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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1590 Session of  
2021

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INTRODUCED BY STEPHENS, BROOKS, DeLUCA AND GILLEN, JUNE 9, 2021

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REFERRED TO COMMITTEE ON JUDICIARY, JUNE 9, 2021

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in sentencing, further  
3 providing for sentencing generally.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Section 9721(b) of Title 42 of the Pennsylvania  
7 Consolidated Statutes is amended and the section is amended by  
8 adding subsections to read:

9 § 9721. Sentencing generally.

10 \* \* \*

11 (b) General standards.--In selecting from the alternatives  
12 set forth in subsection (a), the court shall follow the general  
13 principle that the sentence imposed should call for total  
14 confinement that is consistent with section 9725 (relating to  
15 total confinement) and the protection of the public, the gravity  
16 of the offense as it relates to the impact on the life of the  
17 victim and on the community, and the rehabilitative needs of the  
18 defendant. The court shall also consider any guidelines for  
19 sentencing and resentencing adopted by the Pennsylvania

1 Commission on Sentencing and taking effect under section 2155  
2 (relating to publication of guidelines for sentencing,  
3 resentencing and parole, risk assessment instrument and  
4 recommitment ranges following revocation). In every case in  
5 which the court imposes a sentence for a felony or misdemeanor,  
6 modifies a sentence, resentsences a person following revocation  
7 of probation or resentsences following remand, the court shall  
8 make as a part of the record, and disclose in open court at the  
9 time of sentencing, a statement of the reason or reasons for the  
10 sentence imposed. [In every case where the court imposes a  
11 sentence or resentence outside the guidelines adopted by the  
12 Pennsylvania Commission on Sentencing under sections 2154  
13 (relating to adoption of guidelines for sentencing), 2154.1  
14 (relating to adoption of guidelines for restrictive conditions),  
15 2154.3 (relating to adoption of guidelines for fines), 2154.4  
16 (relating to adoption of guidelines for resentencing) and 2154.5  
17 (relating to adoption of guidelines for parole) and made  
18 effective under section 2155, the court shall provide a  
19 contemporaneous written statement of the reason or reasons for  
20 the deviation from the guidelines to the commission, as  
21 established under section 2153(a)(14) (relating to powers and  
22 duties). Failure to comply shall be grounds for vacating the  
23 sentence or resentence and resentencing the defendant.]

24 (b.1) Presumptive guidelines.--Subject to subsection (b.2),  
25 the court shall impose a sentence of no less than the shortest  
26 sentence within the standard range of the applicable guidelines  
27 for sentencing adopted by the Pennsylvania Commission on  
28 Sentencing and taking effect under section 2155, or five years,  
29 whichever is less, for a conviction of any of the following  
30 offenses, or attempt, solicitation or conspiracy to commit any

1 of the following offenses:

2 (1) Crime of violence as defined in section 9714(g)  
3 (relating to sentences for second and subsequent offenses),  
4 when a firearm was possessed during the commission of the  
5 offense.

6 (2) 18 Pa.C.S. § 6105(a)(1) (relating to persons not to  
7 possess, use, manufacture, control, sell or transfer  
8 firearms), if the person has been previously convicted of an  
9 offense enumerated under 18 Pa.C.S. § 6105(b).

10 (3) Section 13(a)(30) of the act of April 14, 1972  
11 (P.L.233, No.64), known as The Controlled Substance, Drug,  
12 Device and Cosmetic Act, when a firearm was possessed during  
13 the commission of the offense.

14 (b.2) Departure from presumptive guidelines.--

15 (1) The court may impose a sentence of less than the  
16 shortest sentence permitted under subsection (b.1) if the  
17 court provides on the record a substantial and compelling  
18 reason that an injustice would occur by applying the required  
19 sentence.

20 (2) Notwithstanding paragraph (1), the court may not  
21 impose a sentence of less than the shortest sentence within  
22 the mitigated range of the applicable guidelines for  
23 sentencing adopted by the Pennsylvania Commission on  
24 Sentencing in the 7th Edition of the Sentencing Guidelines,  
25 as amended until the effective date of this subsection, and  
26 taking effect under section 2155, or four years, whichever is  
27 lower, if any of the following apply:

28 (i) The defendant previously was convicted of an  
29 offense punishable by a term of imprisonment exceeding  
30 two years.

1           (ii) The offense resulted in death or serious bodily  
2 injury.

3           (iii) The defendant used violence or credible  
4 threats of violence, or induced another person to do so,  
5 during the commission of the offense.

6           (iv) The defendant possessed a deadly weapon, as  
7 defined in 18 Pa.C.S. § 2301 (relating to definitions),  
8 or induced another person to do so, during the commission  
9 of the offense.

10   (b.3) Written statement.--In every case where the court  
11 imposes a sentence or resentence outside the guidelines adopted  
12 by the Pennsylvania Commission on Sentencing under sections 2154  
13 (relating to adoption of guidelines for sentencing), 2154.1  
14 (relating to adoption of guidelines for restrictive conditions),  
15 2154.3 (relating to adoption of guidelines for fines), 2154.4  
16 (relating to adoption of guidelines for resentencing) and 2154.5  
17 (relating to adoption of guidelines for parole) and made  
18 effective under section 2155, the court shall provide a  
19 contemporaneous written statement of the reason or reasons for  
20 the deviation from the guidelines to the commission, as  
21 established under section 2153(a)(14) (relating to powers and  
22 duties of commission). Failure to comply shall be grounds for  
23 vacating the sentence or resentence and resentencing the  
24 defendant.

25           \* \* \*

26           Section 2. This act shall take effect in 60 days.