

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1128 Session of
1991

INTRODUCED BY PISTELLA, KUKOVICH, SALOOM, STABACK, VEON,
STETLER, JOSEPHS, RICHARDSON, ITKIN, TANGRETTI, CAPPABIANCA,
HARPER AND MICHLOVIC, APRIL 10, 1991

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 10, 1991

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 imposition of the death sentence.

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

6 Section 1. Section 9711(f), (g), (h) and (i) of Title 42 of
7 the Pennsylvania Consolidated Statutes, are amended and the
8 section is amended by adding a subsection to read:

9 § 9711. Sentencing procedure for murder of the first degree.

10 * * *

11 (f) Minimum age.--A sentence of death shall not be imposed
12 upon persons who were less than 18 years of age at the time of
13 the commission of the offense.

14 [(f)] (g) Sentencing verdict by the jury.--

15 (1) After hearing all the evidence and receiving the
16 instructions from the court, the jury shall deliberate and
17 render a sentencing verdict. In rendering the verdict, if the
18 sentence is death, the jury shall set forth in such form as

1 designated by the court the findings upon which the sentence
2 is based.

3 (2) Based upon these findings, the jury shall set forth
4 in writing whether the sentence is death or life
5 imprisonment.

6 [(g)] (h) Recording sentencing verdict.--Whenever the jury
7 shall agree upon a sentencing verdict, it shall be received and
8 recorded by the court. The court shall thereafter impose upon
9 the defendant the sentence fixed by the jury.

10 [(h)] (i) Review of death sentence.--

11 (1) A sentence of death shall be subject to automatic
12 review by the Supreme Court of Pennsylvania pursuant to its
13 rules.

14 (2) In addition to its authority to correct errors at
15 trial, the Supreme Court shall either affirm the sentence of
16 death or vacate the sentence of death and remand for further
17 proceedings as provided in paragraph (4).

18 (3) The Supreme Court shall affirm the sentence of death
19 unless it determines that:

20 (i) the sentence of death was the product of
21 passion, prejudice or any other arbitrary factor;

22 (ii) the evidence fails to support the finding of at
23 least one aggravating circumstance specified in
24 subsection (d); or

25 (iii) the sentence of death is excessive or
26 disproportionate to the penalty imposed in similar cases,
27 considering both the circumstances of the crime and the
28 character and record of the defendant.

29 (4) If the Supreme Court determines that the death
30 penalty must be vacated because none of the aggravating

1 circumstances are supported by sufficient evidence or because
2 the sentence of death is disproportionate to the penalty
3 imposed in similar cases, then it shall remand for the
4 imposition of a life imprisonment sentence. If the Supreme
5 Court determines that the death penalty must be vacated for
6 any other reason, it shall remand for a new sentencing
7 hearing pursuant to subsections (a) through [(g)] (h).

8 [(i)] (j) Record of death sentence to Governor.--Where a
9 sentence of death is upheld by the Supreme Court, the
10 prothonotary of the Supreme Court shall transmit to the Governor
11 a full and complete record of the trial, sentencing hearing,
12 imposition of sentence and review by the Supreme Court.

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