
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 890 Session of
2015

INTRODUCED BY MATZIE, FRANKEL, YOUNGBLOOD, J. HARRIS,
SCHLOSSBERG, V. BROWN, THOMAS, KINSEY, BROWNLEE, SCHWEYER,
SCHREIBER, STURLA, BISHOP, C. PARKER, COHEN, ROZZI AND
BRADFORD, APRIL 6, 2015

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 6, 2015

AN ACT

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

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

6 Section 1. Chapter 97 of Title 42 of the Pennsylvania
7 Consolidated Statutes is amended by adding a subchapter to read:

8 SUBCHAPTER I

9 RACE IN SENTENCING

10 IN CAPITAL CASES

11 Sec.

12 9799.51. Prohibition.

13 9799.52. Proof of racial discrimination.

14 9799.53. Hearing procedure.

15 § 9799.51. Prohibition.

16 No person shall be sentenced to death or shall be executed
17 under any judgment sought or obtained on the basis of race.

1 § 9799.52. Proof of racial discrimination.

2 (a) Finding.--

3 (1) A finding that race was the basis of the decision to
4 seek or impose a death sentence may be established if the
5 court finds race was a significant factor in decisions to
6 seek or impose the sentence of death in the county, the
7 prosecutorial district or this Commonwealth at the time the
8 death sentence was sought or imposed.

9 (2) The court shall find that a significant factor
10 exists if any of the following applies:

11 (i) Death sentences were sought or imposed
12 significantly more frequently upon persons of one race
13 than upon persons of another race.

14 (ii) Death sentences were sought or imposed
15 significantly more frequently as punishment for capital
16 offenses against persons of one race than as punishment
17 for capital offenses against persons of another race.

18 (iii) Race was a significant factor in decisions to
19 exercise peremptory challenges during jury selection.

20 (b) Evidence.--

21 (1) Evidence relevant to establish a finding that race
22 was a significant factor in the decision to seek or impose
23 the sentence of death in this Commonwealth at the time the
24 death sentence was sought or imposed may include statistical
25 evidence or other evidence, including, but not limited to,
26 sworn testimony of attorneys, prosecutors, law enforcement
27 officers, jurors or other members of the criminal justice
28 system or both.

29 (2) A juror's testimony under this subsection shall be
30 consistent with Rule 606(b) of the Pennsylvania Rules of

1 Evidence.

2 (c) Burden of proof.--

3 (1) The defendant has the burden of proving race was a
4 significant factor in a decision to seek or impose the
5 sentence of death at the time the death sentence was sought
6 or imposed.

7 (2) The Commonwealth may offer evidence in rebuttal of
8 the claims or evidence of the defendant. The Commonwealth may
9 rebut a statistical showing of Statewide racial disparities
10 by introducing statistical evidence or other evidence
11 demonstrating racial discrimination did not occur at the time
12 the death penalty was sought or imposed.

13 (3) The court may consider evidence of a program
14 implemented prior to the defendant's trial for the purpose of
15 eliminating racial disparities in its evaluation of whether
16 the Commonwealth has adequately addressed those disparities.
17 § 9799.53. Hearing procedure.

18 (a) Duties of defendant.--The defendant shall state with
19 particularity how evidence supports a claim race was a
20 significant factor in a decision to seek or impose the sentence
21 of death in this Commonwealth at large at the time the death
22 sentence was sought or imposed. The claim shall be raised by the
23 defendant at the pretrial conference or in postconviction
24 proceedings.

25 (b) Scheduling.--The court shall schedule a hearing on the
26 claim and shall prescribe a time for the submission of evidence
27 by both parties.

28 (c) Finding.--If the court finds that race was a significant
29 factor in decisions to seek or impose the sentence of death in
30 this Commonwealth at the time the death sentence was sought or

1 imposed, it shall order that a death sentence shall not be
2 sought or that the death sentence imposed by the judgment shall
3 be vacated and the defendant resentenced to life imprisonment
4 without the possibility of parole.

5 (d) Motion by defendant.--Notwithstanding a time limitation
6 contained in Chapter 95 (relating to post-trial matters), a
7 defendant may seek relief from the defendant's death sentence
8 upon the ground that racial considerations played a significant
9 part in the decision to seek or impose a death sentence by
10 filing a motion seeking relief. The motion shall be filed within
11 one year of the effective date of this subchapter.

12 (e) Procedures and hearing.--Except as specifically stated
13 in this section, the procedures and hearing on the motion
14 seeking relief from a death sentence upon the ground that race
15 was a significant factor in the decision to seek or impose the
16 sentence of death in this Commonwealth at the time the death
17 sentence was sought or imposed shall follow and comply with
18 Chapter 95.

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