

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 CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
SEPTEMBER 24, 2012

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 possession of firearm or
4 other dangerous weapon in court facility, for arson and
5 related offenses and for sentences for second and subsequent
6 offenses; and providing for sentencing for arson offenses.

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

9 Section 1. Section 913(f) of Title 18 of the Pennsylvania
10 Consolidated Statutes is amended to read:

11 § 913. Possession of firearm or other dangerous weapon in court
12 facility.

13 * * *

14 (f) Definitions.--As used in this section, the following
15 words and phrases shall have the meanings given to them in this
16 subsection:

17 "Court facility." The courtroom of a court of record; a
18 courtroom of a community court; the courtroom of a magisterial
19 district judge; a courtroom of the Philadelphia Municipal Court;

1 a courtroom of the Pittsburgh Magistrates Court; a courtroom of
2 the Traffic Court of Philadelphia; judge's chambers; witness
3 rooms; jury deliberation rooms; attorney conference rooms;
4 prisoner holding cells; offices of court clerks, the district
5 attorney, the sheriff and probation and parole officers; and any
6 adjoining corridors.

7 "Dangerous weapon." A bomb, any explosive or incendiary
8 device or material when possessed with intent to use or to
9 provide such device or material to commit any offense described
10 in Chapter 33 (relating to arson, criminal mischief and other
11 property destruction), grenade, blackjack, sandbag, metal
12 knuckles, dagger, knife (the blade of which is exposed in an
13 automatic way by switch, push-button, spring mechanism or
14 otherwise) or other implement for the infliction of serious
15 bodily injury which serves no common lawful purpose.

16 "Firearm." Any weapon, including a starter gun, which will
17 or is designed to expel a projectile or projectiles by the
18 action of an explosion, expansion of gas or escape of gas. The
19 term does not include any device designed or used exclusively
20 for the firing of stud cartridges, explosive rivets or similar
21 industrial ammunition.

22 Section 2. Section 3301(b) and (f) of Title 18 are amended
23 and the section is amended by adding a subsection to read:

24 § 3301. Arson and related offenses.

25 * * *

26 (a.1) Aggravated arson.--

27 (1) A person commits a felony of the first degree if he
28 intentionally starts a fire or causes an explosion, or if he
29 aids, counsels, pays or agrees to pay another to cause a fire
30 or explosion, whether on his own property or on that of

1 another, and if:

2 (i) he attempts to cause, or intentionally,
3 knowingly or recklessly causes bodily injury to another
4 person, including, but not limited to, a firefighter,
5 police officer or other person actively engaged in
6 fighting the fire; or

7 (ii) he commits the offense when a person is present
8 inside the property at the time of the offense.

9 (2) A person who commits aggravated arson is guilty of
10 murder of the second degree if the fire or explosion causes
11 the death of any person, including but not limited to a
12 firefighter, police officer or other person actively engaged
13 in fighting the fire, and is guilty of murder of the first
14 degree if the fire or explosion causes the death of any
15 person and was set with the purpose of causing the death of
16 another person.

17 (b) Sentence.--[A person convicted of violating the]

18 (1) A person convicted of violating the provisions of
19 subsection (a) (2), murder of the first degree, shall be
20 sentenced to death or life imprisonment without right to
21 parole; a person convicted of murder of the second degree,
22 pursuant to subsection (a) (2), shall be sentenced to life
23 imprisonment without right to parole. Notwithstanding
24 provisions to the contrary, no language herein shall infringe
25 upon the inherent powers of the Governor to commute said
26 sentence.

27 (2) A person convicted under subsection (a) or (a.1) may
28 be sentenced to a term of imprisonment which shall be fixed
29 by the court at not more than 40 years if:

30 (i) bodily injury results to a firefighter, police

1 officer or other person actively engaged in fighting the
2 fire; or
3 (ii) serious bodily injury results to a civilian.

4 * * *

5 (f) Possession of explosive or incendiary materials or
6 devices.--A person commits a felony of the third degree if he
7 possesses, manufactures or transports any incendiary or
8 explosive device or material with the intent to use or to
9 provide such device or material to commit any offense described
10 in [subsection (a), (c) or (d)] this chapter.

11 * * *

12 Section 3. Section 9714(g) of Title 42, amended July 7, 2011 ←
13 ~~(P.L.220, No.40)~~ 5, 2012 (P.L.1050, NO.122), is amended to read: ←
14 § 9714. Sentences for second and subsequent offenses.

15 * * *

16 ~~(g) Definition. As used in this section, the term "crime of ←~~
17 ~~violence" means murder of the third degree, voluntary~~
18 ~~manslaughter, aggravated assault as defined in 18 Pa.C.S. §~~
19 ~~2702(a)(1) or (2) (relating to aggravated assault), rape,~~
20 ~~involuntary deviate sexual intercourse, aggravated indecent~~
21 ~~assault, incest, sexual assault, arson endangering persons or~~
22 ~~aggravated arson as defined in 18 Pa.C.S. § 3301(a) or (a.1)~~
23 ~~(relating to arson and related offenses), kidnapping, burglary~~
24 ~~of a structure adapted for overnight accommodation in which at~~
25 ~~the time of the offense any person is present, robbery as~~
26 ~~defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating~~
27 ~~to robbery), or robbery of a motor vehicle, drug delivery~~
28 ~~resulting in death as defined in 18 Pa.C.S. § 2506(a) (relating~~
29 ~~to drug delivery resulting in death), or criminal attempt,~~
30 ~~criminal conspiracy or criminal solicitation to commit murder or~~

1 ~~any of the offenses listed above, or an equivalent crime under~~
2 ~~the laws of this Commonwealth in effect at the time of the~~
3 ~~commission of that offense or an equivalent crime in another~~
4 ~~jurisdiction.~~

5 (G) DEFINITION.--AS USED IN THIS SECTION, THE TERM "CRIME OF ←
6 VIOLENCE" MEANS MURDER OF THE THIRD DEGREE, VOLUNTARY
7 MANSLAUGHTER, MANSLAUGHTER OF A LAW ENFORCEMENT OFFICER AS
8 DEFINED IN 18 PA.C.S. § 2507(C) OR (D) (RELATING TO CRIMINAL
9 HOMICIDE OF LAW ENFORCEMENT OFFICER), MURDER OF THE THIRD DEGREE
10 INVOLVING AN UNBORN CHILD AS DEFINED IN 18 PA.C.S. § 2604(C)
11 (RELATING TO MURDER OF UNBORN CHILD), AGGRAVATED ASSAULT OF AN
12 UNBORN CHILD AS DEFINED IN 18 PA.C.S. § 2606 (RELATING TO
13 AGGRAVATED ASSAULT OF UNBORN CHILD), AGGRAVATED ASSAULT AS
14 DEFINED IN 18 PA.C.S. § 2702(A) (1) OR (2) (RELATING TO
15 AGGRAVATED ASSAULT), ASSAULT OF LAW ENFORCEMENT OFFICER AS
16 DEFINED IN 18 PA.C.S. § 2702.1 (RELATING TO ASSAULT OF LAW
17 ENFORCEMENT OFFICER), USE OF WEAPONS OF MASS DESTRUCTION AS
18 DEFINED IN 18 PA.C.S. § 2716(B) (RELATING TO WEAPONS OF MASS
19 DESTRUCTION), TERRORISM AS DEFINED IN 18 PA.C.S. § 2717(B) (2)
20 (RELATING TO TERRORISM), TRAFFICKING OF PERSONS WHEN THE OFFENSE
21 IS GRADED AS A FELONY OF THE FIRST DEGREE AS PROVIDED IN 18
22 PA.C.S. § 3002 (RELATING TO TRAFFICKING OF PERSONS), RAPE,
23 INVOLUNTARY DEVIATE SEXUAL INTERCOURSE, AGGRAVATED INDECENT
24 ASSAULT, INCEST, SEXUAL ASSAULT, ARSON ENDANGERING PERSONS OR
25 AGGRAVATED ARSON AS DEFINED IN 18 PA.C.S. § 3301(A) OR (A.1)
26 (RELATING TO ARSON AND RELATED OFFENSES), ECOTERRORISM AS
27 DEFINED IN 18 PA.C.S. § 3311(B) (2) (RELATING TO ECOTERRORISM),
28 KIDNAPPING, BURGLARY AS DEFINED IN 18 PA.C.S. § 3502(A) (1)
29 (RELATING TO BURGLARY), ROBBERY AS DEFINED IN 18 PA.C.S. §
30 3701(A) (1) (I), (II) OR (III) (RELATING TO ROBBERY), OR ROBBERY

1 OF A MOTOR VEHICLE, DRUG DELIVERY RESULTING IN DEATH AS DEFINED
2 IN 18 PA.C.S. § 2506(A) (RELATING TO DRUG DELIVERY RESULTING IN
3 DEATH), OR CRIMINAL ATTEMPT, CRIMINAL CONSPIRACY OR CRIMINAL
4 SOLICITATION TO COMMIT MURDER OR ANY OF THE OFFENSES LISTED
5 ABOVE, OR AN EQUIVALENT CRIME UNDER THE LAWS OF THIS
6 COMMONWEALTH IN EFFECT AT THE TIME OF THE COMMISSION OF THAT
7 OFFENSE OR AN EQUIVALENT CRIME IN ANOTHER JURISDICTION.

8 Section 4. Title 42 is amended by adding a section to read:
9 ~~§ 9720.3~~ 9720.4. Sentencing for arson offenses. ←

10 ~~(a) Sentencing enhancement.—The Pennsylvania Commission on~~ ←
11 Sentencing shall provide for a sentence enhancement for arson
12 offenses if any of the following factors are present:

13 (1) bodily injury results to a firefighter, police
14 officer or other person actively engaged in fighting the
15 fire;

16 (2) serious bodily injury results to a civilian;

17 (3) more than three people were present inside the
18 property at the time of the offense; or

19 (4) the fire caused more than \$1,000,000 in property
20 damage.

21 ~~(b) Proof at sentencing.—The provisions of this section~~ ←
22 ~~shall not be an element of the crime and notice of the~~
23 ~~provisions of this section to the defendant shall not be~~
24 ~~required prior to conviction, but reasonable notice of the~~
25 ~~Commonwealth's intention to proceed under this section shall be~~
26 ~~provided after conviction and before sentencing.~~

27 Section 5. This act shall take effect in 60 days.