

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 728 Session of  
2021

---

INTRODUCED BY HUGHES, SANTARSIERO, HAYWOOD, FONTANA, STREET,  
COSTA AND COLLETT, JUNE 1, 2021

---

REFERRED TO JUDICIARY, JUNE 1, 2021

---

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in firearms and other dangerous  
3 articles, further providing for persons not to possess, use,  
4 manufacture, control, sell or transfer firearms.

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

7 Section 1. Section 6105(a)(1), (a.1)(1) and (1.1), (b) and  
8 (c)(2) and (7) of Title 18 of the Pennsylvania Consolidated  
9 Statutes are amended to read:

10 § 6105. Persons not to possess, use, manufacture, control, sell  
11 or transfer firearms.

12 (a) Offense defined.--

13 (1) A person who has been convicted of an offense  
14 enumerated in subsection (b) or an attempt, conspiracy or  
15 solicitation to commit an offense enumerated in subsection  
16 (b), within or without this Commonwealth, regardless of the  
17 length of sentence or whose conduct meets the criteria in  
18 subsection (c) shall not possess, use, control, sell,  
19 transfer or manufacture or obtain a license to possess, use,

1 control, sell, transfer or manufacture a firearm in this  
2 Commonwealth.

3 \* \* \*

4 (a.1) Penalty.--

5 (1) Except as provided under paragraph (1.1), a person  
6 convicted of a felony enumerated under subsection (b) or a  
7 felony under [the act of April 14, 1972 (P.L.233, No.64),  
8 known as The Controlled Substance, Drug Device and Cosmetic  
9 Act,] subsection (c)(2) or any equivalent Federal statute or  
10 equivalent statute of any other state, who violates  
11 subsection (a) commits a felony of the second degree.

12 (1.1) The following shall apply:

13 (i) A person convicted of a felony enumerated under  
14 subsection (b) or a felony under [The Controlled  
15 Substance, Drug, Device and Cosmetic Act] subsection (c)  
16 (2), or any equivalent Federal statute or equivalent  
17 statute of any other state, who violates subsection (a)  
18 commits a felony of the first degree if:

19 (A) at the time of the commission of a violation  
20 of subsection (a), the person has previously been  
21 convicted of an offense under subsection (a); or

22 (B) at the time of the commission of a violation  
23 of subsection (a), the person was in physical  
24 possession or control of a firearm, whether visible,  
25 concealed about the person or within the person's  
26 reach.

27 (ii) The Pennsylvania Commission on Sentencing,  
28 under 42 Pa.C.S. § 2154 (relating to adoption of  
29 guidelines for sentencing), shall provide for a  
30 sentencing enhancement for a sentence imposed pursuant to

1           this paragraph.

2           \* \* \*

3           (b) Enumerated offenses.--The following offenses shall apply  
4 to subsection (a):

5           (1) Any of the following:

6           (i) Section 908 (relating to prohibited offensive  
7 weapons).

8           (ii) Section 911 (relating to corrupt  
9 organizations).

10          (iii) Section 912 (relating to possession of weapon  
11 on school property).

12          (iv) Section 2502 (relating to murder).

13          (v) Section 2503 (relating to voluntary  
14 manslaughter).

15          (vi) Section 2504 (relating to involuntary  
16 manslaughter) if the offense is based on the reckless use  
17 of a firearm.

18          (vii) Section 2702 (relating to aggravated assault).

19          (viii) Section 2703 (relating to assault by  
20 prisoner).

21          (ix) Section 2704 (relating to assault by life  
22 prisoner).

23          (x) Section 2709.1 (relating to stalking).

24          (xi) Section 2716 (relating to weapons of mass  
25 destruction).

26          (xii) Section 2901 (relating to kidnapping).

27          (xiii) Section 2902 (relating to unlawful  
28 restraint).

29          (xiv) Section 2910 (relating to luring a child into  
30 a motor vehicle or structure).

1           (xv) Section 3121 (relating to rape).

2           (xvi) Section 3123 (relating to involuntary deviate  
3 sexual intercourse).

4           (xvii) Section 3125 (relating to aggravated indecent  
5 assault).

6           (xviii) Section 3301 (relating to arson and related  
7 offenses).

8           (xix) Section 3302 (relating to causing or risking  
9 catastrophe).

10          (xx) Section 3502 (relating to burglary).

11          (xxi) Section 3503 (relating to criminal trespass)  
12 if the offense is graded a felony of the second degree or  
13 higher.

14          (xxii) Section 3701 (relating to robbery).

15          (xxiii) Section 3702 (relating to robbery of motor  
16 vehicle).

17          (xxiv) Section 3921 (relating to theft by unlawful  
18 taking or disposition) upon conviction of the second  
19 felony offense.

20          (xxv) Section 3923 (relating to theft by extortion)  
21 when the offense is accompanied by threats of violence.

22          (xxvi) Section 3925 (relating to receiving stolen  
23 property) upon conviction of the second felony offense.

24          (xxvii) Section 4906 (relating to false reports to  
25 law enforcement authorities) if the fictitious report  
26 involved the theft of a firearm as provided in section  
27 4906(c)(2).

28          (xxviii) Section 4912 (relating to impersonating a  
29 public servant) if the person is impersonating a law  
30 enforcement officer.

1           (xxix) Section 4952 (relating to intimidation of  
2 witnesses or victims).

3           (xxx) Section 4953 (relating to retaliation against  
4 witness, victim or party).

5           (xxxi) Section 5121 (relating to escape).

6           (xxxii) Section 5122 (relating to weapons or  
7 implements for escape).

8           (xxxiii) Section 5501(3) (relating to riot).

9           (xxxiv) Section 5515 (relating to prohibiting of  
10 paramilitary training).

11          (xxxv) Section 5516 (relating to facsimile weapons  
12 of mass destruction).

13          (xxxvi) Section 6110.1 (relating to possession of  
14 firearm by minor).

15          (xxxvii) Section 6301 (relating to corruption of  
16 minors).

17          (xxxviii) Section 6302 (relating to sale or lease of  
18 weapons and explosives).

19          (2) Any of the following relating to an offense  
20 enumerated under paragraph (1):

21           (i) Section 901 (relating to criminal attempt).

22           (ii) Section 902 (relating to criminal  
23 solicitation).

24           (iii) Section 903 (relating to criminal conspiracy).

25          (3) Any offense equivalent to any of the [above-  
26 enumerated] offenses enumerated under paragraph (1) or (2)  
27 under the prior laws of this Commonwealth or any offense  
28 equivalent to any of the [above-enumerated] offenses  
29 enumerated under paragraph (1) or (2) under the statutes of  
30 any other state or of the United States.

1 (c) Other persons.--In addition to any person who has been  
2 convicted of any offense listed under subsection (b), the  
3 following persons shall be subject to the prohibition of  
4 subsection (a):

5 \* \* \*

6 (2) A person who has been convicted of an offense [under  
7 the act of April 14, 1972 (P.L.233, No.64), known as The  
8 Controlled Substance, Drug, Device and Cosmetic Act, or any  
9 equivalent Federal statute or equivalent statute of any other  
10 state, that may be punishable by a term of imprisonment  
11 exceeding two years.] that may be punishable by a term of  
12 imprisonment exceeding two years:

13 (i) under the act of April 14, 1972 (P.L.233,  
14 No.64), known as The Controlled Substance, Drug, Device  
15 and Cosmetic Act;

16 (ii) for any attempt, solicitation or conspiracy to  
17 commit an offense under subparagraph (i); or

18 (iii) for any equivalent Federal statute or  
19 equivalent statute of another state.

20 \* \* \*

21 (7) A person who was adjudicated delinquent by a court  
22 pursuant to 42 Pa.C.S. § 6341 (relating to adjudication) or  
23 under any equivalent Federal statute or statute of any other  
24 state as a result of conduct which if committed by an adult  
25 would constitute [an offense under sections 2502, 2503, 2702,  
26 2703 (relating to assault by prisoner), 2704, 2901, 3121,  
27 3123, 3301, 3502, 3701 and 3923.]:

28 (i) an offense under sections 2502, 2503, 2702,  
29 2703, 2704, 2901, 3121, 3123, 3301, 3502, 3701 and 3923;  
30 or

1           (ii) an attempt, solicitation or conspiracy to  
2           commit an offense under subparagraph (i).

3           \* \* \*

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