

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 10 Session of
2007

INTRODUCED BY D. O'BRIEN, MARSICO, THOMAS, DALEY, DALLY, LENTZ,
REICHLEY, SABATINA, ADOLPH, BASTIAN, BELFANTI, DePASQUALE,
EVERETT, FAIRCHILD, GEORGE, GILLESPIE, GODSHALL, GOODMAN,
GRELL, HALUSKA, HARHART, HARKINS, HICKERNELL, W. KELLER,
KILLION, KORTZ, KOTIK, MANN, MICOZZIE, R. MILLER, MOUL,
NICKOL, PALLONE, PHILLIPS, PICKETT, PRESTON, PYLE, QUIGLEY,
ROAE, ROHRER, RUBLEY, SCAVELLO, SCHRODER, SONNEY, STABACK,
J. TAYLOR, TRUE, WATSON, WATERS, YEWCIC, YUDICHAK, KULA,
LONGIETTI AND CALTAGIRONE, JUNE 5, 2007

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, JUNE 29, 2007

AN ACT

1 ~~Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and~~ <—
2 ~~Judicial Procedure) of the Pennsylvania Consolidated~~
3 ~~Statutes, further providing for fines; and~~
4 ~~AMENDING TITLE 18 (CRIMES AND OFFENSES) OF THE PENNSYLVANIA~~ <—
5 ~~CONSOLIDATED STATUTES, providing for the Criminal Justice~~
6 ~~Enhancement Account and for adoption of guidelines for fines;~~ <—
7 ~~AND FURTHER PROVIDING FOR BURGLARY.~~
8 AMENDING TITLE 42 (JUDICIARY AND JUDICIAL PROCEDURE) OF THE <—
9 PENNSYLVANIA CONSOLIDATED STATUTES, PROVIDING FOR
10 COMPENSATION OF JUDGES, FOR EXCLUSIVE JURISDICTION OF SUPREME
11 COURT AND FOR THE CRIMINAL JUSTICE ENHANCEMENT ACCOUNT; AND
12 MAKING RELATED REPEALS.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 ~~Section 1. Section 1101 of Title 18 of the Pennsylvania~~ <—
16 ~~Consolidated Statutes is amended to read:~~
17 ~~§ 1101. Fines.~~
18 ~~A person who has been convicted of an offense may be~~
19 ~~sentenced to pay a fine not exceeding:~~

1 ~~(1) — [\$50,000] \$100,000, when the conviction is of murder~~
2 ~~or attempted murder.~~

3 ~~(2) — [\$25,000] \$50,000, when the conviction is of a~~
4 ~~felony of the first or second degree.~~

5 ~~(3) — [\$15,000] \$30,000, when the conviction is of a~~
6 ~~felony of the third degree.~~

7 ~~(4) — [\$10,000] \$20,000, when the conviction is of a~~
8 ~~misdemeanor of the first degree.~~

9 ~~(5) — [\$5,000] \$10,000, when the conviction is of a~~
10 ~~misdemeanor of the second degree.~~

11 ~~(6) — [\$2,500] \$5,000, when the conviction is of a~~
12 ~~misdemeanor of the third degree.~~

13 ~~(7) — [\$300] \$600, when the conviction is of a summary~~
14 ~~offense for which no higher fine is established.~~

15 ~~(8) — Any higher amount equal to double the pecuniary gain~~
16 ~~derived from the offense by the offender.~~

17 ~~(9) — Any higher or lower amount specifically authorized~~
18 ~~by statute.~~

19 ~~Section 2. Title 18 is amended by adding a section to read:~~

20 ~~SECTION 1. TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED~~ <—

21 ~~STATUTES IS AMENDED BY ADDING A SECTION TO READ:~~

22 ~~SECTION 1. CHAPTER 17 OF TITLE 42 OF THE PENNSYLVANIA~~ <—

23 ~~CONSOLIDATED STATUTES IS AMENDED BY ADDING A SUBCHAPTER TO READ:~~

24 ~~SUBCHAPTER C~~

25 ~~COMPENSATION~~

26 ~~SEC.~~

27 ~~1741. COMPENSATION OF JUDGES.~~

28 ~~1742. EXCLUSIVE JURISDICTION OF SUPREME COURT.~~

29 ~~§ 1741. COMPENSATION OF JUDGES.~~

30 ~~(A) BASE SALARIES.--NOTWITHSTANDING ANY OTHER PROVISION OF~~

1 LAW TO THE CONTRARY:

2 (1) A PERSON WHO IS ELECTED OR APPOINTED TO A TERM AS A
3 JUSTICE OF THE SUPREME COURT, JUDGE OF THE SUPERIOR COURT,
4 JUDGE OF THE COMMONWEALTH COURT, JUDGE OF A COURT OF COMMON
5 PLEAS, JUDGE OF THE PHILADELPHIA MUNICIPAL COURT, JUDGE OF
6 THE PHILADELPHIA TRAFFIC COURT OR MAGISTERIAL DISTRICT JUDGE
7 AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL RECEIVE A
8 SALARY THAT IS EQUAL TO THE SALARY PAYABLE TO PERSONS WHO
9 HELD THAT PARTICULAR JUDICIAL OFFICE ON THE DAY PRIOR TO THE
10 EFFECTIVE DATE OF THIS SECTION, PLUS \$1 AND ANY APPLICABLE
11 COST-OF-LIVING ADJUSTMENT OR ADJUSTMENTS UNDER SUBSECTION
12 (B).

13 (2) A PERSON WHO SERVES A TERM AS A JUSTICE OF THE
14 SUPREME COURT, JUDGE OF THE SUPERIOR COURT, JUDGE OF THE
15 COMMONWEALTH COURT, JUDGE OF A COURT OF COMMON PLEAS, JUDGE
16 OF THE PHILADELPHIA MUNICIPAL COURT, JUDGE OF THE
17 PHILADELPHIA TRAFFIC COURT OR MAGISTERIAL DISTRICT JUDGE ON
18 THE EFFECTIVE DATE OF THIS SECTION SHALL RECEIVE A SALARY
19 THAT IS EQUAL TO THE SALARY PAYABLE TO PERSONS HOLDING THAT
20 PARTICULAR JUDICIAL OFFICE ON THE DAY PRIOR TO THE EFFECTIVE
21 DATE OF THIS SECTION, PLUS \$1 AND ANY APPLICABLE COST-OF-
22 LIVING ADJUSTMENT OR ADJUSTMENTS UNDER SUBSECTION (B).

23 (B) COST-OF-LIVING ADJUSTMENTS.--

24 (1) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2008,
25 AND EACH JANUARY 1 THEREAFTER, THE ANNUAL SALARIES FOR
26 PERSONS SUBJECT TO SUBSECTION (A)(1) OR (2) SHALL BE
27 INCREASED BY THE PERCENTAGE CHANGE, IF ANY, IN THE CONSUMER
28 PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U) FOR THE
29 PENNSYLVANIA, NEW JERSEY, DELAWARE AND MARYLAND AREA FOR THE
30 MOST RECENT 12-MONTH PERIOD FOR WHICH FIGURES ARE OFFICIALLY

1 REPORTED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF
2 LABOR STATISTICS, IMMEDIATELY PRIOR TO THE DATE THE
3 ADJUSTMENT IS DUE TO TAKE EFFECT.

4 (2) IN NO EVENT SHALL DEFLATION RESULT IN A NEGATIVE
5 COST-OF-LIVING ADJUSTMENT TO A SALARY UNDER SUBSECTION (A)(1)
6 OR (2).

7 (C) LIMITATION.--

8 (1) NO JUSTICE OF THE SUPREME COURT SHALL RECEIVE ANY
9 ANNUAL SALARY INSOFAR AS THAT SALARY IS BASED ON ANY INCREASE
10 IN THE BASE SALARY OF A CIRCUIT COURT JUDGE OF THE UNITED
11 STATES COURT OF APPEALS THAT OCCURS AFTER THE EFFECTIVE DATE
12 OF THIS SECTION.

13 (2) NO JUDGE OF THE SUPERIOR COURT OR COMMONWEALTH COURT
14 SHALL RECEIVE ANY ANNUAL SALARY INSOFAR AS THAT SALARY IS
15 BASED ON ANY INCREASE IN THE BASE SALARY OF A JUDGE OF THE
16 UNITED STATES DISTRICT COURT THAT OCCURS AFTER THE EFFECTIVE
17 DATE OF THIS SECTION.

18 (3) NO JUDGE OF A COURT OF COMMON PLEAS OR PHILADELPHIA
19 MUNICIPAL COURT, PHILADELPHIA TRAFFIC COURT OR MAGISTERIAL
20 DISTRICT JUDGE SHALL RECEIVE ANY ANNUAL SALARY INSOFAR AS
21 THAT ANNUAL SALARY IS BASED ON ANY INCREASE IN THE BASE
22 SALARY OF A UNITED STATES MAGISTRATE JUDGE THAT OCCURS AFTER
23 THE EFFECTIVE DATE OF THIS SECTION.

24 § 1742. EXCLUSIVE JURISDICTION OF SUPREME COURT.

25 THE PENNSYLVANIA SUPREME COURT SHALL HAVE EXCLUSIVE
26 JURISDICTION TO HEAR ANY CHALLENGE TO OR TO RENDER A DECLARATORY
27 JUDGMENT CONCERNING THE CONSTITUTIONALITY OF THIS SUBCHAPTER.
28 THE SUPREME COURT IS AUTHORIZED TO TAKE SUCH ACTION AS IT DEEMS
29 APPROPRIATE, CONSISTENT WITH THE SUPREME COURT RETAINING
30 JURISDICTION OVER SUCH A MATTER, TO FIND FACTS OR TO EXPEDITE A

1 FINAL JUDGMENT IN CONNECTION WITH SUCH A CHALLENGE OR REQUEST
2 FOR DECLARATORY RELIEF.

3 SECTION 2. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:

4 § ~~1111~~ 3575. Criminal Justice Enhancement Account. <—

5 (a) Establishment.--There is established within the State
6 Treasury a restricted account to be known as the Criminal
7 Justice Enhancement Account. The account shall be comprised of
8 all of the following:

9 (1) Costs of prosecution imposed pursuant to subsection
10 (b).

11 (2) Fines statutorily designated by subsection (c) to
12 the account.

13 (b) Costs of prosecution.--In addition to any other costs of
14 prosecution, an assessment in the amount of \$50 shall be imposed
15 and directed to the account in each judicial proceeding where:

16 (1) the defendant accepts Accelerated Rehabilitative
17 Disposition;

18 (2) the defendant is convicted of or enters a plea of
19 guilt or nolo contendere for a felony, misdemeanor of the
20 first degree or misdemeanor of the second degree set forth in
21 ~~this~~ title 18 PA.C.S. (RELATING TO CRIMES AND OFFENSES); or <—

22 (3) the defendant is convicted of or enters a plea of
23 guilt or nolo contendere for a violation of section 13(a)(16)
24 of the act of April 14, 1972 (P.L.233, No.64), known as The
25 Controlled Substance, Drug, Device and Cosmetic Act.

26 (c) Designated offenses.--Any fines imposed for the
27 following offenses UNDER 18 PA.C.S. shall be directed to the <—
28 account:

29 Chapter 41 (relating to forgery and fraudulent practices)
30 other than summary offenses under section 4105 (relating to

1 bad checks).

2 Chapter 47 (relating to bribery and corrupt influence).

3 Chapter 49 Subch. A (relating to perjury and
4 falsification in official matters).

5 Chapter 57 (relating to wiretapping and electronic
6 surveillance).

7 Chapter 76 (relating to computer offenses).

8 (d) Distribution from account.--The money in the account is
9 appropriated, upon approval of the Governor, to fulfill the
10 provisions of section 1401(p) of the act of August 9, 1955
11 (P.L.323, No.130), known as The County Code.

12 Section 3. Title 42 is amended by adding a section to read: <—

13 § 2154.3. Adoption of guidelines for fines.

14 The commission shall adopt guidelines for fines or other
15 lawful economic sanctions, within the limits established by law,
16 which shall be considered by the sentencing court in determining
17 the appropriate sentence for defendants who plead guilty or nolo
18 contendere to or who are found guilty of felonies and
19 misdemeanors. The guidelines shall do all of the following:

20 (1) Specify the range of fines or other lawful economic
21 sanctions, applicable to crimes of a given degree of gravity.

22 (2) Specify a range of fines or other lawful economic
23 sanctions, of increased amount for defendants previously
24 convicted or adjudicated delinquent for one or more
25 misdemeanor or felony offenses committed prior to the current
26 offense. For purposes of this paragraph, the term "previously
27 convicted or adjudicated delinquent" shall include any
28 finding of guilt or adjudication of delinquency whether or
29 not sentence has been imposed or disposition ordered prior to
30 the commission of the current offense.

1 ~~(3) Prescribe variations from the range of fines~~
2 ~~applicable on account of aggravating or mitigating~~
3 ~~circumstances.~~

4 ~~(4) Prescribe community service alternatives which may~~
5 ~~be imposed in lieu of all or part of the fines where the~~
6 ~~sentencing court finds the defendant lacks the ability to pay~~
7 ~~all or part of the fine.~~

8 Section 4 2. This act shall take effect in 120 days. <—

9 SECTION 2. SECTION 3502 OF TITLE 18 IS AMENDED TO READ: <—

10 ~~§ 3502. BURGLARY.~~

11 ~~{(A) OFFENSE DEFINED. A PERSON IS GUILTY OF BURGLARY IF HE~~
12 ~~ENTERS A BUILDING OR OCCUPIED STRUCTURE, OR SEPARATELY SECURED~~
13 ~~OR OCCUPIED PORTION THEREOF, WITH INTENT TO COMMIT A CRIME~~
14 ~~THEREIN, UNLESS THE PREMISES ARE AT THE TIME OPEN TO THE PUBLIC~~
15 ~~OR THE ACTOR IS LICENSED OR PRIVILEGED TO ENTER.~~

16 ~~(B) DEFENSE. IT IS A DEFENSE TO PROSECUTION FOR BURGLARY~~
17 ~~THAT THE BUILDING OR STRUCTURE WAS ABANDONED.}~~

18 ~~(A) OFFENSE DEFINED. A PERSON COMMITS THE OFFENSE OF~~
19 ~~BURGLARY IF, WITH THE INTENT TO COMMIT A CRIME THEREIN, THE~~
20 ~~PERSON:~~

21 ~~(1) ENTERS A BUILDING OR OCCUPIED STRUCTURE, OR~~
22 ~~SEPARATELY SECURED OR OCCUPIED PORTION THEREOF THAT IS~~
23 ~~ADAPTED FOR OVERNIGHT ACCOMMODATIONS IN WHICH AT THE TIME OF~~
24 ~~THE OFFENSE ANY PERSON IS PRESENT;~~

25 ~~(2) ENTERS A BUILDING OR OCCUPIED STRUCTURE, OR~~
26 ~~SEPARATELY SECURED OR OCCUPIED PORTION THEREOF THAT IS~~
27 ~~ADAPTED FOR OVERNIGHT ACCOMMODATIONS IN WHICH AT THE TIME OF~~
28 ~~THE OFFENSE NO PERSON IS PRESENT;~~

29 ~~(3) ENTERS A BUILDING OR OCCUPIED STRUCTURE, OR~~
30 ~~SEPARATELY SECURED OR OCCUPIED PORTION THEREOF THAT IS NOT~~

~~ADAPTED FOR OVERNIGHT ACCOMMODATIONS IN WHICH AT THE TIME OF
THE OFFENSE ANY PERSON IS PRESENT; OR~~

~~(4) ENTERS A BUILDING OR OCCUPIED STRUCTURE, OR
SEPARATELY SECURED OR OCCUPIED PORTION THEREOF THAT IS NOT
ADAPTED FOR OVERNIGHT ACCOMMODATIONS IN WHICH AT THE TIME OF
THE OFFENSE NO PERSON IS PRESENT.~~

~~(B) DEFENSE. IT IS A DEFENSE TO PROSECUTION FOR BURGLARY IF
ANY OF THE FOLLOWING EXISTS AT THE TIME OF THE COMMISSION OF THE
OFFENSE:~~

~~(1) THE BUILDING OR STRUCTURE WAS ABANDONED.~~

~~(2) THE PREMISES ARE OPEN TO THE PUBLIC.~~

~~(3) THE ACTOR IS LICENSED OR PRIVILEGED TO ENTER.~~

~~(C) GRADING.~~

~~(1) EXCEPT AS PROVIDED IN PARAGRAPH (2), BURGLARY IS A
FELONY OF THE FIRST DEGREE.~~

~~(2) [IF THE BUILDING, STRUCTURE OR PORTION ENTERED IS
NOT ADAPTED FOR OVERNIGHT ACCOMMODATION AND IF NO INDIVIDUAL
IS PRESENT AT THE TIME OF ENTRY, BURGLARY IS A FELONY OF THE
SECOND DEGREE.] AN OFFENSE UNDER SUBSECTION (A)(4) IS A
FELONY OF THE SECOND DEGREE.~~

~~(D) MULTIPLE CONVICTIONS. A PERSON MAY NOT BE [CONVICTED]
SENTENCED BOTH FOR BURGLARY AND FOR THE OFFENSE WHICH IT WAS HIS
INTENT TO COMMIT AFTER THE BURGLARIOUS ENTRY OR FOR AN ATTEMPT
TO COMMIT THAT OFFENSE, UNLESS THE ADDITIONAL OFFENSE
CONSTITUTES A FELONY OF THE FIRST OR SECOND DEGREE.~~

~~SECTION 3. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:~~

~~(1) THE ADDITION OF 18 PA.C.S. § 1111 SHALL TAKE EFFECT
IN 120 DAYS.~~

~~(2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
DAYS.~~

1 SECTION 3. REPEALS ARE AS FOLLOWS:

2 (1) AS MUCH OF SECTION 2.1 OF THE ACT OF SEPTEMBER 30,
3 1983 (P.L.160, NO.39), KNOWN AS THE PUBLIC OFFICIAL
4 COMPENSATION LAW, THAT IS INCONSISTENT WITH THE ADDITION OF
5 42 PA.C.S. CH. 17 SUBCH. C, IS REPEALED.

6 (2) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
7 PARAGRAPH (3) IS NECESSARY TO EFFECTUATE THE ADDITION OF 42
8 PA.C.S. CH. 17 SUBCH. C.

9 (3) THE PROVISIONS OF 42 PA.C.S. CH. 18, ADDED JULY 7,
10 2005 (P.L.201, NO.44), REPEALED NOVEMBER 16, 2005 (P.L.385,
11 NO.72) AND REPEAL DECLARED UNCONSTITUTIONAL 905 A.2D 918 (PA.
12 2006), ARE REPEALED.

13 SECTION 4. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

14 (1) THE ADDITION OF 42 PA.C.S. § 3575 SHALL TAKE EFFECT
15 IN 120 DAYS.

16 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
17 IMMEDIATELY.