

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1121 Session of  
2011

INTRODUCED BY REICHLEY, BAKER, BOBACK, BOYD, CLYMER, D. COSTA,  
EVERETT, FLECK, GEIST, GINGRICH, HARHART, HEFFLEY, HORNAMAN,  
KNOWLES, LONGIETTI, MANN, READSHAW, SABATINA, SWANGER AND  
VULAKOVICH, MARCH 17, 2011

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 17, 2011

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, providing for sentencing  
3 for offenses committed in association with a criminal street  
4 gang.

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

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

9 § 9720.3. Sentencing for offenses committed in association with  
10 a criminal street gang.

11 (a) Sentencing enhancement.--The Pennsylvania Commission on  
12 Sentencing shall provide for a sentence enhancement for crimes  
13 of violence if the offense was knowingly committed at the  
14 direction of or for the purpose of benefiting, promoting or  
15 furthering the interests of a criminal street gang.

16 (b) Proof at sentencing.--The provisions of this section  
17 shall not be an element of the crime and notice of the  
18 provisions of this section to the defendant shall not be

1 required prior to conviction, but reasonable notice of the  
2 Commonwealth's intention to proceed under this section shall be  
3 provided after conviction and before sentencing.

4 (c) Applicability.--The applicability of this section shall  
5 be determined at sentencing. The court shall consider any  
6 evidence presented at trial and shall afford the Commonwealth  
7 and the defendant an opportunity to present any necessary  
8 additional evidence and shall determine, by a preponderance of  
9 the evidence, if this section is applicable.

10 (d) Definitions.--As used in this section, the following  
11 words and phrases shall have the meanings given to them in this  
12 subsection unless the context clearly indicates otherwise:

13 "Criminal street gang." A formal or informal confederation,  
14 alliance, network, conspiracy, understanding or similar  
15 conjoining of persons who operate individually or collectively  
16 as a group or subgroup, with or without an established  
17 hierarchy, that, through its membership obtained by pledge,  
18 oath, swearing, ritual, distinct membership markings, symbolism,  
19 common identifiers or other criteria that law enforcement  
20 personnel use to identify the groups or subgroups, engages in  
21 criminal activity.

22 "Crimes of violence." An offense under any of the following:

23 (1) 18 Pa.C.S. § 901 (relating to criminal attempt),  
24 involving an attempt to commit murder or any of the offenses  
25 under paragraph (3), (4), (5), (6), (7), (8), (9), (10),  
26 (11), (12), (13), (14), (15), (16) or (17).

27 (2) 18 Pa.C.S. § 902 (relating to criminal  
28 solicitation), involving solicitation to commit murder or any  
29 of the offenses under paragraph (3), (4), (5), (6), (7), (8),  
30 (9), (10), (11), (12), (13), (14), (15), (16) or (17).

1           (3) 18 Pa.C.S. § 903 (relating to criminal conspiracy),  
2 involving conspiracy to commit murder or any of the offenses  
3 under paragraph (3), (4), (5), (6), (7), (8), (9), (10),  
4 (11), (12), (13), (14), (15), (16) or (17).

5           (4) 18 Pa.C.S. § 2502(c) (relating to murder).

6           (5) 18 Pa.C.S. § 2503 (relating to voluntary  
7 manslaughter).

8           (6) 18 Pa.C.S. § 2506 (relating to drug delivery  
9 resulting in death).

10           (7) 18 Pa.C.S. § 2507(c) or (d) (relating to criminal  
11 homicide of law enforcement officer).

12           (8) 18 Pa.C.S. § 2701(a)(3) (relating to simple  
13 assault).

14           (9) 18 Pa.C.S. § 2702(a)(1) or (2) (relating to  
15 aggravated assault).

16           (10) 18 Pa.C.S. § 2702.1 (relating to assault of law  
17 enforcement officer).

18           (11) 18 Pa.C.S. § 2901 (relating to kidnapping).

19           (12) 18 Pa.C.S. § 3121 (relating to rape).

20           (13) 18 Pa.C.S. § 3123 (relating to involuntary deviate  
21 sexual intercourse).

22           (14) 18 Pa.C.S. § 3124.1 (relating to sexual assault).

23           (15) 18 Pa.C.S. § 3125 (relating to aggravated indecent  
24 assault).

25           (16) 18 Pa.C.S. § 3301(a) (relating to arson and related  
26 offenses).

27           (17) 18 Pa.C.S. § 3502 (relating to burglary), if at the  
28 time of the offense the structure entered was adapted for  
29 overnight accommodation.

30           (18) 18 Pa.C.S. § 3701 (relating to robbery).

1           (19) 18 Pa.C.S. § 3702 (relating to robbery of motor  
2 vehicle).

3           (20) A crime equivalent to one listed under paragraph  
4 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11),  
5 (12), (13), (14), (15), (16), (17) or (18) under the laws of  
6 this Commonwealth in effect at the time of the commission of  
7 the offense.

8           (21) A crime equivalent to one listed under paragraph  
9 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11),  
10 (12), (13), (14), (15), (16), (17), (18) or (19) under  
11 Federal law or in a jurisdiction outside this Commonwealth.

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