
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 181 Session of
2021

INTRODUCED BY KOSIEROWSKI, SANCHEZ, HILL-EVANS, GALLOWAY,
CONKLIN, FREEMAN, SCHLOSSBERG, HOWARD AND ISAACSON,
JANUARY 15, 2021

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 15, 2021

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
19 victimization affected the participation in the offense. If the

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

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

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

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

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

14 (2) Any sexual offense.

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

17 SUBCHAPTER B.1

18 POST CONVICTION RELIEF FOR

19 DOMESTIC VIOLENCE SURVIVORS

20 Sec.

21 9551. Scope of subchapter.

22 9552. Eligibility for relief.

23 9553. Post conviction appeal requests.

24 § 9551. Scope of subchapter.

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

1 § 9552. Eligibility for relief.

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

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

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

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

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

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

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

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

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

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

29 (2) Any sexual offense.

30 § 9553. Post conviction appeal requests.

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

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

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

16 (1) Resentence the petitioner.

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

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

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