

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1929 Session of
1989

INTRODUCED BY HARPER, COHEN, TANGRETTI, CORRIGAN, PESCI, MORRIS,
E. Z. TAYLOR, DALEY, PISTELLA, TRELLO, J. L. WRIGHT, MRKONIC,
McCALL, BILLOW AND LINTON, OCTOBER 2, 1989

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 2, 1989

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for mandatory arrest in
3 domestic violence cases.

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

6 Section 1. Section 2711 of Title 18 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 2711. [Probable cause] Mandatory arrests in domestic violence
9 cases.

10 (a) General rule.--[A police officer shall have the same
11 right of arrest without a warrant as in a felony whenever he has
12 probable cause to believe the defendant has violated section
13 2504 (relating to involuntary manslaughter), 2701 (relating to
14 simple assault), 2702(a)(3), (4) and (5) (relating to aggravated
15 assault) or 2705 (relating to recklessly endangering another
16 person) against his spouse or other person with whom he resides
17 or has formerly resided although the offense did not take place
18 in the presence of the police officer. A police officer may not

1 arrest a person pursuant to this section without first observing
2 recent physical injury to the victim or other corroborative
3 evidence.]

4 (1) A police officer shall arrest any person who the
5 officer has reasonable grounds to believe is committing or
6 has committed domestic abuse and that the person's actions
7 constitute the commission of a crime, and either or both of
8 the following circumstances are present:

9 (i) The officer has a reasonable basis for believing
10 that there is possibility of continued violence against
11 the alleged victim.

12 (ii) There is evidence of physical injury to the
13 alleged victim.

14 (2) As used in this subsection, the term "domestic
15 abuse" means any of the following engaged in by an adult
16 person against his or her spouse, former spouse or relative
17 or against another person with whom the person resides or
18 formerly resided:

19 (i) A violation of section 2504 (relating to
20 involuntary manslaughter).

21 (ii) A violation of section 2701 (relating to simple
22 assault).

23 (iii) A violation of section 2702(a)(3), (4) and (5)
24 (relating to aggravated assault).

25 (iv) A violation of section 2705 (relating to
26 recklessly endangering another person).

27 (v) The intentional infliction of physical pain,
28 physical injury or illness.

29 (vi) The intentional impairment of physical
30 condition.

1 (vii) A physical act or a threat in conjunction with
2 a physical act, which may cause the other person
3 reasonably to fear imminent engagement in the conduct
4 described in this paragraph.

5 (b) Seizure of weapons.--The arresting police officer shall
6 seize all weapons used by the defendant in the commission of the
7 alleged offense.

8 (c) Bail.--

9 (1) A defendant arrested pursuant to this section shall
10 be afforded a preliminary arraignment by the proper issuing
11 authority without unnecessary delay. In no case shall the
12 arresting officer release the defendant from custody rather
13 than taking the defendant before the issuing authority.

14 (2) In determining whether to admit the defendant to
15 bail, the issuing authority shall consider whether the
16 defendant poses a threat of danger to the victim. If the
17 issuing authority makes such a determination, it shall
18 require as a condition of bail that the defendant shall
19 refrain from entering the residence or household of the
20 victim and the victim's place of employment and shall refrain
21 from committing any further criminal conduct against the
22 victim and shall so notify the defendant thereof at the time
23 the defendant is admitted to bail. Such condition shall
24 expire at the time of the preliminary hearing or upon the
25 entry or the denial of the protection of abuse order by the
26 court, whichever occurs first. A violation of this condition
27 may be punishable by the revocation of any form of pretrial
28 release or the forfeiture of bail and the issuance of a bench
29 warrant for the defendant's arrest or remanding him to
30 custody or a modification of the terms of the bail. The

1 defendant shall be provided a hearing on this matter.

2 (d) Notice of rights.--Upon responding to a domestic
3 violence case, the police officer shall, orally or in writing,
4 notify the victim of the availability of a shelter, including
5 its telephone number, or other services in the community. Said
6 notice shall include the following statement: "If you are the
7 victim of domestic violence, you have the right to go to court
8 and file a petition requesting an order for protection from
9 domestic abuse pursuant to the act of October 7, 1976 (P.L.1090,
10 No.218), known as the Protection From Abuse Act, which could
11 include the following:

12 (1) An order restraining the abuser from further
13 acts of abuse.

14 (2) An order directing the abuser to leave your
15 household.

16 (3) An order preventing the abuser from entering
17 your residence, school, business or place of employment.

18 (4) An order awarding you or the other parent
19 temporary custody of or temporary visitation with your
20 child or children.

21 (5) An order directing the abuser to pay support to
22 you and the minor children if the abuser has a legal
23 obligation to do so."

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