

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 135 Session of 2021

INTRODUCED BY STREET, KEARNEY, BARTOLOTTA, HUGHES, KANE AND SCHWANK, FEBRUARY 22, 2021

REFERRED TO JUDICIARY, FEBRUARY 22, 2021

AN ACT

1 Amending Titles 18 (Crimes and Offenses), 42 (Judiciary and
 2 Judicial Procedure) and 61 (Prisons and Parole) of the
 3 Pennsylvania Consolidated Statutes, in authorized disposition
 4 of offenders, further providing for sentence of persons under
 5 the age of 18 for murder, murder of an unborn child and
 6 murder of a law enforcement officer; in sentencing, further
 7 providing for sentences for second and subsequent offenses;
 8 in miscellaneous provisions, establishing the Life with
 9 Parole Reinvestment Fund; and, in Pennsylvania Board of
 10 Probation and Parole, further providing for parole power.

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

13 Section 1. Section 1102.1(a), (b), (c)(1) and (d)
 14 introductory paragraph of Title 18 of the Pennsylvania
 15 Consolidated Statutes are amended and the section is amended by
 16 adding a subsection to read:

17 § 1102.1. Sentence of persons under the age of 18 for murder,
 18 murder of an unborn child and murder of a law
 19 enforcement officer.

20 (a) First degree murder.--[A] Except as provided under
 21 subsection (a.1), a person who has been convicted after June 24,
 22 2012, of a murder of the first degree[,] or first degree murder

1 of an unborn child [or murder of a law enforcement officer of
2 the first degree] and who was under the age of 18 at the time of
3 the commission of the offense shall be sentenced as follows:

4 (1) A person who at the time of the commission of the
5 offense was 15 years of age or older shall be sentenced to a
6 term of life imprisonment [without parole, or a term of
7 imprisonment], the minimum of which shall be [at least] 35
8 years to life.

9 (2) A person who at the time of the commission of the
10 offense was under 15 years of age shall be sentenced to a
11 term of life imprisonment [without parole, or a term of
12 imprisonment], the minimum of which shall be [at least] 25
13 years to life.

14 (a.1) Law enforcement officers.--A person who has been
15 convicted of a murder of a law enforcement officer of the first
16 degree and who was under 18 years of age at the time of the
17 commission of the offense shall be sentenced as follows:

18 (1) A person who at the time of the commission of the
19 offense was 15 years of age or older shall be sentenced to a
20 term of life imprisonment without parole, or a term of
21 imprisonment, the minimum of which shall be at least 35 years
22 and the maximum of which shall be life imprisonment.

23 (2) A person who at the time of the commission of the
24 offense was under 15 years of age shall be sentenced to a
25 term of life imprisonment without parole, or a term of
26 imprisonment, the minimum of which shall be at least 25 years
27 and the maximum of which shall be life imprisonment.

28 (b) Notice.--Reasonable notice to the defendant of the
29 Commonwealth's intention to seek a sentence of life imprisonment
30 without parole under subsection (a) or (a.1) shall be provided

1 after conviction and before sentencing.

2 (c) Second degree murder.--A person who has been convicted
3 after June 24, 2012, of a murder of the second degree, second
4 degree murder of an unborn child or murder of a law enforcement
5 officer of the second degree and who was under the age of 18 at
6 the time of the commission of the offense shall be sentenced as
7 follows:

8 (1) A person who at the time of the commission of the
9 offense was [15] 25 years of age or older shall be sentenced
10 to a term of imprisonment the minimum of which shall be at
11 least 30 years to life.

12 * * *

13 (d) Findings.--In determining whether to impose a sentence
14 of life without parole under subsection (a) or (a.1), the court
15 shall consider and make findings on the record regarding the
16 following:

17 * * *

18 Section 2. Section 9714(a)(2) of Title 42 is amended to
19 read:

20 § 9714. Sentences for second and subsequent offenses.

21 (a) Mandatory sentence.--

22 * * *

23 (2) Where the person had at the time of the commission
24 of the current offense previously been convicted of two or
25 more such crimes of violence arising from separate criminal
26 transactions, the person shall be sentenced to a minimum
27 sentence of at least 25 years of total confinement,
28 notwithstanding any other provision of this title or other
29 statute to the contrary. Proof that the offender received
30 notice of or otherwise knew or should have known of the

1 penalties under this paragraph shall not be required. Upon
2 conviction for a third or subsequent crime of violence the
3 court may[, if it determines that 25 years of total
4 confinement is insufficient to protect the public safety,]
5 sentence the offender to a minimum sentence of at least 20
6 years of total confinement and a maximum sentence of life
7 imprisonment [without parole].

8 * * *

9 Section 3. Title 61 is amended by adding a section to read:

10 § 5908. Life with Parole Reinvestment Fund.

11 (a) Establishment.--The Life with Parole Reinvestment Fund
12 is established as a special fund within the State Treasury to
13 provide funding for all of the following:

14 (1) Victim services.

15 (2) Offender reentry programs.

16 (3) The supervision of certain paroled offenders.

17 (b) Savings assessment.--In fiscal years 2021-2022 through
18 2024-2025, the Office of the Budget shall develop a formula to
19 calculate the amount of savings to the department in the prior
20 fiscal year as a result of the reduction in prison population
21 because of the paroling of offenders previously incarcerated for
22 life without parole under section 6137(a)(3)(ii) and (iii)
23 (relating to parole power).

24 (c) Appropriations.--In fiscal year 2021-2022 and each
25 fiscal year thereafter, the amount of savings calculated under
26 subsection (b) are appropriated to the fund.

27 (d) Transfers.--In fiscal year 2022-2023 and each fiscal
28 year thereafter, the money in the fund shall be transferred as
29 follows:

30 (1) Twenty-five percent to the Office of Victim Advocate

1 for victim services programs.

2 (2) Twenty-five percent to the board for supervision of
3 offenders under section 6137(a)(3)(ii) and (iii).

4 (3) Fifty percent to the Pennsylvania Commission on
5 Crime and Delinquency to provide grants for victim services
6 programs and reentry services.

7 (e) Definitions.--As used in this section, the term "fund"
8 means the Life with Parole Reinvestment Fund.

9 Section 4. Section 6137(a)(1) and (3) of Title 61 are
10 amended and the subsection is amended by adding a paragraph to
11 read:

12 § 6137. Parole power.

13 (a) General criteria for parole.--

14 (1) The board may parole subject to consideration of
15 guidelines established under 42 Pa.C.S. § 2154.5 (relating to
16 adoption of guidelines for parole) or subject to section
17 6137.1 (relating to short sentence parole) and may release on
18 parole any inmate to whom the power to parole is granted to
19 the board by this chapter, except an inmate condemned to
20 death [or serving life imprisonment], whenever in its
21 opinion:

22 (i) The best interests of the inmate justify or
23 require that the inmate be paroled.

24 (ii) It does not appear that the interests of the
25 Commonwealth will be injured by the inmate's parole.

26 * * *

27 (3) The power to parole granted under this section to
28 the board may not be exercised in the board's discretion at
29 any time before, but only after[, the]:

30 (i) The expiration of the minimum term of

1 imprisonment fixed by the court in its sentence or by the
2 Board of Pardons in a sentence which has been reduced by
3 commutation.

4 (ii) Notwithstanding 42 Pa.C.S. § 9757 (relating to
5 consecutive sentences of total confinement for multiple
6 offenses) and except for an inmate sentenced to life
7 imprisonment under 42 Pa.C.S. § 9711 (relating to
8 sentencing procedure for murder of the first degree), 25
9 years after the date of incarceration which, in the case
10 of an inmate sentenced to life imprisonment, shall
11 include any period of uninterrupted incarceration
12 occurring prior to trial.

13 (iii) Except as provided under paragraph (6) and
14 notwithstanding 42 Pa.C.S. § 9757, 35 years after the
15 date of incarceration which, in the case of an inmate
16 sentenced to life imprisonment under 42 Pa.C.S. § 9711,
17 shall include any period of uninterrupted incarceration
18 occurring prior to trial.

19 (iv) Except as provided under paragraph (6), 35
20 years in the case of an inmate sentenced under 18 Pa.C.S.
21 § 1102.1(a)(1) (relating to sentence of persons under the
22 age of 18 for murder, murder of an unborn child and
23 murder of a law enforcement officer).

24 (v) Except as provided under paragraph (6) and
25 notwithstanding 42 Pa.C.S. § 9757, 25 years in the case
26 of an inmate sentenced under 18 Pa.C.S. § 1102.1(a)(2).

27 (vi) Notwithstanding 42 Pa.C.S. § 9757, 25 years in
28 the case of an inmate sentenced under 18 Pa.C.S. §
29 1102.1(c)(1).

30 (vii) Notwithstanding 42 Pa.C.S. § 9757, 20 years in

1 the case of an inmate sentenced under 18 Pa.C.S. §
2 1102.1(c)(2).

3 * * *

4 (6) The board may not consider or grant parole to any
5 offender convicted of murdering a law enforcement officer of
6 the first degree and sentenced under 18 Pa.C.S. § 1102(a)
7 (relating to sentence for murder, murder of unborn child and
8 murder of law enforcement officer).

9 * * *

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