

No. 1997-28

AN ACT

SB 423

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, to permit service of process on Sunday; further providing for sentencing for murder of the first degree; and prohibiting the exclusion of certain victims from trials.

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

Section 1. Sections 5107 and 9711(h) of Title 42 of the Pennsylvania Consolidated Statutes are amended to read:

§ 5107. Service of process on Sunday.

[(a) General rule.—No process shall] *Process may* be served or executed on a Sunday *except at any church, synagogue, meetinghouse or any place of worship.* [except in the case of:

(1) Felony or misdemeanor.

(2) Breach of the peace.

(3) Criminal or civil contempt of court in orders relating to support or custody matters.

(4) When authorized or directed by the court upon a finding that the exigency of the case is such as to impel the court to suspend the rule against service or execution of process on a Sunday.

(5) Any matter where the service or execution of process on a Sunday is expressly authorized by statute.

(b) Effect of violation.—Process served or executed in violation of subsection (a) shall be void and the person so serving or executing such process shall be liable to any person aggrieved to the same extent as if the action was taken without any process at all.]

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

* * *

(h) Review of death sentence.—

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

(2) In addition to its authority to correct errors at trial, the Supreme Court shall either affirm the sentence of death or vacate the sentence of death and remand for further proceedings as provided in paragraph (4).

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

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

(ii) the evidence fails to support the finding of at least one aggravating circumstance specified in subsection (d)]; or

(iii) **the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the circumstances of the crime and the character and record of the defendant].**

(4) If the Supreme Court determines that the death penalty must be vacated because none of the aggravating circumstances are supported by sufficient evidence [or because the sentence of death is disproportionate to the penalty imposed in similar cases], then it shall remand for the imposition of a life imprisonment sentence. If the Supreme Court determines that the death penalty must be vacated for any other reason, it shall remand for a new sentencing hearing pursuant to subsections (a) through (g).

* * *

Section 2. Title 42 is amended by adding a section to read:

§ 9738. *Victim impact statements.*

(a) *General rule.—Notwithstanding any other statute, rule or provision of law to the contrary, in the trial of a defendant accused of an offense, including an offense subject to sentence under section 9711 (relating to sentencing procedure for murder of the first degree), a court shall not order the exclusion of any victim of the offense from the trial on the basis that the victim may, during the sentencing phase of the proceedings:*

(1) *make a victim impact statement or present any victim impact information in relation to the sentence to be imposed on the defendant;*
or

(2) *testify as to the effect of the offense on the victim or the family of the victim.*

(b) *Definition.—As used in this section, the term “victim” shall have the same meaning as in section 479.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.*

Section 3. This act shall take effect immediately.

APPROVED—The 25th day of June, A.D. 1997.

THOMAS J. RIDGE