

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2198 Session of 1993

INTRODUCED BY MARSICO, PICCOLA, CALTAGIRONE, YANDRISEVITS, NAILOR, PHILLIPS, YEWIC, EGOLF, ALLEN, MASLAND, DeLUCA, ARMSTRONG, SERAFINI, PETRARCA, LEVDANSKY, DEMPSEY, McGEEHAN, LEH, SAYLOR, J. TAYLOR, GEIST, CLYMER, HENNESSEY, TRELLO, RAYMOND, BARLEY, TIGUE, MELIO, STERN, CLARK, WOGAN, CAWLEY, FARGO, SAURMAN, PERZEL, DRUCE, BELFANTI, COY, TANGRETTI, MAITLAND, TULLI, CESSAR, STRITTMATTER, TOMLINSON AND JAMES, NOVEMBER 22, 1993

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, MARCH 21, 1994

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, PROVIDING FOR JUDGMENT BY <—
3 CONFESSION FILED AGAINST INCORRECTLY IDENTIFIED DEBTORS;
4 further providing for SENTENCING PROCEDURE AND aggravating <—
5 circumstances in sentencing for murder; AND MAKING A REPEAL. <—

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

8 ~~Section 1. Section 9711(d) of Title 42 of the Pennsylvania <—
9 Consolidated Statutes is amended by adding a paragraph to read:~~

10 SECTION 1. TITLE 42 OF THE PENNSYLVANIA CONSOLIDATED <—
11 STATUTES IS AMENDED BY ADDING A SECTION TO READ:

12 § 2737.1. INCORRECT DEBTOR IDENTIFIED.

13 AT THE TIME A CREDITOR FILES FOR A JUDGMENT BY CONFESSION
14 UNDER SECTION 2737(3) (RELATING TO POWERS AND DUTIES OF THE
15 OFFICE OF THE PROTHONOTARY), THE CREDITOR FILING THE JUDGMENT
16 SHALL PROVIDE THE DEBTOR WITH WRITTEN INSTRUCTIONS REGARDING THE

1 PROCEDURE TO FOLLOW TO STRIKE THE JUDGMENT. A DEBTOR WHO HAS
2 BEEN INCORRECTLY IDENTIFIED AND HAD A CONFESSION OR JUDGMENT
3 ENTERED AGAINST HIM SHALL BE ENTITLED TO COSTS AND REASONABLE
4 ATTORNEY FEES AS DETERMINED BY THE COURT. THE INSTRUCTIONS
5 PROVIDED TO THE DEBTOR SHALL EXPLAIN TO THE DEBTOR THAT HE IS
6 ENTITLED TO COSTS AND REASONABLE ATTORNEY FEES AS DETERMINED BY
7 THE COURT IF HE WAS INCORRECTLY IDENTIFIED.

8 SECTION 2. SECTION 9711(D) OF TITLE 42 IS AMENDED BY ADDING
9 A PARAGRAPH, SUBSECTION (I) IS AMENDED AND THE SECTION IS
10 AMENDED BY ADDING SUBSECTIONS TO READ:

11 § 9711. Sentencing procedure for murder of the first degree.

12 * * *

13 (d) Aggravating circumstances.--Aggravating circumstances
14 shall be limited to the following:

15 * * *

16 (17) At the time of the killing, the victim was in her
17 third trimester of pregnancy or the defendant had knowledge
18 of the victim's pregnancy.

19 * * *

20 ~~Section 2. This act shall take effect immediately.~~ <—

21 (I) RECORD OF DEATH SENTENCE TO GOVERNOR.--[WHERE] WITHIN 60 <—
22 DAYS OF THE DATE A SENTENCE OF DEATH IS UPHeld BY THE SUPREME
23 COURT, THE PROTHONOTARY OF THE SUPREME COURT SHALL TRANSMIT TO
24 THE GOVERNOR A FULL AND COMPLETE RECORD OF THE TRIAL, SENTENCING
25 HEARING, IMPOSITION OF SENTENCE AND REVIEW BY THE SUPREME COURT.
26 NOTICE OF THIS TRANSMISSION SHALL CONTEMPORANEOUSLY BE PROVIDED
27 TO THE SECRETARY OF CORRECTIONS.

28 (J) ISSUANCE OF WARRANT.--

29 (1) AFTER THE RECEIPT OF THE RECORD, UNLESS A PARDON OR
30 COMMUTATION HAS BEEN ISSUED, THE GOVERNOR SHALL, WITHIN 60

1 DAYS, ISSUE A WARRANT SPECIFYING A WEEK FOR EXECUTION WHICH
2 SHALL BE NO LATER THAN 30 DAYS AFTER THE DATE THE WARRANT IS
3 SIGNED. IF, BECAUSE OF A JUDICIAL STAY OF THE EXECUTION, THE
4 DATE OF EXECUTION PASSES WITHOUT IMPOSITION OF THE DEATH
5 PENALTY, UNLESS A PARDON OR COMMUTATION HAS BEEN ISSUED, THE
6 GOVERNOR SHALL, WITHIN 30 DAYS OF THE TERMINATION OF THE
7 JUDICIAL STAY, REISSUE A WARRANT SPECIFYING A WEEK FOR
8 EXECUTION WHICH SHALL BE NO LATER THAN 30 DAYS AFTER THE DATE
9 OF REISSUANCE OF THE WARRANT.

10 (2) THE WARRANT SHALL BE DIRECTED TO THE SECRETARY OF
11 CORRECTIONS COMMANDING THAT THE SUBJECT OF THE WARRANT BE
12 EXECUTED WITHIN THE WEEK NAMED IN THE WARRANT AND IN THE
13 MANNER PRESCRIBED BY LAW.

14 (3) IF THE GOVERNOR FAILS TO TIMELY COMPLY WITH THE
15 PROVISIONS OF THIS SUBSECTION AND A PARDON OR COMMUTATION HAS
16 NOT BEEN ISSUED, THE SECRETARY OF CORRECTIONS SHALL, WITHIN
17 30 DAYS FOLLOWING THE GOVERNOR'S FAILURE TO COMPLY, SCHEDULE
18 AND CARRY OUT THE EXECUTION NO LATER THAN 60 DAYS FROM THE
19 DATE BY WHICH THE GOVERNOR WAS REQUIRED TO SIGN THE WARRANT
20 UNDER PARAGRAPH (1).

21 (K) TERMS OF CONFINEMENT.--UPON RECEIPT OF THE WARRANT, THE
22 SECRETARY OF CORRECTIONS SHALL, UNTIL INFLECTION OF THE DEATH
23 PENALTY OR UNTIL LAWFUL DISCHARGE FROM CUSTODY, KEEP THE INMATE
24 IN SOLITARY CONFINEMENT. DURING THE CONFINEMENT NO PERSON EXCEPT
25 THE STAFF OF THE DEPARTMENT OF CORRECTIONS, THE COUNSEL OF THE
26 INMATE AND A SPIRITUAL ADVISER SELECTED BY THE INMATE, OR THE
27 MEMBERS OF THE IMMEDIATE FAMILY OF THE INMATE, SHALL BE ALLOWED
28 ACCESS TO THE INMATE WITHOUT AN ORDER OF THE SENTENCING COURT.

29 (L) WITNESSES TO EXECUTION.--NO PERSON EXCEPT THE FOLLOWING
30 SHALL WITNESS ANY EXECUTION UNDER THE PROVISIONS OF THIS

1 SECTION:

2 (1) THE SUPERINTENDENT OF THE INSTITUTION WHERE THE
3 EXECUTION TAKES PLACE.

4 (2) A QUALIFIED PHYSICIAN.

5 (3) SIX REPUTABLE ADULT CITIZENS SELECTED BY THE
6 SUPERINTENDENT.

7 (4) ONE SPIRITUAL ADVISER, WHEN REQUESTED AND SELECTED
8 BY THE INMATE.

9 (5) NOT MORE THAN SIX DULY ACCREDITED REPRESENTATIVES OF
10 THE NEWS MEDIA.

11 (6) SUCH STAFF OF THE INSTITUTION AS MAY BE SELECTED BY
12 THE SUPERINTENDENT.

13 (M) CERTIFICATION OF SUPERINTENDENT.--AFTER THE EXECUTION,
14 THE SUPERINTENDENT OF THE INSTITUTION SHALL CERTIFY IN WRITING,
15 UNDER OATH OR AFFIRMATION, TO THE COURT OF THE COUNTY WHERE THE
16 INMATE WAS SENTENCED TO DEATH, THAT THE INMATE WAS DULY EXECUTED
17 AT THE PLACE AND IN THE MANNER PRESCRIBED IN THIS SECTION AND AT
18 THE TIME DESIGNATED UNDER SUBSECTION (J). THE CERTIFICATE SHALL
19 BE FILED IN THE OFFICE OF THE CLERK OF SUCH COURT.

20 (N) POSTMORTEM EXAMINATION.--IMMEDIATELY AFTER EXECUTION, A
21 POSTMORTEM EXAMINATION OF THE BODY OF THE INMATE SHALL BE MADE
22 BY THE PHYSICIAN PRESENT AT THE EXECUTION. THE SUPERINTENDENT
23 SHALL REPORT IN WRITING STATING THE NATURE OF THE EXAMINATION SO
24 MADE. THIS REPORT SHALL BE ANNEXED TO AND FILED WITH THE
25 CERTIFICATE REQUIRED UNDER SUBSECTION (M). AFTER THE POSTMORTEM
26 EXAMINATION, UNLESS CLAIMED BY A RELATIVE OR RELATIVES, THE
27 DEPARTMENT OF CORRECTIONS SHALL BE RESPONSIBLE FOR DISPOSITION
28 OF THE BODY.

29 (O) COSTS OF EXECUTION AND EXAMINATION.--THE COSTS OF THE
30 EXECUTION AND THE POSTMORTEM EXAMINATION SHALL BE PAID BY THE

1 DEPARTMENT OF CORRECTIONS.

2 SECTION 3. THE ACT OF JUNE 19, 1913 (P.L.528, NO.338),
3 ENTITLED "AN ACT FIXING THE PENALTY FOR MURDER OF THE FIRST
4 DEGREE; REGULATING THE PROCEDURE INCIDENT TO THE INFLECTION
5 THEREOF; PRESCRIBING AND PROVIDING FOR A PLACE AND MANNER OF
6 INFLECTING SAID PENALTY ON THE GROUNDS OF THE NEW WESTERN
7 PENITENTIARY OF THIS COMMONWEALTH, IN CENTRE COUNTY; MAKING AN
8 APPROPRIATION THEREFOR; REPEALING INCONSISTENT LEGISLATION; AND
9 PROVIDING THAT NEITHER THIS ACT NOR SAID REPEAL SHALL APPLY TO
10 ANY CASE IN WHICH IT SHALL APPEAR THAT SAID CRIME WAS COMMITTED
11 PRIOR TO THE DATE OF THE APPROVAL OF THIS ACT," IS REPEALED.

12 SECTION 4. THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY
13 PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR
14 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT
15 OTHER PROVISIONS OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN
16 EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

17 SECTION 5. THIS ACT SHALL APPLY TO CASES IN WHICH THE
18 GOVERNOR HAS, AS OF THE EFFECTIVE DATE OF THIS ACT, NOT YET
19 RECEIVED THE TRANSCRIPT OF THE RECORD. WHERE THE GOVERNOR HAS
20 RECEIVED THE TRANSCRIPT OF THE RECORD PRIOR TO THE EFFECTIVE
21 DATE OF THIS ACT, BUT HAS NOT ISSUED THE WARRANT, THE GOVERNOR
22 SHALL, IF A PARDON OR COMMUTATION HAS NOT BEEN ISSUED, WITHIN
23 120 DAYS OF THE EFFECTIVE DATE OF THIS ACT ISSUE THE WARRANT.

24 SECTION 6. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.