
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2047 Session of
2019

INTRODUCED BY KOSIEROWSKI, SCHLOSSBERG, BURGOS, HILL-EVANS,
FREEMAN, CALTAGIRONE, READSHAW, ULLMAN, WEBSTER, T. DAVIS,
SHUSTERMAN, McCLINTON, FITZGERALD, KORTZ, ZABEL, KENYATTA,
KINSEY, FRANKEL, A. DAVIS, YOUNGBLOOD, KRUEGER, HANBIDGE,
DeLUCA, GALLOWAY, JOHNSON-HARRELL, MADDEN, HOWARD, TOOHL,
HOHENSTEIN, ROZZI, DAVIDSON AND DONATUCCI, NOVEMBER 14, 2019

REFERRED TO COMMITTEE ON JUDICIARY, NOVEMBER 14, 2019

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in governance of the
3 system, providing for criminal prosecutions involving
4 domestic violence survivors; and, in post-trial matters,
5 providing for post conviction relief for domestic violence
6 survivors.

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

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

11 § 1726.3. Criminal prosecutions involving domestic violence
12 survivors.

13 (a) General Rule.--Notwithstanding any other provision of
14 law and except as provided under subsection (b), in any criminal
15 prosecution of an offense committed by a domestic violence
16 survivor, a court shall take into account the domestic
17 survivor's history of domestic violence victimization at the
18 time of the offense and how much the domestic violence

1 victimization affected the participation in the offense. If the
2 court finds that the domestic violence survivor's participation
3 in the offense was related to the domestic violence abuse
4 endured by the survivor before or until the time of the offense,
5 the court may consider that finding as a mitigating factor and
6 impose any of the following:

7 (1) A sentence that is more lenient than specified in
8 the sentencing guidelines adopted by the Pennsylvania
9 Commission on Sentencing.

10 (2) A sentence that does not include incarceration.

11 (b) Exception.--Subsection (a) shall not apply to the
12 criminal prosecution of any of the following:

13 (1) An offense under 18 Pa.C.S. § 2502(a) or (b)
14 (relating to murder).

15 (2) Any sexual offense.

16 Section 2. Chapter 95 of Title 42 is amended by adding a
17 subchapter to read:

18 SUBCHAPTER B.1

19 POST CONVICTION RELIEF FOR

20 DOMESTIC VIOLENCE SURVIVORS

21 Sec.

22 9551. Scope of subchapter.

23 9552. Eligibility for relief.

24 9553. Post conviction appeal requests.

25 § 9551. Scope of subchapter.

26 This subchapter provides for an action by which a person who
27 is a domestic violence survivor at the time the person committed
28 a crime may seek collateral relief from the person's conviction
29 or sentence based on evidence that the domestic violence endured
30 by the person substantially affected the person's participation

1 in the crime.

2 § 9552. Eligibility for relief.

3 (a) General Rule.--Notwithstanding any other provision of
4 law and except as provided under subsection (b), to be eligible
5 for relief under this subchapter, the petitioner must plead and
6 prove by preponderance of the evidence all of the following:

7 (1) That the petitioner has been convicted of a crime
8 under the laws of this Commonwealth and is at the time relief
9 is granted:

10 (i) currently serving a sentence of imprisonment,
11 probation or parole for the crime; or

12 (ii) waiting execution of a sentence of death for
13 the crime.

14 (2) That the conviction or sentence resulted from the
15 following:

16 (i) Domestic violence endured by the petitioner at
17 the time the person committed the crime that
18 substantially affected the person's participation in the
19 crime.

20 (ii) The failure of the court to take into account
21 the impact of domestic violence on the commitment of the
22 crime by the petitioner.

23 (3) That the petitioner is currently serving a sentence
24 of at least one year.

25 (b) Exception.--A person who has been convicted of any of
26 the following crimes shall not be eligible for relief under this
27 subchapter:

28 (1) An offense under 18 Pa.C.S. § 2502(a) or (b)
29 (relating to murder).

30 (2) Any sexual offense.

1 § 9553. Post conviction appeal requests.

2 (a) Petitions.--A person seeking relief under this
3 subchapter must file a petition with the court no later than
4 five years after the person is convicted of the crime with the
5 evidence required under section 9552 (relating to eligibility
6 for relief).

7 (b) Crimes of violence.--Notwithstanding any other provision
8 of law, a plea of guilty or nolo contendere to a crime of
9 violence, as defined in section 9714(g) (relating to sentences
10 for second and subsequent offenses), or an inculpatory statement
11 by the petitioner concerning the crime for which the petitioner
12 was convicted, shall not prohibit the petitioner from seeking
13 relief under this subchapter.

14 (c) Relief.--If the court finds that the petitioner provided
15 the evidence required under section 9552, the court may take any
16 of the following actions:

17 (1) Resentence the petitioner.

18 (2) Impose a sentence that is more lenient than
19 specified in the sentencing guidelines adopted by the
20 Pennsylvania Commission on Sentencing.

21 (3) Impose a sentence that does not include additional
22 incarceration.

23 Section 3. This act shall take effect in 60 days.