

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1024 Session of 2013

INTRODUCED BY RAFFERTY, FARNESE, SCHWANK, YUDICHAK, HUGHES, ALLOWAY, ERICKSON, VULAKOVICH, FONTANA, SOLOBAY, BREWSTER, WAUGH, PILEGGI AND MENSCH, JUNE 17, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, DECEMBER 16, 2013

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, IN INCHOATE CRIMES, further providing for <--
4 possession of firearm or other dangerous weapon in court
5 facility; IN ARSON, CRIMINAL MISCHIEF AND OTHER PROPERTY <--
6 DESTRUCTION, FURTHER PROVIDING for arson and related offenses
7 and; IN SENTENCING, FURTHER PROVIDING for sentences for <--
8 second and subsequent offenses; and providing for sentencing
9 for arson offenses AND FOR SENTENCES FOR ARSON OF A HISTORIC <--
10 RESOURCE.

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

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

15 § 913. Possession of firearm or other dangerous weapon in court
16 facility.

17 * * *

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

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

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

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

26 Section 2. Section 3301(b) ~~and~~, (f) AND (J) of Title 18 are <--
27 amended and the section is amended by adding ~~a subsection~~ <--
28 SUBSECTIONS to read: <--

29 § 3301. Arson and related offenses.

30 * * *

1 (a.1) Aggravated arson.--

2 (1) A person commits a felony of the first degree if he
3 intentionally starts a fire or causes an explosion, or if he
4 aids, counsels, pays or agrees to pay another to cause a fire
5 or explosion, whether on his own property or on that of
6 another, and if:

7 (i) he THEREBY attempts to cause, or intentionally, <--
8 knowingly or recklessly causes bodily injury to another
9 person, including, but not limited to, a firefighter,
10 police officer or other person actively engaged in
11 fighting the fire; or

12 (ii) he commits ~~the offense~~ AN OFFENSE UNDER THIS <--
13 SECTION WHICH IS GRADED AS A FELONY when a person is
14 present inside the property at the time of the offense.

15 (2) A person who commits aggravated arson is guilty of
16 murder of the second degree if the fire or explosion causes
17 the death of any person, including, but not limited to, a
18 firefighter, police officer or other person actively engaged
19 in fighting the fire.

20 (A.2) ARSON OF HISTORIC RESOURCE.--A PERSON COMMITS A FELONY <--
21 OF THE SECOND DEGREE IF THE PERSON, WITH THE INTENT OF
22 DESTROYING OR DAMAGING A HISTORIC RESOURCE OF ANOTHER, DOES ANY
23 OF THE FOLLOWING:

24 (1) INTENTIONALLY STARTS A FIRE OR CAUSES AN EXPLOSION,
25 WHETHER ON THE PERSON'S OWN PROPERTY OR THAT OF ANOTHER.

26 (2) AIDS, COUNSELS, PAYS OR AGREES TO PAY ANOTHER TO
27 CAUSE A FIRE OR EXPLOSION.

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

29 (1) A person convicted of violating the provisions of
30 subsection (a) (2), murder of the first degree, shall be

1 sentenced to death or life imprisonment without right to
2 parole; a person convicted of murder of the second degree,
3 pursuant to subsection (a)(2), shall be sentenced to life
4 imprisonment without right to parole. Notwithstanding
5 provisions to the contrary, no language herein shall infringe
6 upon the inherent powers of the Governor to commute said
7 sentence.

8 (2) A person convicted under subsection ~~(a)~~ or (a.1) may <--
9 be sentenced to a term of imprisonment which shall be fixed
10 by the court at not more than 40 years if:

11 (i) bodily injury results to a firefighter, police
12 officer or other person actively engaged in fighting the
13 fire; or

14 (ii) serious bodily injury results to a civilian.

15 * * *

16 (f) Possession of explosive or incendiary materials or
17 devices.--A person commits a felony of the third degree if he
18 possesses, manufactures or transports any incendiary or
19 explosive device or material with the intent to use or to
20 provide such device or material to commit any offense described
21 in [subsection (a), (c) or (d)] this chapter.

22 * * *

23 (J) DEFINITIONS.--AS USED IN THIS SECTION THE FOLLOWING <--
24 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
25 SUBSECTION:

26 "HISTORIC RESOURCE." A BUILDING OR STRUCTURE, INCLUDING A
27 COVERED BRIDGE, WHICH:

28 (1) HAS BEEN IN EXISTENCE FOR MORE THAN 100 YEARS,
29 INCLUDING PARTIAL OR COMPLETE RECONSTRUCTION OF A BUILDING OR
30 STRUCTURE ORIGINALLY ERECTED AT LEAST 100 YEARS AGO; OR

1 (2) HAS BEEN LISTED ON THE NATIONAL REGISTER OF HISTORIC
2 PLACES OR THE PENNSYLVANIA REGISTER OF HISTORIC PLACES.

3 "OCCUPIED STRUCTURE." ANY STRUCTURE, VEHICLE OR PLACE
4 ADAPTED FOR OVERNIGHT ACCOMMODATION OF PERSONS OR FOR CARRYING
5 ON BUSINESS THEREIN, WHETHER OR NOT A PERSON IS ACTUALLY
6 PRESENT. IF A BUILDING OR STRUCTURE IS DIVIDED INTO SEPARATELY
7 OCCUPIED UNITS, ANY UNIT NOT OCCUPIED BY THE ACTOR IS AN
8 OCCUPIED STRUCTURE OF ANOTHER.

9 "PROPERTY OF ANOTHER." A BUILDING OR OTHER PROPERTY, WHETHER
10 REAL OR PERSONAL, IN WHICH A PERSON OTHER THAN THE ACTOR HAS AN
11 INTEREST WHICH THE ACTOR HAS NO AUTHORITY TO DEFEAT OR IMPAIR,
12 EVEN THOUGH THE ACTOR MAY ALSO HAVE AN INTEREST IN THE BUILDING
13 OR PROPERTY.

14 Section 3. Section 9714(g) of Title 42, amended October 25,
15 2012 (P.L.1655, No.204), is amended to read:

16 § 9714. Sentences for second and subsequent offenses.

17 * * *

18 (g) Definition.--As used in this section, the term "crime of
19 violence" means murder of the third degree, voluntary
20 manslaughter, manslaughter of a law enforcement officer as
21 defined in 18 Pa.C.S. § 2507(c) or (d) (relating to criminal
22 homicide of law enforcement officer), murder of the third degree
23 involving an unborn child as defined in 18 Pa.C.S. § 2604(c)
24 (relating to murder of unborn child), aggravated assault of an
25 unborn child as defined in 18 Pa.C.S. § 2606 (relating to
26 aggravated assault of unborn child), aggravated assault as
27 defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to
28 aggravated assault), assault of law enforcement officer as
29 defined in 18 Pa.C.S. § 2702.1 (relating to assault of law
30 enforcement officer), use of weapons of mass destruction as

1 defined in 18 Pa.C.S. § 2716(b) (relating to weapons of mass
2 destruction), terrorism as defined in 18 Pa.C.S. § 2717(b) (2)
3 (relating to terrorism), trafficking of persons when the offense
4 is graded as a felony of the first degree as provided in 18
5 Pa.C.S. § 3002 (relating to trafficking of persons), rape,
6 involuntary deviate sexual intercourse, aggravated indecent
7 assault, incest, sexual assault, arson endangering persons or
8 aggravated arson as defined in 18 Pa.C.S. § 3301(a) or (a.1)
9 (relating to arson and related offenses), ecoterrorism as
10 classified in 18 Pa.C.S. § 3311(b) (3) (relating to
11 ecoterrorism), kidnapping, burglary as defined in 18 Pa.C.S. §
12 3502(a) (1) (relating to burglary), robbery as defined in 18
13 Pa.C.S. § 3701(a) (1) (i), (ii) or (iii) (relating to robbery), or
14 robbery of a motor vehicle, drug delivery resulting in death as
15 defined in 18 Pa.C.S. § 2506(a) (relating to drug delivery
16 resulting in death), or criminal attempt, criminal conspiracy or
17 criminal solicitation to commit murder or any of the offenses
18 listed above, or an equivalent crime under the laws of this
19 Commonwealth in effect at the time of the commission of that
20 offense or an equivalent crime in another jurisdiction.

21 Section 4. Title 42 is amended by adding ~~a section~~ SECTIONS <--
22 to read:

23 § 9720.5. Sentencing for arson offenses.

24 The Pennsylvania Commission on Sentencing shall provide for a
25 sentence enhancement for arson offenses if any of the following
26 factors are present:

27 (1) bodily injury results to a firefighter, police
28 officer or other person actively engaged in fighting the
29 fire;

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

1 (3) more than three people were present inside the
2 property at the time of the offense;

3 (4) the fire caused more than \$1,000,000 in property
4 damage; or

5 (5) the actor used, attempted to use or possessed an
6 explosive or incendiary device as defined in 18 Pa.C.S. §
7 5515(a) (relating to prohibiting of paramilitary training).

8 § 9720.6. SENTENCES FOR ARSON OF A HISTORIC RESOURCE. <--

9 (A) MANDATORY SENTENCE.--ANY PERSON WHO COMMITS A VIOLATION
10 OF 18 PA.C.S. § 3301(A.2) (RELATING TO ARSON AND RELATED
11 OFFENSES) SHALL BE SENTENCED TO A MINIMUM SENTENCE OF AT LEAST
12 ONE YEAR OF TOTAL CONFINEMENT.

13 (B) PROOF AT SENTENCING.--NOTICE OF THE PROVISIONS OF THIS
14 SECTION TO THE DEFENDANT SHALL NOT BE REQUIRED PRIOR TO
15 CONVICTION, BUT REASONABLE NOTICE OF THE COMMONWEALTH'S
16 INTENTION TO PROCEED UNDER THIS SECTION SHALL BE PROVIDED AFTER
17 CONVICTION AND BEFORE SENTENCING.

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