

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 888 Session of 2025

INTRODUCED BY DIAMOND, M. BROWN, HANBIDGE, D'ORSIE, WAXMAN,  
DAVIDSON AND KHAN, MARCH 17, 2025

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 17, 2025

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 for murder,  
5 murder of unborn child and murder of law enforcement officer;  
6 in arson, criminal mischief and other property destruction,  
7 further providing for the offense of arson and related  
8 offenses; in jurisdiction of appellate courts, further  
9 providing for direct appeals from courts of common pleas; in  
10 post-trial matters, further providing for postconviction DNA  
11 testing and for disposition and appeal; in sentencing,  
12 further providing for sentencing procedure for murder of the  
13 first degree; and, in execution procedure and method,  
14 repealing provisions relating to issuance of warrant.

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

17 Section 1. Sections 1102(a) and 3301(b)(1) of Title 18 of  
18 the Pennsylvania Consolidated Statutes are amended to read:

19 § 1102. Sentence for murder, murder of unborn child and murder  
20 of law enforcement officer.

21 (a) First degree.--

22 (1) Except as provided under section 1102.1 (relating to  
23 sentence of persons under the age of 18 for murder, murder of  
24 an unborn child and murder of a law enforcement officer), a

1 person who has been convicted of a murder of the first degree  
2 or of murder of a law enforcement officer of the first degree  
3 shall be sentenced to [death or to] a term of life  
4 imprisonment in accordance with 42 Pa.C.S. § 9711 (relating  
5 to sentencing procedure for murder of the first degree).

6 (2) The sentence for a person who has been convicted of  
7 first degree murder of an unborn child shall be the same as  
8 the sentence for murder of the first degree. [, except that  
9 the death penalty shall not be imposed. This paragraph shall  
10 not affect the determination of an aggravating circumstance  
11 under 42 Pa.C.S. § 9711(d) (17) for the killing of a pregnant  
12 woman.]

13 \* \* \*

14 § 3301. Arson and related offenses.

15 \* \* \*

16 (b) Sentence.--

17 (1) A person convicted of violating the provisions of  
18 subsection (a) (2), murder of the first degree[, ] or second  
19 degree shall be sentenced to [death or] life imprisonment  
20 without right to parole[; a person convicted of murder of the  
21 second degree, pursuant to subsection (a) (2), shall be  
22 sentenced to life imprisonment without right to parole].

23 Notwithstanding provisions to the contrary, no language  
24 herein shall infringe upon the inherent powers of the  
25 Governor to commute said sentence.

26 \* \* \*

27 Section 2. Sections 722(4), 9543.1(a) (6), (c) (2) and (3) and  
28 (d) (2), 9577(a) and 9711 of Title 42 are amended to read:

29 § 722. Direct appeals from courts of common pleas.

30 The Supreme Court shall have exclusive jurisdiction of

1 appeals from final orders of the courts of common pleas in the  
2 following classes of cases:

3 \* \* \*

4 (4) Automatic review of sentences as provided by 42  
5 Pa.C.S. [ §§ 9546(d) (relating to relief and order) and  
6 9711(h) (relating to review of death sentence) ] § 9546(d)  
7 (relating to relief and order).

8 \* \* \*

9 § 9543.1. Postconviction DNA testing.

10 (a) Motion.--

11 \* \* \*

12 (6) The motion shall explain how, after review of the  
13 record of the applicant's trial, there is a reasonable  
14 possibility if the applicant is under State supervision, or  
15 there is a reasonable probability if the applicant is not  
16 under State supervision, or after review of the record of the  
17 applicant's guilty plea there is a reasonable probability,  
18 that the testing would produce exculpatory evidence that  
19 would establish:

20 (i) the applicant's actual innocence of the offense  
21 for which the applicant was convicted;

22 [(ii) in a capital case, the applicant's actual  
23 innocence of the charged or uncharged conduct  
24 constituting an aggravating circumstance under section  
25 9711(d) (relating to sentencing procedure for murder of  
26 the first degree) if the applicant's exoneration of the  
27 conduct would result in vacating a sentence of death; or

28 (iii) in a capital case, a mitigating circumstance  
29 under section 9711(e) (7) under the circumstances set  
30 forth in section 9711(c) (1) (iv)].

1 \* \* \*

2 (c) Requirements.--In any motion under subsection (a), under  
3 penalty of perjury, the applicant shall:

4 \* \* \*

5 (2) (i) in a sworn statement subject to the penalties  
6 under 18 Pa.C.S. §§ 4902 (relating to perjury) and 4903  
7 (relating to false swearing), assert the applicant's  
8 actual innocence of the offense for which the applicant  
9 was convicted and that the applicant seeks DNA testing  
10 for the purpose of demonstrating the applicant's actual  
11 innocence; and

12 [(ii) in a capital case:

13 (A) assert the applicant's actual innocence of  
14 the charged or uncharged conduct constituting an  
15 aggravating circumstance under section 9711(d) if the  
16 applicant's exoneration of the conduct would result  
17 in vacating a sentence of death; or

18 (B) assert that the outcome of the DNA testing  
19 would establish a mitigating circumstance under  
20 section 9711(e) (7) if that mitigating circumstance  
21 was presented to the sentencing judge or jury and  
22 facts as to that issue were in dispute at the  
23 sentencing hearing.]

24 (3) present a prima facie case demonstrating that the:

25 (i) identity of or the participation in the crime by  
26 the perpetrator was at issue in the proceedings that  
27 resulted in the applicant's conviction and sentencing;  
28 and

29 (ii) DNA testing of the specific evidence, assuming  
30 exculpatory results, would establish:

1 (A) the applicant's actual innocence of the  
2 offense for which the applicant was convicted;

3 [(B) in a capital case, the applicant's actual  
4 innocence of the charged or uncharged conduct  
5 constituting an aggravating circumstance under  
6 section 9711(d) if the applicant's exoneration of the  
7 conduct would result in vacating a sentence of death;  
8 or

9 (C) in a capital case, a mitigating circumstance  
10 under section 9711(e) (7) under the circumstances set  
11 forth in section 9711(c) (1) (iv).]

12 (d) Order.--

13 \* \* \*

14 (2) The court shall not order the testing requested in a  
15 motion under subsection (a) if, after review of the record of  
16 the applicant's trial, the court determines that there is no  
17 reasonable possibility for an applicant under State  
18 supervision, or there is no reasonable probability for an  
19 applicant not under State supervision, or after review of the  
20 record of the applicant's guilty plea, the court determines  
21 that there is no reasonable probability, that the testing  
22 would produce exculpatory evidence that:

23 (i) would establish the applicant's actual innocence  
24 of the offense for which the applicant was convicted;

25 [(ii) in a capital case, would establish the  
26 applicant's actual innocence of the charged or uncharged  
27 conduct constituting an aggravating circumstance under  
28 section 9711(d) if the applicant's exoneration of the  
29 conduct would result in vacating a sentence of death; or

30 (iii) in a capital case, would establish a

1 mitigating circumstance under section 9711(e) (7) under  
2 the circumstances set forth in section 9711(c) (1) (iv).]

3 \* \* \*

4 § 9577. Disposition and appeal.

5 [(a) Capital unitary review.--Review by the Supreme Court  
6 under section 9711(h) (relating to review of death sentence)  
7 shall comprise direct appeal and collateral appeal. The common  
8 pleas court order disposing of the petition under this  
9 subchapter shall constitute the final judgment for purposes of  
10 this review.]

11 \* \* \*

12 § 9711. Sentencing procedure for murder of the first degree.

13 [(a) Procedure in jury trials.--

14 (1)] After a verdict of murder of the first degree is  
15 recorded [and before the jury is discharged], the court shall  
16 [conduct a separate sentencing hearing in which the jury  
17 shall determine whether the defendant shall be sentenced to  
18 death or] sentence the defendant to life imprisonment.

19 [(2) In the sentencing hearing, evidence concerning the  
20 victim and the impact that the death of the victim has had on  
21 the family of the victim is admissible. Additionally,  
22 evidence may be presented as to any other matter that the  
23 court deems relevant and admissible on the question of the  
24 sentence to be imposed. Evidence shall include matters  
25 relating to any of the aggravating or mitigating  
26 circumstances specified in subsections (d) and (e), and  
27 information concerning the victim and the impact that the  
28 death of the victim has had on the family of the victim.  
29 Evidence of aggravating circumstances shall be limited to  
30 those circumstances specified in subsection (d).]

1 (3) After the presentation of evidence, the court shall  
2 permit counsel to present argument for or against the  
3 sentence of death. The court shall then instruct the jury in  
4 accordance with subsection (c).

5 (4) Failure of the jury to unanimously agree upon a  
6 sentence shall not impeach or in any way affect the guilty  
7 verdict previously recorded.

8 (b) Procedure in nonjury trials and guilty pleas.--If the  
9 defendant has waived a jury trial or pleaded guilty, the  
10 sentencing proceeding shall be conducted before a jury impaneled  
11 for that purpose unless waived by the defendant with the consent  
12 of the Commonwealth, in which case the trial judge shall hear  
13 the evidence and determine the penalty in the same manner as  
14 would a jury as provided in subsection (a).

15 (c) Instructions to jury.--

16 (1) Before the jury retires to consider the sentencing  
17 verdict, the court shall instruct the jury on the following  
18 matters:

19 (i) The aggravating circumstances specified in  
20 subsection (d) as to which there is some evidence.

21 (ii) The mitigating circumstances specified in  
22 subsection (e) as to which there is some evidence.

23 (iii) Aggravating circumstances must be proved by  
24 the Commonwealth beyond a reasonable doubt; mitigating  
25 circumstances must be proved by the defendant by a  
26 preponderance of the evidence.

27 (iv) The verdict must be a sentence of death if the  
28 jury unanimously finds at least one aggravating  
29 circumstance specified in subsection (d) and no  
30 mitigating circumstance or if the jury unanimously finds

1 one or more aggravating circumstances which outweigh any  
2 mitigating circumstances. The verdict must be a sentence  
3 of life imprisonment in all other cases.

4 (v) The court may, in its discretion, discharge the  
5 jury if it is of the opinion that further deliberation  
6 will not result in a unanimous agreement as to the  
7 sentence, in which case the court shall sentence the  
8 defendant to life imprisonment.

9 (2) The court shall instruct the jury that if it finds  
10 at least one aggravating circumstance and at least one  
11 mitigating circumstance, it shall consider, in weighing the  
12 aggravating and mitigating circumstances, any evidence  
13 presented about the victim and about the impact of the murder  
14 on the victim's family. The court shall also instruct the  
15 jury on any other matter that may be just and proper under  
16 the circumstances.

17 (d) Aggravating circumstances.--Aggravating circumstances  
18 shall be limited to the following:

19 (1) The victim was a firefighter, peace officer, public  
20 servant concerned in official detention, as defined in 18  
21 Pa.C.S. § 5121 (relating to escape), judge of any court in  
22 the unified judicial system, the Attorney General of  
23 Pennsylvania, a deputy attorney general, district attorney,  
24 assistant district attorney, member of the General Assembly,  
25 Governor, Lieutenant Governor, Auditor General, State  
26 Treasurer, State law enforcement official, local law  
27 enforcement official, Federal law enforcement official or  
28 person employed to assist or assisting any law enforcement  
29 official in the performance of his duties, who was killed in  
30 the performance of his duties or as a result of his official



1 position.

2 (2) The defendant paid or was paid by another person or  
3 had contracted to pay or be paid by another person or had  
4 conspired to pay or be paid by another person for the killing  
5 of the victim.

6 (3) The victim was being held by the defendant for  
7 ransom or reward, or as a shield or hostage.

8 (4) The death of the victim occurred while defendant was  
9 engaged in the hijacking of an aircraft.

10 (5) The victim was a prosecution witness to a murder or  
11 other felony committed by the defendant and was killed for  
12 the purpose of preventing his testimony against the defendant  
13 in any grand jury or criminal proceeding involving such  
14 offenses.

15 (6) The defendant committed a killing while in the  
16 perpetration of a felony.

17 (7) In the commission of the offense the defendant  
18 knowingly created a grave risk of death to another person in  
19 addition to the victim of the offense.

20 (8) The offense was committed by means of torture.

21 (9) The defendant has a significant history of felony  
22 convictions involving the use or threat of violence to the  
23 person.

24 (10) The defendant has been convicted of another Federal  
25 or State offense, committed either before or at the time of  
26 the offense at issue, for which a sentence of life  
27 imprisonment or death was imposable or the defendant was  
28 undergoing a sentence of life imprisonment for any reason at  
29 the time of the commission of the offense.

30 (11) The defendant has been convicted of another murder

1 committed in any jurisdiction and committed either before or  
2 at the time of the offense at issue.

3 (12) The defendant has been convicted of voluntary  
4 manslaughter, as defined in 18 Pa.C.S. § 2503 (relating to  
5 voluntary manslaughter), or a substantially equivalent crime  
6 in any other jurisdiction, committed either before or at the  
7 time of the offense at issue.

8 (13) The defendant committed the killing or was an  
9 accomplice in the killing, as defined in 18 Pa.C.S. § 306(c)  
10 (relating to liability for conduct of another; complicity),  
11 while in the perpetration of a felony under the provisions of  
12 the act of April 14, 1972 (P.L.233, No.64), known as The  
13 Controlled Substance, Drug, Device and Cosmetic Act, and  
14 punishable under the provisions of 18 Pa.C.S. § 7508  
15 (relating to drug trafficking sentencing and penalties).

16 (14) At the time of the killing, the victim was or had  
17 been involved, associated or in competition with the  
18 defendant in the sale, manufacture, distribution or delivery  
19 of any controlled substance or counterfeit controlled  
20 substance in violation of The Controlled Substance, Drug,  
21 Device and Cosmetic Act or similar law of any other state,  
22 the District of Columbia or the United States, and the  
23 defendant committed the killing or was an accomplice to the  
24 killing as defined in 18 Pa.C.S. § 306(c), and the killing  
25 resulted from or was related to that association, involvement  
26 or competition to promote the defendant's activities in  
27 selling, manufacturing, distributing or delivering controlled  
28 substances or counterfeit controlled substances.

29 (15) At the time of the killing, the victim was or had  
30 been a nongovernmental informant or had otherwise provided

1 any investigative, law enforcement or police agency with  
2 information concerning criminal activity and the defendant  
3 committed the killing or was an accomplice to the killing as  
4 defined in 18 Pa.C.S. § 306(c), and the killing was in  
5 retaliation for the victim's activities as a nongovernmental  
6 informant or in providing information concerning criminal  
7 activity to an investigative, law enforcement or police  
8 agency.

9 (16) The victim was a child under 12 years of age.

10 (17) At the time of the killing, the victim was in her  
11 third trimester of pregnancy or the defendant had knowledge  
12 of the victim's pregnancy.

13 (18) At the time of the killing the defendant was  
14 subject to a court order restricting in any way the  
15 defendant's behavior toward the victim pursuant to 23 Pa.C.S.  
16 Ch. 61 (relating to protection from abuse) or any other order  
17 of a court of common pleas or of the minor judiciary designed  
18 in whole or in part to protect the victim from the defendant.

19 (e) Mitigating circumstances.--Mitigating circumstances  
20 shall include the following:

21 (1) The defendant has no significant history of prior  
22 criminal convictions.

23 (2) The defendant was under the influence of extreme  
24 mental or emotional disturbance.

25 (3) The capacity of the defendant to appreciate the  
26 criminality of his conduct or to conform his conduct to the  
27 requirements of law was substantially impaired.

28 (4) The age of the defendant at the time of the crime.

29 (5) The defendant acted under extreme duress, although  
30 not such duress as to constitute a defense to prosecution

1 under 18 Pa.C.S. § 309 (relating to duress), or acted under  
2 the substantial domination of another person.

3 (6) The victim was a participant in the defendant's  
4 homicidal conduct or consented to the homicidal acts.

5 (7) The defendant's participation in the homicidal act  
6 was relatively minor.

7 (8) Any other evidence of mitigation concerning the  
8 character and record of the defendant and the circumstances  
9 of his offense.

10 (f) Sentencing verdict by the jury.--

11 (1) After hearing all the evidence and receiving the  
12 instructions from the court, the jury shall deliberate and  
13 render a sentencing verdict. In rendering the verdict, if the  
14 sentence is death, the jury shall set forth in such form as  
15 designated by the court the findings upon which the sentence  
16 is based.

17 (2) Based upon these findings, the jury shall set forth  
18 in writing whether the sentence is death or life  
19 imprisonment.

20 (g) Recording sentencing verdict.--Whenever the jury shall  
21 agree upon a sentencing verdict, it shall be received and  
22 recorded by the court. The court shall thereafter impose upon  
23 the defendant the sentence fixed by the jury.

24 (h) Review of death sentence.--

25 (1) A sentence of death shall be subject to automatic  
26 review by the Supreme Court of Pennsylvania pursuant to its  
27 rules.

28 (2) In addition to its authority to correct errors at  
29 trial, the Supreme Court shall either affirm the sentence of  
30 death or vacate the sentence of death and remand for further

1 proceedings as provided in paragraph (4).

2 (3) The Supreme Court shall affirm the sentence of death  
3 unless it determines that:

4 (i) the sentence of death was the product of  
5 passion, prejudice or any other arbitrary factor; or

6 (ii) the evidence fails to support the finding of at  
7 least one aggravating circumstance specified in  
8 subsection (d).

9 (4) If the Supreme Court determines that the death  
10 penalty must be vacated because none of the aggravating  
11 circumstances are supported by sufficient evidence, then it  
12 shall remand for the imposition of a life imprisonment  
13 sentence. If the Supreme Court determines that the death  
14 penalty must be vacated for any other reason, it shall remand  
15 for a new sentencing hearing pursuant to subsections (a)  
16 through (g).

17 (i) Record of death sentence to Governor.--Where a sentence  
18 of death is upheld by the Supreme Court, the prothonotary of the  
19 Supreme Court shall transmit to the Governor a full and complete  
20 record of the trial, sentencing hearing, imposition of sentence,  
21 opinion and order by the Supreme Court within 30 days of one of  
22 the following, whichever occurs first:

23 (1) the expiration of the time period for filing a  
24 petition for writ of certiorari or extension thereof where  
25 neither has been filed;

26 (2) the denial of a petition for writ of certiorari; or

27 (3) the disposition of the appeal by the United States  
28 Supreme Court, if that court grants the petition for writ of  
29 certiorari.

30 Notice of this transmission shall contemporaneously be provided

1 to the Secretary of Corrections.]

2 Section 3. Section 4302 of Title 61 is repealed:

3 [§ 4302. Issuance of warrant.

4 (a) Time.--

5 (1) After the receipt of the record pursuant to 42  
6 Pa.C.S. § 9711(i) (relating to sentencing procedure for  
7 murder of the first degree), unless a pardon or commutation  
8 has been issued, the Governor shall, within 90 days, issue a  
9 warrant specifying a day for execution which shall be no  
10 later than 60 days after the date the warrant is signed.

11 (2) If, because of a reprieve or a judicial stay of the  
12 execution, the date of execution passes without imposition of  
13 the death penalty, unless a pardon or commutation has been  
14 issued, the Governor shall, within 30 days after receiving  
15 notice of the termination of the reprieve or the judicial  
16 stay, reissue a warrant specifying a day for execution which  
17 shall be no later than 60 days after the date of reissuance  
18 of the warrant.

19 (b) Secretary.--The warrant shall be directed to the  
20 secretary commanding that the subject of the warrant be executed  
21 on the day named in the warrant and in the manner prescribed by  
22 law.

23 (c) Failure to timely comply.--If the Governor fails to  
24 timely comply with the provisions of this section and a pardon  
25 or commutation has not been issued, the secretary shall, within  
26 30 days following the Governor's failure to comply, schedule and  
27 carry out the execution no later than 60 days from the date by  
28 which the Governor was required to sign the warrant under  
29 subsection (a).]

30 Section 4. This act shall apply to defendants and

1 individuals who have not been sentenced as of the effective date  
2 of this section.

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