

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2307 Session of 2018

INTRODUCED BY NESBIT, McCLINTON, BERNSTINE, BRIGGS, DALEY, HILL- EVANS, PASHINSKI, READSHAW, SCHLOSSBERG, SOLOMON, MURT, MOUL AND GILLEN, MAY 2, 2018

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 25, 2018

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for victim and
3 witness outreach; and, in post-trial matters, further
4 providing for eligibility for relief and for jurisdiction and
5 proceedings.

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

8 Section 1. Chapter 95 of Title 42 of the Pennsylvania
9 Consolidated Statutes is amended by adding a subchapter to read:

10 SUBCHAPTER A.1

11 VICTIM AND WITNESS OUTREACH

12 Sec.

13 9521. Defense-initiated victim or witness outreach.

14 § 9521. Defense-initiated victim or witness outreach.

15 (a) Requirements.--A person who engages in defense-initiated
16 victim or witness outreach shall:

17 (1) Communicate in an honest manner without deception or
18 misrepresentation.

1           (2) Unambiguously provide the person's identity by name,  
2           the person's employer and, if applicable, the name of the  
3           defendant convicted of the crime.

4           (b) Definition.--As used in this section, the term "defense-  
5           initiated victim or witness outreach" means any effort by a  
6           criminal defendant's counsel to directly or indirectly contact  
7           a victim or witness or a parent, guardian or family member of a  
8           victim or witness on behalf of the criminal defendant or the  
9           criminal defendant's counsel through any of the following:

10           (1) A victim liaison.

11           (2) A victim outreach specialist.

12           (3) A social worker.

13           (4) An investigator.

14           (5) Any other individual designated by the criminal  
15           defendant or the criminal defendant's counsel.

16           Section 2. Sections 9543(a)(1) and 9545(b)(2) and (d)(1) of  
17 Title 42 are amended to read:

18 § 9543. Eligibility for relief.

19           (a) General rule.--To be eligible for relief under this  
20 subchapter, the petitioner must plead and prove by a  
21 preponderance of the evidence all of the following:

22           (1) That the petitioner has been convicted of a crime  
23 under the laws of this Commonwealth and is at the time relief  
24 is granted:

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

27           (ii) awaiting execution of a sentence of death for  
28 the crime; [or]

29           (iii) serving a sentence which must expire before  
30 the person may commence serving the disputed sentence[.];

1           or  
2           (iv) has completed a sentence of imprisonment,  
3           probation or parole for the crime and is seeking relief  
4           based upon DNA evidence obtained under section 9543.1(d)  
5           (relating to postconviction DNA testing).

6           \* \* \*

7 § 9545. Jurisdiction and proceedings.

8           \* \* \*

9           (b) Time for filing petition.--

10           \* \* \*

11           (2) Any petition invoking an exception provided in  
12 paragraph (1) shall be filed within [60 days] one year of the  
13 date the claim could have been presented.

14           \* \* \*

15           (d) Evidentiary hearing.--

16           (1) The following apply:

17           (i) Where a petitioner requests an evidentiary  
18 hearing, the petition shall include a [signed  
19 certification as to] certification signed by each  
20 intended witness stating the witness's name, address,  
21 date of birth and substance of testimony and shall  
22 include any documents material to that witness's  
23 testimony.

24           (ii) If a petitioner is unable to obtain the  
25 signature of a witness under subparagraph (i), the  
26 petitioner shall include a certification, signed by the  
27 petitioner or counsel, stating the witness's name,  
28 address, date of birth and substance of testimony. In  
29 lieu of providing the witness's name and date of birth in  
30 the certification under this subparagraph, counsel may

1 provide the witness's name and date of birth directly to  
2 the Commonwealth. The certification under this  
3 subparagraph shall include any documents material to the  
4 witness's testimony and specify the basis of the  
5 petitioner's information regarding the witness and the  
6 petitioner's efforts to obtain the witness's signature.  
7 Nothing in this subparagraph shall be construed to  
8 contravene any applicable attorney-client privilege  
9 between the petitioner and postconviction counsel.

10 (iii) Failure to substantially comply with the  
11 requirements of this paragraph shall render the proposed  
12 witness's testimony inadmissible.

13 \* \* \*

14 SECTION 3. THE AMENDMENT OF 42 PA.C.S. § 9545(B)(2) SHALL <--  
15 APPLY ONLY TO CLAIMS ARISING ONE YEAR BEFORE THE EFFECTIVE DATE  
16 OF THIS SECTION OR THEREAFTER.

17 Section 3 4. This act shall take effect in 60 days. <--