
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 526 Session of
2011

INTRODUCED BY REICHLEY, DAY, GEIST, GOODMAN, GROVE, HAHN,
HARHART, HORNAMAN, HUTCHINSON, KNOWLES, LONGIETTI, METZGAR,
MILLER, MURT, READSHAW, ROAE, ROCK, SCHRODER, SWANGER,
TALLMAN AND VULAKOVICH, FEBRUARY 8, 2011

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 8, 2011

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for sentences
3 for offenses committed by illegal aliens.

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

6 Section 1. Title 42 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 9719.2. Sentences for offenses committed by illegal aliens.

9 (a) Mandatory sentence.--Notwithstanding any other provision
10 of law to the contrary, a person who is convicted in any court
11 of this Commonwealth of a crime graded as a felony or
12 misdemeanor and who is present in the United States unlawfully
13 shall, in addition to any other punishment imposed, be sentenced
14 to an additional term of imprisonment as set forth in this
15 subsection:

16 (1) When the violation is graded as a misdemeanor, the
17 person shall be sentenced to an additional three to six

1 months' imprisonment.

2 (2) When the violation is graded as a felony, the person
3 shall be sentenced to an additional 12 to 24 months'
4 imprisonment.

5 (b) Hearing.--

6 (1) After conviction, but before sentencing, a hearing
7 to determine whether the person is present in the United
8 States unlawfully shall be scheduled upon notice filed by the
9 district attorney. The district attorney upon filing notice
10 shall serve a copy of the notice upon defense counsel.

11 (2) The person and district attorney shall be given
12 notice of the hearing and an opportunity to be heard, the
13 right to call witnesses, the right to call expert witnesses
14 and the right to cross-examine witnesses. In addition, the
15 person shall have the right to counsel and to have a lawyer
16 appointed to represent him if he cannot afford one.

17 (3) At the hearing prior to sentencing, the court shall
18 determine whether the Commonwealth has proved by clear and
19 convincing evidence that the person is present in the United
20 States unlawfully.

21 (c) Authority of court in sentencing.--If the Commonwealth
22 proves by clear and convincing evidence that the person is in
23 the United States unlawfully in accordance with subsection (b),
24 there shall be no authority in any court to impose on an
25 offender to which this section is applicable any lesser sentence
26 than provided for in subsection (a) or to place such offender on
27 probation or to suspend sentence. Nothing in this section shall
28 prevent the sentencing court from imposing a sentence greater
29 than that provided in this section. Sentencing guidelines
30 promulgated by the Pennsylvania Commission on Sentencing shall

1 not supersede the mandatory sentences provided in this section.
2 (d) Appeal by Commonwealth.--If a sentencing court refuses
3 to apply this section where applicable, the Commonwealth shall
4 have the right to appellate review of the action of the
5 sentencing court. The appellate court shall vacate the sentence
6 and remand the case to the sentencing court for imposition of a
7 sentence in accordance with this section if it finds that the
8 sentence was imposed in violation of this section.

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