

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1777 Session of
1997

INTRODUCED BY MASLAND, COWELL, PISTELLA, FAIRCHILD, KAISER,
WALKO, MCGILL, M. COHEN, BENNINGHOFF, TIGUE, SCRIMENTI,
NAILOR, HARHART, RUBLEY, MELIO, HENNESSEY, CHADWICK, CURRY,
JOSEPHS AND STEELMAN, SEPTEMBER 23, 1997

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 23, 1997

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 mitigating circumstances for murder in the first degree; and
4 defining "mentally retarded."

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

7 Section 1. Section 9711(e) of Title 42 of the Pennsylvania
8 Consolidated Statutes is amended and the section is amended by
9 adding a subsection to read:

10 § 9711. Sentencing procedure for murder of the first degree.

11 * * *

12 (e) Mitigating circumstances.--Mitigating circumstances
13 shall include the following:

14 (1) The defendant has no significant history of prior
15 criminal convictions.

16 (2) The defendant was under the influence of extreme
17 mental or emotional disturbance.

18 (3) The capacity of the defendant to appreciate the

1 criminality of his conduct or to conform his conduct to the
2 requirements of law was substantially impaired.

3 (4) The age of the defendant at the time of the crime.

4 (5) The defendant acted under extreme duress, although
5 not such duress as to constitute a defense to prosecution
6 under 18 Pa.C.S. § 309 (relating to duress), or acted under
7 the substantial domination of another person.

8 (6) The victim was a participant in the defendant's
9 homicidal conduct or consented to the homicidal acts.

10 (7) The defendant's participation in the homicidal act
11 was relatively minor.

12 (7.1) The defendant was mentally retarded, as defined in
13 subsection (z), at the time of the crime.

14 (8) Any other evidence of mitigation concerning the
15 character and record of the defendant and the circumstances
16 of his offense.

17 * * *

18 (z) Definition.--As used in this section, "mentally
19 retarded" means a severe subaverage intellectual functioning as
20 evidenced by an intelligence quotient of 40 or below on an
21 individually administered intelligence quotient test and
22 impairment in adaptive behavior, and this functioning is
23 manifested before the attainment of 18 years of age.

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