

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 903 Session of 2011

INTRODUCED BY RAFFERTY, PILEGGI, DINNIMAN, FOLMER, FONTANA, WAUGH, SOLOBAY, BREWSTER, MENSCH, BRUBAKER AND FARNESE, MARCH 25, 2011

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, DECEMBER 6, 2011

AN ACT

1 Amending ~~Title~~ TITLES 18 (Crimes and Offenses) AND 42 (JUDICIARY AND JUDICIAL PROCEDURE) of the Pennsylvania Consolidated Statutes, further providing FOR POSSESSION OF FIREARM OR OTHER DANGEROUS WEAPON IN COURT FACILITY, for arson and related offenses AND FOR SENTENCES FOR SECOND AND SUBSEQUENT OFFENSES; AND PROVIDING FOR SENTENCING FOR ARSON OFFENSES.

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

9 ~~Section 1. Section 3301 of Title 18 of the Pennsylvania Consolidated Statutes is amended by adding subsections to read:~~

11 SECTION 1. SECTION 913(F) OF TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO READ:

13 § 913. POSSESSION OF FIREARM OR OTHER DANGEROUS WEAPON IN COURT FACILITY.

15 \* \* \*

16 (F) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION:

19 "COURT FACILITY." THE COURTROOM OF A COURT OF RECORD; A

1 COURTROOM OF A COMMUNITY COURT; THE COURTROOM OF A MAGISTERIAL  
2 DISTRICT JUDGE; A COURTROOM OF THE PHILADELPHIA MUNICIPAL COURT;  
3 A COURTROOM OF THE PITTSBURGH MAGISTRATES COURT; A COURTROOM OF  
4 THE TRAFFIC COURT OF PHILADELPHIA; JUDGE'S CHAMBERS; WITNESS  
5 ROOMS; JURY DELIBERATION ROOMS; ATTORNEY CONFERENCE ROOMS;  
6 PRISONER HOLDING CELLS; OFFICES OF COURT CLERKS, THE DISTRICT  
7 ATTORNEY, THE SHERIFF AND PROBATION AND PAROLE OFFICERS; AND ANY  
8 ADJOINING CORRIDORS.

9 "DANGEROUS WEAPON." A BOMB, ANY EXPLOSIVE OR INCENDIARY  
10 DEVICE OR MATERIAL WHEN POSSESSED WITH INTENT TO USE OR TO  
11 PROVIDE SUCH DEVICE OR MATERIAL TO COMMIT ANY OFFENSE DESCRIBED  
12 IN CHAPTER 33 (RELATING TO ARSON, CRIMINAL MISCHIEF AND OTHER  
13 PROPERTY DESTRUCTION), GRENADE, BLACKJACK, SANDBAG, METAL  
14 KNUCKLES, DAGGER, KNIFE (THE BLADE OF WHICH IS EXPOSED IN AN  
15 AUTOMATIC WAY BY SWITCH, PUSH-BUTTON, SPRING MECHANISM OR  
16 OTHERWISE) OR OTHER IMPLEMENT FOR THE INFLECTION OF SERIOUS  
17 BODILY INJURY WHICH SERVES NO COMMON LAWFUL PURPOSE.

18 "FIREARM." ANY WEAPON, INCLUDING A STARTER GUN, WHICH WILL  
19 OR IS DESIGNED TO EXPEL A PROJECTILE OR PROJECTILES BY THE  
20 ACTION OF AN EXPLOSION, EXPANSION OF GAS OR ESCAPE OF GAS. THE  
21 TERM DOES NOT INCLUDE ANY DEVICE DESIGNED OR USED EXCLUSIVELY  
22 FOR THE FIRING OF STUD CARTRIDGES, EXPLOSIVE RIVETS OR SIMILAR  
23 INDUSTRIAL AMMUNITION.

24 SECTION 2. SECTION 3301(B) AND (F) OF TITLE 18 ARE AMENDED  
25 AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

26 § 3301. Arson and related offenses.

27 \* \* \*

28 (a.1) Aggravated arson.--A person commits a felony of the ←

29 (1) A PERSON COMMITS A FELONY OF THE first degree if he ←  
30 intentionally starts a fire or causes an explosion, or if he

1 aids, counsels, pays or agrees to pay another to cause a fire  
2 or explosion, whether on his own property or on that of  
3 another, and if:

4 ~~(1) he commits the offense with the intent to cause~~

5 (I) HE ATTEMPTS TO CAUSE, OR INTENTIONALLY,  
6 KNOWINGLY OR RECKLESSLY CAUSES bodily injury to another  
7 person, including, but not limited to, a firefighter,  
8 police officer or other person actively engaged in  
9 fighting the fire; or

10 ~~(2) he commits the offense when a person is present~~

11 (II) HE COMMITS THE OFFENSE WHEN A PERSON IS PRESENT  
12 inside the property at the time of the offense.

13 (2) A PERSON WHO COMMITS AGGRAVATED ARSON IS GUILTY OF  
14 MURDER OF THE SECOND DEGREE IF THE FIRE OR EXPLOSION CAUSES  
15 THE DEATH OF ANY PERSON, INCLUDING BUT NOT LIMITED TO A  
16 FIREFIGHTER, POLICE OFFICER OR OTHER PERSON ACTIVELY ENGAGED  
17 IN FIGHTING THE FIRE, AND IS GUILTY OF MURDER OF THE FIRST  
18 DEGREE IF THE FIRE OR EXPLOSION CAUSES THE DEATH OF ANY  
19 PERSON AND WAS SET WITH THE PURPOSE OF CAUSING THE DEATH OF  
20 ANOTHER PERSON.

21 (B) SENTENCE.--[A PERSON CONVICTED OF VIOLATING THE]

22 (1) A PERSON CONVICTED OF VIOLATING THE PROVISIONS OF  
23 SUBSECTION (A) (2), MURDER OF THE FIRST DEGREE, SHALL BE  
24 SENTENCED TO DEATH OR LIFE IMPRISONMENT WITHOUT RIGHT TO  
25 PAROLE; A PERSON CONVICTED OF MURDER OF THE SECOND DEGREE,  
26 PURSUANT TO SUBSECTION (A) (2), SHALL BE SENTENCED TO LIFE  
27 IMPRISONMENT WITHOUT RIGHT TO PAROLE. NOTWITHSTANDING  
28 PROVISIONS TO THE CONTRARY, NO LANGUAGE HEREIN SHALL INFRINGE  
29 UPON THE INHERENT POWERS OF THE GOVERNOR TO COMMUTE SAID  
30 SENTENCE.

1           (2) A PERSON CONVICTED UNDER SUBSECTION (A) OR (A.1) MAY  
2 BE SENTENCED TO A TERM OF IMPRISONMENT WHICH SHALL BE FIXED  
3 BY THE COURT AT NOT MORE THAN 40 YEARS IF:

4           (I) BODILY INJURY RESULTS TO A FIREFIGHTER, POLICE  
5 OFFICER OR OTHER PERSON ACTIVELY ENGAGED IN FIGHTING THE  
6 FIRE; OR

7           (II) SERIOUS BODILY INJURY RESULTS TO A CIVILIAN.

8           \* \* \*

9           (F) POSSESSION OF EXPLOSIVE OR INCENDIARY MATERIALS OR           ←  
10 DEVICES.--A PERSON COMMITS A FELONY OF THE THIRD DEGREE IF HE  
11 POSSESSES, MANUFACTURES OR TRANSPORTS ANY INCENDIARY OR  
12 EXPLOSIVE DEVICE OR MATERIAL WITH THE INTENT TO USE OR TO  
13 PROVIDE SUCH DEVICE OR MATERIAL TO COMMIT ANY OFFENSE DESCRIBED  
14 IN [SUBSECTION (A), (C) OR (D)] THIS CHAPTER.

15           ~~(i.1) Penalties. A person convicted under this section~~           ←  
16 ~~shall be subject to the following mandatory minimum sentences:~~

17           ~~(1) A person convicted under subsection (a) or (a.1)~~  
18 ~~shall be sentenced to serve not less than ten years if bodily~~  
19 ~~injury results to a firefighter, police officer or other~~  
20 ~~person actively engaged in fighting the fire, or if serious~~  
21 ~~bodily injury results to any civilian.~~

22           ~~(2) A person convicted under subsection (a) or (a.1)~~  
23 ~~shall be sentenced to serve not less than five years if:~~

24           ~~(i) bodily injury results to a civilian;~~

25           ~~(ii) more than three people were present inside the~~  
26 ~~property at the time of the offense;~~

27           ~~(iii) more than three buildings or occupied~~  
28 ~~structures were damaged at the time of the offense; or~~

29           ~~(iv) the fire caused more than \$1,000,000 in~~  
30 ~~property damage.~~

1 ~~(3) A person convicted of arson under subsection (a),~~  
2 ~~(a.1), (c) or (d) who at the time of the offense used an~~  
3 ~~incendiary or explosive device shall be sentenced to serve~~  
4 ~~not less than two years incarceration. This penalty shall be~~  
5 ~~served consecutively to any other sentence imposed for a~~  
6 ~~violation of this chapter, including, but not limited to, any~~  
7 ~~other applicable mandatory minimum sentences under this~~  
8 ~~subsection.~~

9 ~~(4) The District Attorney shall have the authority to~~  
10 ~~waive the mandatory provisions of this subsection.~~

11 \* \* \*

12 ~~(k) Consecutive sentences. If, at the time of sentencing,~~ ←  
13 ~~an offender is convicted of more than one offense under this~~  
14 ~~section, the court shall order that all sentences be served~~  
15 ~~consecutively. If, at the time of the offense, the offender is~~  
16 ~~on probation or parole for a prior conviction for an arson~~  
17 ~~offense under this section, the court shall order that the~~  
18 ~~sentence be served consecutively to the sentence for any prior~~  
19 ~~conviction. The District Attorney shall have the authority to~~  
20 ~~waive the mandatory provisions of this subsection.~~

21 SECTION 3. SECTION 9714(G) OF TITLE 42, AMENDED JULY 7, 2011 ←  
22 (P.L.220, NO.40), IS AMENDED TO READ:

23 § 9714. SENTENCES FOR SECOND AND SUBSEQUENT OFFENSES.

24 \* \* \*

25 (G) DEFINITION.--AS USED IN THIS SECTION, THE TERM "CRIME OF  
26 VIOLENCE" MEANS MURDER OF THE THIRD DEGREE, VOLUNTARY  
27 MANSLAUGHTER, AGGRAVATED ASSAULT AS DEFINED IN 18 PA.C.S. §  
28 2702(A) (1) OR (2) (RELATING TO AGGRAVATED ASSAULT), RAPE,  
29 INVOLUNTARY DEVIATE SEXUAL INTERCOURSE, AGGRAVATED INDECENT  
30 ASSAULT, INCEST, SEXUAL ASSAULT, ARSON ENDANGERING PERSONS OR

1 AGGRAVATED ARSON AS DEFINED IN 18 PA.C.S. § 3301(A) OR (A.1)  
2 (RELATING TO ARSON AND RELATED OFFENSES), KIDNAPPING, BURGLARY  
3 OF A STRUCTURE ADAPTED FOR OVERNIGHT ACCOMMODATION IN WHICH AT  
4 THE TIME OF THE OFFENSE ANY PERSON IS PRESENT, ROBBERY AS  
5 DEFINED IN 18 PA.C.S. § 3701(A)(1)(I), (II) OR (III) (RELATING  
6 TO ROBBERY), OR ROBBERY OF A MOTOR VEHICLE, DRUG DELIVERY  
7 RESULTING IN DEATH AS DEFINED IN 18 PA.C.S. § 2506(A) (RELATING  
8 TO DRUG DELIVERY RESULTING IN DEATH), OR CRIMINAL ATTEMPT,  
9 CRIMINAL CONSPIRACY OR CRIMINAL SOLICITATION TO COMMIT MURDER OR  
10 ANY OF THE OFFENSES LISTED ABOVE, OR AN EQUIVALENT CRIME UNDER  
11 THE LAWS OF THIS COMMONWEALTH IN EFFECT AT THE TIME OF THE  
12 COMMISSION OF THAT OFFENSE OR AN EQUIVALENT CRIME IN ANOTHER  
13 JURISDICTION.

14 SECTION 4. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:  
15 § 9720.3. SENTENCING FOR ARSON OFFENSES.

16 (A) SENTENCING ENHANCEMENT.--THE PENNSYLVANIA COMMISSION ON  
17 SENTENCING SHALL PROVIDE FOR A SENTENCE ENHANCEMENT FOR ARSON  
18 OFFENSES IF ANY OF THE FOLLOWING FACTORS ARE PRESENT:

19 (1) BODILY INJURY RESULTS TO A FIREFIGHTER, POLICE  
20 OFFICER OR OTHER PERSON ACTIVELY ENGAGED IN FIGHTING THE  
21 FIRE;

22 (2) SERIOUS BODILY INJURY RESULTS TO A CIVILIAN;

23 (3) MORE THAN THREE PEOPLE WERE PRESENT INSIDE THE  
24 PROPERTY AT THE TIME OF THE OFFENSE; OR

25 (4) THE FIRE CAUSED MORE THAN \$1,000,000 IN PROPERTY  
26 DAMAGE.

27 (B) PROOF AT SENTENCING.--THE PROVISIONS OF THIS SECTION  
28 SHALL NOT BE AN ELEMENT OF THE CRIME AND NOTICE OF THE  
29 PROVISIONS OF THIS SECTION TO THE DEFENDANT SHALL NOT BE  
30 REQUIRED PRIOR TO CONVICTION, BUT REASONABLE NOTICE OF THE

1 COMMONWEALTH'S INTENTION TO PROCEED UNDER THIS SECTION SHALL BE  
2 PROVIDED AFTER CONVICTION AND BEFORE SENTENCING.

3 Section 2 5. This act shall take effect in 60 days.

