

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1058 Session of  
2007

INTRODUCED BY KENNEY, CAPPELLI, WATSON, MARSICO, GINGRICH,  
CREIGHTON, HERSHEY, KIRKLAND, RUBLEY, HENNESSEY, MYERS,  
W. KELLER, BOYD, HESS, YOUNGBLOOD, DeLUCA, THOMAS, BEYER AND  
HARPER, APRIL 18, 2007

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 18, 2007

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, further providing for  
3 definitions, for commission, for composition of commission  
4 and for powers and duties; providing for adoption of  
5 guidelines for bail; further providing for publication of  
6 guidelines for sentencing; and providing for bail generally.

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

9 Section 1. The definition of "commission" in section 2151.1  
10 of Title 42 of the Pennsylvania Consolidated Statutes, added  
11 November 19, 2004 (P.L.855, No.112), is amended and the section  
12 is amended by adding a definition to read:

13 § 2151.1. Definitions.

14 The following words and phrases when used in this subchapter  
15 shall have the meanings given to them in this section unless the  
16 context clearly indicates otherwise:

17 "Bail authority." A judge, magisterial district judge or any  
18 other entity authorized to fix or accept bail.

19 "Commission." The Pennsylvania Commission on Sentencing and

1 Bail established in section 2151.2 (relating to commission).

2 Section 2. Section 2151.2 of Title 42, added November 19,  
3 2004 (P.L.855, No.112), is amended to read:

4 § 2151.2. Commission.

5 (a) General rule.--The commission shall be established as an  
6 agency of the General Assembly and shall consist of [11] 13  
7 persons selected as provided in this subchapter.

8 (b) Seal.--The commission shall have a seal engraved with  
9 its name and such other inscription as may be specified by  
10 regulation of the commission.

11 Section 3. Sections 2152(a) and (d) and 2153(a) of Title 42  
12 are amended to read:

13 § 2152. Composition of commission.

14 (a) General rule.--The Pennsylvania Commission on Sentencing  
15 and Bail shall consist of:

16 (1) Two members of the House of Representatives selected  
17 by the Speaker of the House of Representatives, no more than  
18 one of whom shall be of the same political party.

19 (2) Two members of the Senate of Pennsylvania selected  
20 by the President pro tempore of the Senate, no more than one  
21 of whom shall be of the same political party.

22 (3) Four judges of courts of record selected by the  
23 Chief Justice of Pennsylvania.

24 (4) Three persons appointed by the Governor, who shall  
25 be, respectively:

26 (i) A district attorney.

27 (ii) A defense attorney.

28 (iii) Either a professor of law or a criminologist.

29 (5) Two magisterial district judges.

30 \* \* \*

1 (d) Meetings and quorum.--

2 (1) The commission shall meet at least four times a year  
3 and not less than semiannually to establish its general  
4 policies and rules.

5 (2) The commission shall be deemed an "agency" within  
6 the meaning of and shall be subject to the provisions of the  
7 act of July 19, 1974 (P.L.486, No.175), referred to as the  
8 Public Agency Open Meeting Law.

9 (3) [~~Seven~~] Eight commissioners shall constitute a  
10 quorum for the purpose of adopting proposed initial and  
11 initial and subsequent guidelines. A majority of  
12 commissioners shall constitute a quorum for all other  
13 purposes.

14 (4) Minutes of meetings shall be kept by the executive  
15 director and filed at the executive office of the commission.

16 \* \* \*

17 § 2153. Powers and duties.

18 (a) General rule.--The commission, pursuant to rules and  
19 regulations, shall have the power to:

20 (1) Establish general policies and promulgate such rules  
21 and regulations for the commission as are necessary to carry  
22 out the purposes of this subchapter and Chapters 57 (relating  
23 to bonds and recognizances) and [Chapter] 97 (relating to  
24 sentencing).

25 (2) Utilize, with their consent, the services,  
26 equipment, personnel, information and facilities of Federal,  
27 State, local and private agencies and instrumentalities with  
28 or without reimbursement therefor.

29 (3) Enter into and perform such contracts, leases,  
30 cooperative agreements and other transactions as may be

1 necessary in the conduct of the functions of the commission,  
2 with any public agency or with any person, firm, association,  
3 corporation, educational institution or nonprofit  
4 organization.

5 (4) Request such information, data and reports from any  
6 officer or agency of the Commonwealth government as the  
7 commission may from time to time require and as may be  
8 produced consistent with other law.

9 (5) Arrange with the head of any government unit for the  
10 performance by the government unit of any function of the  
11 commission, with or without reimbursement.

12 (6) Issue invitations requesting the attendance and  
13 testimony of witnesses and the production of any evidence  
14 that relates directly to a matter with respect to which the  
15 commission or any member thereof is empowered to make a  
16 determination under this subchapter.

17 (7) Establish a research and development program within  
18 the commission for the purpose of:

19 (i) Serving as a clearinghouse and information  
20 center for the collection, preparation and dissemination  
21 of information on Commonwealth sentencing and bail  
22 practices.

23 (ii) Assisting and serving in a consulting capacity  
24 to State courts, departments and agencies in the  
25 development, maintenance and coordination of sound  
26 sentencing and bail practices.

27 (8) Collect systematically the data obtained from  
28 studies, research and the empirical experience of public and  
29 private agencies concerning the sentencing and bail  
30 processes.

1 (9) Publish data concerning the sentencing and bail  
2 processes.

3 (10) Collect systematically and disseminate information  
4 concerning sentences and bail actually imposed.

5 (11) Collect systematically and disseminate information  
6 regarding effectiveness of sentences and bail imposed.

7 (12) Make recommendations to the General Assembly  
8 concerning modification or enactment of bail, sentencing and  
9 correctional statutes which the commission finds to be  
10 necessary and advisable to carry out an effective, humane and  
11 rational sentencing or bail policy.

12 (13) Establish a plan and timetable to collect and  
13 disseminate information relating to incapacitation,  
14 recidivism, deterrence and overall effectiveness of sentences  
15 and bail imposed.

16 (14) Establish a program to systematically monitor  
17 compliance with the sentencing and bail guidelines and with  
18 mandatory sentencing laws by:

19 (i) Promulgating forms which document the  
20 application of the sentencing and bail guidelines or  
21 mandatory sentencing laws, or both.

22 (ii) Requiring the timely completion and submission  
23 of such forms to the commission.

24 \* \* \*

25 Section 4. Title 42 is amended by adding a section to read:

26 § 2154.3. Adoption of guidelines for bail.

27 (a) Adoption and consideration of guidelines.--The  
28 commission shall adopt guidelines for bail within statutory and  
29 constitutional limits which shall be considered by the bail  
30 authority in determining the appropriate bail for defendants.

1     (b) Conditions.--The guidelines shall include both monetary  
2 and nonmonetary conditions and shall:

3         (1) Specify the range of bail applicable to crimes of a  
4 given degree of gravity.

5         (2) Specify a range of bail of increased severity for  
6 defendants previously convicted of or adjudicated delinquent  
7 for one or more misdemeanor or felony offenses committed  
8 prior to the current offense. For the purposes of this  
9 section, the terms "previously convicted" or "adjudicated  
10 delinquent" shall include any finding of guilt or  
11 adjudication of delinquency whether or not sentence has been  
12 imposed or disposition ordered prior to the commission of the  
13 current offense.

14         (3) Prescribe variations for the range of bail  
15 applicable on account of aggravating or mitigating  
16 circumstances.

17     Section 5. Section 2155 of Title 42 is amended to read:

18 § 2155. Publication of guidelines for sentencing and bail.

19     (a) General rule.--The commission shall:

20         (1) Prior to adoption, publish in the Pennsylvania  
21 Bulletin all proposed sentencing and bail guidelines and hold  
22 public hearings not earlier than 30 days and not later than  
23 60 days thereafter to afford an opportunity for the following  
24 persons and organizations to testify:

25             (i) Pennsylvania District Attorneys Association.

26             (ii) Chiefs of Police Associations.

27             (iii) Fraternal Order of Police.

28             (iv) Public Defenders Organization.

29             (v) Law school faculty members.

30             (vi) State Board of Probation and Parole.

- 1 (vii) Bureau of Correction.
- 2 (viii) Pennsylvania Bar Association.
- 3 (ix) Pennsylvania Wardens Association.
- 4 (x) Pennsylvania Association on Probation, Parole
- 5 and Corrections.
- 6 (xi) Pennsylvania Conference of State Trial Judges.
- 7 (xii) Special Court Judges Association of
- 8 Pennsylvania.

9 [(xii)] (xiii) Any other interested person or  
10 organization.

11 (2) Publish in the Pennsylvania Bulletin sentencing and  
12 bail guidelines as adopted by the commission.

13 (b) Rejection by General Assembly.--Subject to gubernatorial  
14 review pursuant to section 9 of Article III of the Constitution  
15 of Pennsylvania, the General Assembly may by concurrent  
16 resolution reject in their entirety any guidelines adopted by  
17 the commission within 90 days of their publication in the  
18 Pennsylvania Bulletin pursuant to subsection (a)(2).

19 (c) Effective date.--Sentencing and bail guidelines adopted  
20 by the commission shall become effective 90 days after  
21 publication in the Pennsylvania Bulletin pursuant to subsection  
22 (a)(2) unless disapproved pursuant to subsection (b). If not  
23 disapproved, the commissioners shall [conduct]:

24 (1) Conduct training and orientation for trial court  
25 judges prior to the effective date of the sentencing  
26 guidelines.

27 (2) Conduct training and orientation for bail  
28 authorities prior to the effective date of the bail  
29 guidelines.

30 Section 6. Title 42 is amended by adding a section to read:

1 § 5703. Bail generally.

2 (a) General rule.--If a defendant is eligible for bail, the  
3 bail authority shall, after considering the release criteria in  
4 subsection (b) and the bail guidelines established by the  
5 Pennsylvania Commission on Sentencing and Bail as provided in  
6 subsection (c), determine the type or combination of types of  
7 release on bail that are reasonably necessary to ensure that the  
8 defendant will appear at all subsequent proceedings and comply  
9 with the conditions of the bail. All of the types of release  
10 shall be conditioned upon the defendant's written agreement to  
11 appear and to comply with the conditions of the bail bond. The  
12 types of release on bail are:

13 (1) Release on recognizance which is release conditioned  
14 upon the defendant's written agreement to appear when  
15 required and to comply with the conditions of the bail bond.

16 (2) Release on nonmonetary conditions which is release  
17 conditioned upon the defendant's agreement to comply with any  
18 nonmonetary conditions which the bail authority determines  
19 are reasonably necessary to ensure the defendant's appearance  
20 and compliance with the conditions of the bail bond.

21 (3) Release on unsecured bail bond which is release  
22 conditioned upon the defendant's written agreement to be  
23 liable for a fixed sum of money for failure to appear as  
24 required or failure to comply with the conditions of the bail  
25 bond.

26 (4) Release on nominal bail which is release conditioned  
27 upon the defendant's deposit of a nominal amount of cash  
28 which the bail authority has determined is sufficient  
29 security for the defendant's release and the agreement of a  
30 designated person, organization or bail agency to act as



1 surety for the defendant.

2 (5) Release on a monetary condition which is release  
3 conditioned upon the defendant's compliance with monetary  
4 conditions. The amount of the monetary condition shall not be  
5 greater than is necessary to reasonably ensure the  
6 defendant's appearance and compliance with the conditions of  
7 the bail bond.

8 (b) Release criteria.--The following release criteria shall  
9 be considered by the bail authority:

10 (1) The nature of the offense charged and any mitigating  
11 or aggravating factors that may bear upon the likelihood of  
12 conviction and possible penalty.

13 (2) The defendant's employment status, history and  
14 financial condition.

15 (3) The nature of the defendant's family relationships.

16 (4) The length and nature of the defendant's residence  
17 in the community and any past residences.

18 (5) The defendant's age, character, reputation and  
19 mental condition and whether the defendant is addicted to  
20 alcohol or drugs.

21 (6) If the defendant has previously been released on  
22 bail, whether he appeared as required and complied with the  
23 conditions of the bail bond.

24 (7) Whether the defendant has any record of flight to  
25 avoid arrest or prosecution or any record of escape or  
26 attempted escape.

27 (8) The defendant's prior criminal record.

28 (9) Any use of false identification.

29 (10) Any accusation that the defendant possessed a  
30 deadly weapon during the commission of the current offense.

1           (11) Any other factors relevant to whether the defendant  
2           will appear as required and comply with the conditions of the  
3           bail bond.

4           (c) Guidelines.--In selecting from the alternatives set  
5           forth in subsection (a), the bail authority shall consider any  
6           guidelines for bail adopted by the Pennsylvania Commission on  
7           Sentencing and Bail which become effective pursuant to section  
8           2155 (relating to publication of guidelines for sentencing and  
9           bail). In every case in which the bail authority authorizes  
10           release on bail, the bail authority shall disclose, in an open  
11           proceeding occurring at the time bail is fixed, a statement of  
12           the reason or reasons for the bail imposed. In every case where  
13           the bail authority imposes bail which does not conform with the  
14           bail guidelines adopted by the Pennsylvania Commission on  
15           Sentencing and Bail pursuant to section 2154.3 (relating to  
16           adoption of guidelines for bail) which became effective pursuant  
17           to section 2155, the bail authority shall provide a  
18           contemporaneous written statement of the reason or reasons for  
19           the deviation from the guidelines.

20           (d) Definition.--For the purposes of this section, the term  
21           "bail authority" shall have the definition provided in section  
22           2151.1 (relating to definitions).

23           Section 7. This act shall take effect in 60 days.