE, HUMANE AND  
8 RATIONAL SENTENCING POLICY.

9 (13) ESTABLISH A PLAN AND TIMETABLE TO COLLECT AND  
10 DISSEMINATE INFORMATION RELATING TO INCAPACITATION,  
11 RECIDIVISM, DETERRENCE AND OVERALL EFFECTIVENESS OF SENTENCES  
12 IMPOSED.

13 (14) ESTABLISH A PROGRAM TO SYSTEMATICALLY MONITOR  
14 COMPLIANCE WITH THE GUIDELINES AND WITH MANDATORY SENTENCING  
15 LAWS BY:

16 (I) PROMULGATING FORMS WHICH DOCUMENT THE  
17 APPLICATION OF THE GUIDELINES OR MANDATORY SENTENCING  
18 LAWS, OR BOTH.

19 (II) REQUIRING THE TIMELY COMPLETION AND SUBMISSION  
20 OF SUCH FORMS TO THE COMMISSION.

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

24 (C) ADDITIONAL POWERS AND DUTIES.--THE COMMISSION SHALL HAVE  
25 SUCH OTHER POWERS AND DUTIES AND SHALL PERFORM SUCH OTHER  
26 FUNCTIONS AS MAY BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS  
27 SUBCHAPTER OR AS MAY BE PROVIDED UNDER ANY OTHER PROVISION OF  
28 LAW AND MAY DELEGATE TO ANY COMMISSIONER OR DESIGNATED PERSON  
29 SUCH POWERS AS MAY BE APPROPRIATE OTHER THAN THE POWER TO  
30 ESTABLISH GENERAL POLICIES, GUIDELINES, RULES AND FACTORS UNDER

1 SUBSECTION (A)(1).

2 § 1384. ADOPTION OF GUIDELINES FOR SENTENCING.

3 (A) GENERAL RULE.--THE COMMISSION SHALL ADOPT GUIDELINES FOR  
4 SENTENCING WITHIN THE LIMITS ESTABLISHED BY LAW WHICH SHALL BE  
5 CONSIDERED BY THE SENTENCING COURT IN DETERMINING THE  
6 APPROPRIATE SENTENCE FOR DEFENDANTS WHO PLEAD GUILTY OR NOLO  
7 CONTENDERE TO, OR WHO WERE FOUND GUILTY OF, FELONIES AND  
8 MISDEMEANORS. THE GUIDELINES SHALL:

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

11 (2) SPECIFY A RANGE OF SENTENCES OF INCREASED SEVERITY  
12 FOR DEFENDANTS PREVIOUSLY CONVICTED OF OR ADJUDICATED  
13 DELINQUENT FOR ONE OR MORE MISDEMEANOR OR FELONY OFFENSES  
14 COMMITTED PRIOR TO THE CURRENT OFFENSE. FOR PURPOSES OF THIS  
15 SECTION "PREVIOUSLY CONVICTED OR ADJUDICATED DELINQUENT"  
16 SHALL INCLUDE ANY FINDING OF GUILT OR ADJUDICATION OF  
17 DELINQUENCY WHETHER OR NOT SENTENCE HAS BEEN IMPOSED OR  
18 DISPOSITION ORDERED PRIOR TO THE COMMISSION OF THE CURRENT  
19 OFFENSE.

20 (3) SPECIFY A RANGE OF SENTENCES OF INCREASED SEVERITY  
21 FOR DEFENDANTS WHO POSSESSED A DEADLY WEAPON DURING THE  
22 COMMISSION OF THE CURRENT CONVICTION OFFENSE.

23 (4) PRESCRIBE VARIATIONS FROM THE RANGE OF SENTENCES  
24 APPLICABLE ON ACCOUNT OF AGGRAVATING OR MITIGATING  
25 CIRCUMSTANCES.

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

29 § 1385. PUBLICATION OF GUIDELINES FOR SENTENCING.

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

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

6 (I) PENNSYLVANIA DISTRICT ATTORNEYS ASSOCIATION.

7 (II) CHIEFS OF POLICE ASSOCIATIONS.

8 (III) FRATERNAL ORDER OF POLICE.

9 (IV) PUBLIC DEFENDERS ORGANIZATION.

10 (V) LAW SCHOOL FACULTY MEMBERS.

11 (VI) STATE BOARD OF PROBATION AND PAROLE.

12 (VII) BUREAU OF CORRECTION.

13 (VIII) PENNSYLVANIA BAR ASSOCIATION.

14 (IX) PENNSYLVANIA WARDENS ASSOCIATION.

15 (X) PENNSYLVANIA ASSOCIATION ON PROBATION, PAROLE  
16 AND CORRECTIONS.

17 (XI) PENNSYLVANIA CONFERENCE OF STATE TRIAL JUDGES.

18 (XII) ANY OTHER INTERESTED PERSON OR ORGANIZATION.

19 (2) PUBLISH IN THE PENNSYLVANIA BULLETIN SENTENCING  
20 GUIDELINES AS ADOPTED BY THE COMMISSION.

21 (B) REJECTION BY GENERAL ASSEMBLY.--SUBJECT TO GUBERNATORIAL  
22 REVIEW PURSUANT TO SECTION 9 OF ARTICLE III OF THE CONSTITUTION  
23 OF PENNSYLVANIA, THE GENERAL ASSEMBLY MAY BY CONCURRENT  
24 RESOLUTION REJECT IN THEIR ENTIRETY ANY GUIDELINES ADOPTED BY  
25 THE COMMISSION WITHIN 90 DAYS OF THEIR PUBLICATION IN THE  
26 PENNSYLVANIA BULLETIN PURSUANT TO SUBSECTION (A)(2).

27 (C) EFFECTIVE DATE.--SENTENCING GUIDELINES ADOPTED BY THE  
28 COMMISSION SHALL BECOME EFFECTIVE 180 DAYS AFTER PUBLICATION IN  
29 THE PENNSYLVANIA BULLETIN PURSUANT TO SUBSECTION (A)(2) UNLESS  
30 DISAPPROVED PURSUANT TO SUBSECTION (B). IF NOT DISAPPROVED, THE

1 COMMISSIONERS SHALL CONDUCT TRAINING AND ORIENTATION FOR TRIAL  
2 COURT JUDGES PRIOR TO THE EFFECTIVE DATE OF THE GUIDELINES.

3 § 1386. SEVERABILITY OF SUBCHAPTER.

4 THE PROVISIONS OF THIS SUBCHAPTER ARE SEVERABLE. IF ANY  
5 PROVISION OF THIS SUBCHAPTER OR ITS APPLICATION TO ANY PERSON OR  
6 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT  
7 OTHER PROVISIONS OR APPLICATIONS OF THIS SUBCHAPTER WHICH CAN BE  
8 GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

9 SECTION ~~2~~ 3. SECTION 4906 OF TITLE 18 IS AMENDED TO READ: <—

10 § 4906. False reports to law enforcement authorities.

11 (a) Falsely incriminating another.--A person who knowingly  
12 gives false information to any law enforcement officer with  
13 intent to implicate another commits a misdemeanor of the [second  
14 degree] first degree.

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

17 (1) reports to law enforcement authorities an offense or  
18 other incident within their concern knowing that it did not  
19 occur; or

20 (2) pretends to furnish such authorities with  
21 information relating to an offense or incident when he knows  
22 he has no information relating to such offense or incident.

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

24 SECTION ~~3~~ 4. ANY SENTENCING GUIDELINES ADOPTED BY THE <—  
25 PENNSYLVANIA COMMISSION ON SENTENCING AND DISAPPROVED BY THE  
26 GENERAL ASSEMBLY PRIOR TO THE EFFECTIVE DATE OF THIS ACT SHALL  
27 BE DEEMED NULL AND VOID UPON THE ADOPTION OF SENTENCING  
28 GUIDELINES SUBSEQUENT TO THE EFFECTIVE DATE OF THIS ACT AND  
29 PURSUANT TO THIS SECTION OF THIS ACT. NOTWITHSTANDING THE  
30 REQUIREMENTS SET FORTH IN 18 PA.C.S. § 1385 (RELATING TO

1 PUBLICATION OF GUIDELINES FOR SENTENCING), ~~SAID~~ THOSE GUIDELINES <—  
2 ~~SHALL BE~~ NEXT ADOPTED BY THE COMMISSION ~~AND~~ SHALL BE PUBLISHED <—  
3 IN THE PENNSYLVANIA BULLETIN WITHIN 20 DAYS OF THE EFFECTIVE  
4 DATE OF THIS ACT. ~~THE~~; AND THE GENERAL ASSEMBLY SHALL TAKE ANY <—  
5 ACTION PERMITTED PURSUANT TO 18 PA.C.S. § 1385(B) WITHIN 30 DAYS  
6 FROM THE DATE THAT THE GUIDELINES ARE PUBLISHED IN THE  
7 PENNSYLVANIA BULLETIN, AND SAID GUIDELINES SHALL BECOME  
8 EFFECTIVE 30 DAYS AFTER PUBLICATION IN THE PENNSYLVANIA BULLETIN  
9 UNLESS DISAPPROVED PURSUANT TO ~~18 PA.C.S. § 1385(B)~~ THIS <—  
10 SECTION. THE GUIDELINES SHALL APPLY TO ALL OFFENSES COMMITTED ON  
11 OR AFTER THE EFFECTIVE DATE OF THE ADOPTED GUIDELINES.

12 SECTION 4 5. THE FOLLOWING ACTS AND PARTS OF ACTS ARE <—  
13 REPEALED:

14 42 PA.C.S. CH. 21 SUBCH. F (RELATING TO PENNSYLVANIA  
15 COMMISSION ON SENTENCING).

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

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

23 SECTION 5 6. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: <—

24 (1) SECTION 2 3 (RELATING TO SECTION 4906) SHALL TAKE <—  
25 EFFECT IN 60 DAYS.

26 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT  
27 IMMEDIATELY.