

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 185 Session of  
1993

INTRODUCED BY MELIO, DeLUCA, PESCI, SCHEETZ, BATTISTO, KIRKLAND,  
DALEY, OLASZ, KING AND DONATUCCI, FEBRUARY 3, 1993

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, APRIL 19, 1993

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, ESTABLISHING AN ADDITIONAL CATEGORY OF <—  
3 CRIMINAL HOMICIDE KNOWN AS HOMICIDE BY ABUSE; further  
4 providing for GRADING OF CRIMINAL ATTEMPT, SOLICITATION AND <—  
5 CONSPIRACY AND FOR aggravated assault; defining the offense  
6 of concealment of child from law enforcement authorities;  
7 providing for the crime of auto piracy; further providing for  
8 the determination of antique slot machines, for purchase,  
9 consumption, possession or transportation of alcohol by  
10 certain persons and for possession of false identification to  
11 obtain alcohol; and providing penalties for trafficking drugs <—  
12 to minors; AND AND FOR COMPULSORY SCHOOL ATTENDANCE; FURTHER <—  
13 PROVIDING FOR SENTENCES FOR OFFENSES COMMITTED WITH FIREARMS; <—  
14 AND MAKING A REPEAL.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

17 ~~Section 1. Section 2702 of Title 18 of the Pennsylvania~~ <—  
18 ~~Consolidated Statutes is amended to read:~~

19 SECTION 1. SECTIONS 905(A) AND 2502(B) OF TITLE 18 OF THE <—  
20 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

21 § 905. GRADING OF CRIMINAL ATTEMPT, SOLICITATION AND  
22 CONSPIRACY.

23 (A) GRADING.--EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,

1 ATTEMPT, SOLICITATION AND CONSPIRACY ARE CRIMES OF THE SAME  
2 GRADE AND DEGREE AS THE MOST SERIOUS OFFENSE WHICH IS ATTEMPTED  
3 OR SOLICITED OR IS AN OBJECT OF THE CONSPIRACY. AN ATTEMPT,  
4 SOLICITATION OR CONSPIRACY TO COMMIT [MURDER OR] A FELONY OF THE  
5 FIRST DEGREE IS A FELONY OF THE SECOND DEGREE. AN ATTEMPT,  
6 SOLICITATION OR CONSPIRACY TO COMMIT MURDER OF THE FIRST DEGREE  
7 IS A FELONY OF THE FIRST DEGREE.

8 \* \* \*

9 § 2502. MURDER.

10 \* \* \*

11 (B) MURDER OF THE SECOND DEGREE.--A CRIMINAL HOMICIDE  
12 CONSTITUTES MURDER OF THE SECOND DEGREE WHEN IT IS COMMITTED  
13 WHILE DEFENDANT WAS ENGAGED AS A PRINCIPAL OR AN ACCOMPLICE IN  
14 THE PERPETRATION OF A FELONY OR WHEN IT IS DETERMINED TO BE  
15 HOMICIDE BY ABUSE UNDER SECTION 2507 (RELATING TO HOMICIDE BY  
16 ABUSE).

17 \* \* \*

18 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ:  
19 § 2507. HOMICIDE BY ABUSE.

20 (A) GENERAL RULE.--A PERSON COMMITS HOMICIDE BY ABUSE WHEN  
21 THAT PERSON KILLS A CHILD 17 YEARS OF AGE OR YOUNGER, A  
22 DEVELOPMENTALLY DISABLED PERSON OR A DEPENDENT ADULT, AND THE  
23 DEATH RESULTS FROM ONE OR MORE INCIDENTS OF ABUSE OR THE DEATH  
24 IS THE RESULT OF A DEMONSTRATED PATTERN OF ABUSE.

25 (B) CLASSIFICATION.--HOMICIDE BY ABUSE IS A MURDER OF THE  
26 SECOND DEGREE.

27 (C) DEFINITION.--AS USED IN THIS SECTION, THE TERM  
28 "DEPENDENT ADULT" MEANS A PERSON WHO, BECAUSE OF PHYSICAL OR  
29 MENTAL DISABILITY OR BECAUSE OF EXTREME ADVANCED AGE, IS  
30 DEPENDENT UPON ANOTHER PERSON TO PROVIDE THE BASIC NECESSITIES

1 OF LIFE.

2 SECTION 3. SECTION 2702 OF TITLE 18 IS AMENDED TO READ:

3 § 2702. Aggravated assault.

4 (a) Offense defined.--A person is guilty of aggravated  
5 assault if he:

6 (1) attempts to cause serious bodily injury to another,  
7 or causes such injury intentionally, knowingly or recklessly  
8 under circumstances manifesting extreme indifference to the  
9 value of human life;

10 (2) attempts to cause or intentionally, knowingly or  
11 recklessly causes serious bodily injury to [a police officer,  
12 firefighter, county adult probation or parole officer, county  
13 juvenile probation or parole officer or an agent of the  
14 Pennsylvania Board of Probation and Parole in the performance  
15 of duty or to] any of the officers, agents, employees or  
16 other persons enumerated in subsection (c) or to an employee  
17 of an agency, company or other entity engaged in public  
18 transportation, while in the performance of duty;

19 (3) attempts to cause or intentionally or knowingly  
20 causes bodily injury to [a police officer, firefighter or  
21 county adult probation or parole officer, county juvenile  
22 probation or parole officer or an agent of the Pennsylvania  
23 Board of Probation and Parole] any of the officers, agents,  
24 employees or other persons enumerated in subsection (c), in  
25 the performance of duty;

26 (4) attempts to cause or intentionally or knowingly  
27 causes bodily injury to another with a deadly weapon; [or]

28 (5) attempts to cause or intentionally or knowingly  
29 causes bodily injury to a teaching staff member, school board  
30 member, other employee or student of any elementary or

1 secondary publicly-funded educational institution, any  
2 elementary or secondary private school licensed by the  
3 Department of Education or any elementary or secondary  
4 parochial school while acting in the scope of his or her  
5 employment or because of his or her employment relationship  
6 to the school[.]; ~~or~~ OR RELATIONSHIP AS A STUDENT OF THE <—  
7 SCHOOL.

8 ~~(6) attempts by physical menace to put any of the~~ <—  
9 ~~officers, agents, employees or other persons enumerated in~~  
10 ~~subsection (c), while in the performance of duty, in fear of~~  
11 ~~imminent serious bodily injury.~~

12 (b) Grading.--Aggravated assault under subsection (a)(1) and  
13 (2) is a felony of the first degree. Aggravated assault under  
14 subsection (a)(3), (4) ~~and (5)~~, ~~(5) and (6)~~ is a felony of the <—  
15 second degree.

16 (c) Officers, employees, etc. enumerated.--The officers,  
17 agents, employees and other persons referred to in subsection  
18 (a) shall be as follows:

- 19 (1) A police officer.  
20 (2) A firefighter.  
21 (3) A county adult probation or parole officer.  
22 (4) A county juvenile probation or parole officer.  
23 (5) An agent of the Pennsylvania Board of Probation and  
24 Parole.  
25 (6) A sheriff.  
26 (7) A deputy sheriff.  
27 (8) A liquor control enforcement agent.  
28 (9) An officer or employee of a correctional  
29 institution.  
30 (10) A judge of any court in the unified judicial

1 system.

2 (11) The Attorney General.

3 (12) A deputy attorney general.

4 (13) A district attorney.

5 (14) An assistant district attorney.

6 (15) A Federal law enforcement official.

7 (16) A State law enforcement official.

8 (17) A local law enforcement official.

9 (18) Any person employed to assist or who assists any  
10 Federal, State or local law enforcement official.

11 (19) An employee of an institution, youth development  
12 center, camp or other facility for delinquent children  
13 operated under the direction or supervision of the court or  
14 other public authority and approved by the Department of  
15 Public Welfare.

16 (20) An officer or employee of a county domestic  
17 relations office.

18 (21) An emergency medical technician or emergency  
19 medical technician-paramedic, as defined in section 3 of the  
20 act of July 3, 1985 (P.L.164, No.45), known as the Emergency  
21 Medical Services Act.

22 Section 2 4. Title 18 is amended by adding sections to read: <—

23 § 2911. Concealment of child from law enforcement authorities.

24 A person who knowingly or recklessly conceals a child from a  
25 law enforcement officer who is investigating a report of a  
26 missing child commits a misdemeanor of the second degree.

27 § 3702. Auto piracy.

28 A person commits a felony of the first degree who, whether  
29 armed or unarmed, by force or violence, by threat of force or  
30 violence, or by putting a person in fear of death or bodily

1 harm, robs, steals or takes a motor vehicle from another person  
2 in the presence of that person or any other person in lawful  
3 possession of the motor vehicle.

4 Section 3 5. Sections 5513(c), 6308(b), 6310.3(b) and <—  
5 ~~6314(b), 6314(B) AND 9712(A)~~ AND 6314(B) of Title 18 are amended <—  
6 to read:

7 § 5513. Gambling devices, gambling, etc.

8 \* \* \*

9 (c) Antique slot machines.--

10 (1) A slot machine shall be established as an antique  
11 slot machine if the defendant shows by a preponderance of the  
12 evidence that it was manufactured [prior to 1941] ~~more than~~ <—  
13 ~~25 years prior to the current year~~ AT LEAST 25 YEARS PRIOR TO <—  
14 THE DATE OF THE VIOLATION OF SUBSECTION (A) and that it was  
15 not used or attempted to be used for any unlawful purposes.  
16 Notwithstanding subsection (b), no antique slot machine  
17 seized from any defendant shall be destroyed or otherwise  
18 altered until the defendant is given an opportunity to  
19 establish that the slot machine is an antique slot machine.  
20 After a final court determination that the slot machine is an  
21 antique slot machine, the slot machine shall be returned  
22 pursuant to the provisions of law providing for the return of  
23 property; otherwise, the slot machine shall be destroyed.

24 (2) It is the purpose of this subsection to protect the  
25 collection and restoration of antique slot machines not  
26 presently utilized for gambling purposes.

27 § 6308. Purchase, consumption, possession or transportation of  
28 liquor or malt or brewed beverages.

29 \* \* \*

30 (b) ~~†Penalty† Minimum penalty~~.--In addition to the penalty <—

1 imposed pursuant to section 6310.4 (relating to restriction of  
2 operating privileges), a person convicted of violating  
3 subsection (a) ~~{may} shall~~ be sentenced to pay a fine of not <—  
4 more than \$500 [for the second and each subsequent violation].

5 ~~There shall be no authority in any court to impose on an~~ <—  
6 ~~offender any lesser sentence than the minimum sentence mandated~~  
7 ~~by this subsection. No court shall have the authority to suspend~~  
8 ~~any sentence as defined in this section.~~

9 \* \* \*

10 § 6310.3. Carrying a false identification card.

11 \* \* \*

12 (b) Minimum penalty.--In addition to any other penalty  
13 imposed pursuant to section 6310.4 (relating to restriction of  
14 operating privileges) or any other statute, a person who is  
15 convicted of violating subsection (a) shall be sentenced to pay  
16 a fine of not more than \$500 [for the second and subsequent  
17 violations]. No court shall have the authority to suspend any  
18 sentence as defined in this section.

19 \* \* \*

20 § 6314. Sentencing and penalties for trafficking drugs to  
21 minors.

22 \* \* \*

23 (b) Additional penalties.--In addition to the mandatory  
24 minimum sentence set forth in subsection (a), the person shall  
25 be sentenced to an additional minimum sentence of at least two  
26 years total confinement, notwithstanding any other provision of  
27 this title or other statute to the contrary, if the person did  
28 any of the following:

29 (1) Committed the offense with the intent to promote the  
30 habitual use of the controlled substance.

(2) Intended to engage the minor in the trafficking, transportation, delivery, manufacturing, sale or conveyance.

(3) Committed the offense within 1,000 feet of the real property on which is located a public, private or parochial school or a college or university.

(4) Committed the offense on a school bus.

(5) Committed the offense within ~~1,000~~ 100 feet of a school bus stop ON THOSE DAYS AND AT THOSE TIMES AS SCHOOL STUDENTS ARE AWAITING TRANSPORTATION OR ARE BEING DISCHARGED AT THESE LOCATIONS.

(6) Committed the offense within ~~1,000~~ 100 feet of the real property of a public playground.

\* \* \*

SECTION 6. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ:

§ 6315. COMPULSORY SCHOOL ATTENDANCE.

(A) PENALTY FOR NONCOMPLIANCE.--

(1) A PARENT, GUARDIAN OR PERSON IN PARENTAL RELATION HAVING CONTROL OR CHARGE OF A CHILD OR CHILDREN OF COMPULSORY SCHOOL AGE WHO FAILS TO COMPLY WITH THE PROVISIONS OF THE PUBLIC SCHOOL CODE REGARDING COMPULSORY ATTENDANCE COMMITS A SUMMARY OFFENSE AND SHALL BE SENTENCED TO PAY, FOR THE BENEFIT OF THE SCHOOL DISTRICT IN WHICH THE OFFENDING PERSON RESIDES, A FINE OF NOT MORE THAN \$300 FOR THE FIRST OFFENSE AND NOT MORE THAN \$300 FOR EACH SUCCEEDING OFFENSE OR TO COMPLETE A PARENTING EDUCATION PROGRAM OFFERED AND OPERATED BY A LOCAL SCHOOL DISTRICT, MEDICAL INSTITUTION OR OTHER STATE-APPROVED AGENCY, OR BOTH.

(2) IN THE DEFAULT OF THE PAYMENT OF A FINE OR COMPLETION OF THE PARENTING PROGRAM UNDER PARAGRAPH (1), THE PERSON SO OFFENDING SHALL BE SENTENCED TO THE COUNTY JAIL FOR

1       A PERIOD OF NOT MORE THAN FIVE DAYS.

2       (B) APPEAL.--A PERSON SENTENCED TO PAY A FINE MAY, IN  
3 ACCORDANCE WITH RULE 86 OF THE PENNSYLVANIA RULES OF CRIMINAL  
4 PROCEDURE, APPEAL TO THE COURT OF COMMON PLEAS OF THE PROPER  
5 COUNTY, UPON ENTERING INTO A RECOGNIZANCE WITH ONE OR MORE  
6 PROPER SURETIES IN DOUBLE THE AMOUNT OF PENALTY AND COSTS.

7       (C) NOTICE.--BEFORE ANY PROCEEDINGS ARE INSTITUTED AGAINST A  
8 PARENT, GUARDIAN OR PERSON IN PARENTAL RELATION FOR FAILURE TO  
9 COMPLY WITH THE PROVISIONS OF THE PUBLIC SCHOOL CODE OR THIS  
10 SECTION, THE DISTRICT SUPERINTENDENT, ATTENDANCE OFFICER OR  
11 SECRETARY OF THE BOARD OF SCHOOL DIRECTORS SHALL GIVE THE  
12 OFFENDING PERSON THREE DAYS' WRITTEN NOTICE OF THE VIOLATION.  
13 IF, AFTER THE NOTICE HAS BEEN GIVEN, THE PROVISIONS OF THIS  
14 SECTION REGARDING COMPULSORY ATTENDANCE ARE AGAIN VIOLATED BY  
15 THE PERSONS SO NOTIFIED AT ANY TIME DURING THE TERM OF  
16 COMPULSORY ATTENDANCE, THAT PERSON SO AGAIN OFFENDING SHALL BE  
17 LIABLE UNDER THIS SECTION WITHOUT FURTHER NOTICE.

18       (D) REASONABLE STEPS TO INSURE ATTENDANCE.--AFTER THE FIRST  
19 OFFENSE, FOR A SUCCEEDING OFFENSE, A PARENT, GUARDIAN OR PERSON  
20 IN PARENTAL RELATION MUST APPEAR AT A HEARING ESTABLISHED BY THE  
21 DISTRICT JUSTICE. IF THE PARENT, GUARDIAN OR PERSON IN PARENTAL  
22 RELATION CHARGED WITH A SUMMARY OFFENSE UNDER SUBSECTION (A)  
23 SHOWS THAT HE TOOK EVERY REASONABLE STEP TO INSURE ATTENDANCE OF  
24 THE CHILD AT SCHOOL, HE SHALL NOT BE CONVICTED OF THE SUMMARY  
25 OFFENSE.

26       (E) HABITUAL TRUANCY.--

27           (1) IF THE PARENT, GUARDIAN OR PERSON IN PARENTAL  
28 RELATION IS NOT CONVICTED OF A SUMMARY OFFENSE BECAUSE HE  
29 TOOK EVERY REASONABLE STEP TO INSURE ATTENDANCE OF THE CHILD  
30 AT SCHOOL, THE CHILD OF COMPULSORY SCHOOL AGE WHO FAILS TO

1 COMPLY WITH THE PUBLIC SCHOOL CODE AND THIS SECTION REGARDING  
2 COMPULSORY ATTENDANCE OR WHO IS HABITUALLY TRUANT FROM SCHOOL  
3 WITHOUT JUSTIFICATION COMMITS A SUMMARY OFFENSE AND SHALL BE  
4 SENTENCED TO PAY, FOR THE BENEFIT OF THE SCHOOL DISTRICT IN  
5 WHICH THE OFFENDING CHILD RESIDES, A FINE OF NOT MORE THAN  
6 \$300 FOR EACH OFFENSE OR SHALL BE ASSIGNED TO AN ADJUDICATION  
7 ALTERNATIVE PROGRAM UNDER 42 PA.C.S. § 1520 (RELATING TO  
8 ADJUDICATION ALTERNATIVE PROGRAM) WHICH HAS BEEN APPROVED BY  
9 THE DISTRICT ATTORNEY AND THE PRESIDENT JUDGE PURSUANT TO THE  
10 RULES OF CRIMINAL PROCEDURE REGARDING ACCELERATED  
11 REHABILITATIVE DISPOSITION. THE CHILD SHALL APPEAR AT THE  
12 HEARING ESTABLISHED BY THE DISTRICT JUSTICE, ACCOMPANIED BY  
13 HIS PARENT, GUARDIAN OR PERSON IN PARENTAL RELATION.

14 (2) IF THE CHILD FAILS TO PAY THE FINE UNDER PARAGRAPH  
15 (1) OR TO COMPLY WITH THE ADJUDICATION ALTERNATIVE PROGRAM,  
16 THE DISTRICT JUSTICE MAY PROCEED ACCORDING TO SECTION 1338 OF  
17 THE PUBLIC SCHOOL CODE.

18 (F) AUTHORITY OF DISTRICT JUSTICE.--WHERE AUTHORIZED BY THE  
19 COURT OF COMMON PLEAS, THE DISTRICT JUSTICE SHALL HAVE AUTHORITY  
20 TO COMPEL SERVICE BY SHERIFF, CONSTABLE OR POLICE AND SECURE  
21 ATTENDANCE DURING THE WEEK, DAY AND TIMES THAT THE COURT IS IN  
22 SESSION.

23 (G) COURT OF COMMON PLEAS.--THE COURT OF COMMON PLEAS MAY  
24 ELECT TO HEAR DIRECTLY CASES BROUGHT UNDER THIS SECTION.

25 (H) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
26 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
27 SUBSECTION:

28 "HABITUALLY TRUANT." ABSENT FOR MORE THAN THREE SCHOOL DAYS  
29 OR THEIR EQUIVALENT FOLLOWING THE FIRST NOTICE OF TRUANCY GIVEN  
30 UNDER SECTION 1354 OF THE ACT OF MARCH 10, 1949 (P.L.30, NO.14),

1 KNOWN AS THE PUBLIC SCHOOL CODE OF 1949. A PERSON MAY BE  
2 HABITUALLY TRUANT AFTER THAT NOTICE.

3 "OFFENSE." EACH CITATION WHICH GOES BEFORE A DISTRICT  
4 JUSTICE OR COURT OF COMMON PLEAS.

5 "PUBLIC SCHOOL CODE." THE ACT OF MARCH 10, 1949 (P.L.30,  
6 NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949.

7 SECTION 7. SECTION 9712(A) OF TITLE 18 IS AMENDED TO READ:  
8 § 9712. SENTENCES FOR OFFENSES COMMITTED WITH FIREARMS. <—

9 (A) MANDATORY SENTENCE.--ANY PERSON WHO IS CONVICTED IN ANY  
10 COURT OF THIS COMMONWEALTH OF MURDER OF THE THIRD DEGREE,  
11 VOLUNTARY MANSLAUGHTER, RAPE, INVOLUNTARY DEVIATE SEXUAL  
12 INTERCOURSE, ROBBERY AS DEFINED IN 18 PA.C.S. § 3701(A)(1)(I),  
13 (II) OR (III) (RELATING TO ROBBERY), AGGRAVATED ASSAULT AS  
14 DEFINED IN 18 PA.C.S. § 2702(A)(1) (RELATING TO AGGRAVATED  
15 ASSAULT) OR KIDNAPPING, OR WHO IS CONVICTED OF ATTEMPT TO COMMIT  
16 ANY OF THESE CRIMES, INCLUDING AN ATTEMPT TO COMMIT MURDER OF  
17 THE FIRST DEGREE, SHALL, IF THE PERSON VISIBLY POSSESSED A  
18 FIREARM DURING THE COMMISSION OF THE OFFENSE, BE SENTENCED TO A  
19 MINIMUM SENTENCE OF AT LEAST FIVE YEARS OF TOTAL CONFINEMENT  
20 NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE OR OTHER  
21 STATUTE TO THE CONTRARY.

22 \* \* \*

23 SECTION 8. SECTION 1333 OF THE ACT OF MARCH 10, 1949 <—  
24 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949, IS  
25 REPEALED.

26 Section ~~4-6~~ 9. The amendment of 18 Pa.C.S. §§ 6308(b) and <—  
27 6310.3(b) shall apply to sentences imposed on or after the  
28 effective date of this act.

29 Section ~~5-7~~ 10. This act shall take effect in 60 days. <—