

No. 257

AN ACT

HB 1895

Amending the act of June 24, 1939 (P.L.872), entitled "An act to consolidate, amend and revise the penal laws of the Commonwealth," providing for restitution by criminal offenders to the victims of crimes of violence, crimes against property and crimes of fraud, for injuries to the person or property.

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

Section 1. Section 1109, act of June 24, 1939 (P.L.872), known as "The Penal Code," added May 27, 1949 (P.L.1898), is amended to read:

Section 1109. Restitution [in Offenses Against Personal Property] *For Injuries to the Person or Property.*—

[On all convictions for any crime wherein property has been stolen, converted, or otherwise unlawfully obtained, in addition to the punishment prescribed therefor, the defendant may be sentenced to restore such property to the owner thereof and in default of such restitution to pay the value of the same or so much thereof as may not be restored. The court shall have the power in adjudging restitution as aforesaid, to fix and determine the amount to be paid in accordance with the evidence presented, but no judgment of restitution shall debar the owner of his right, by appropriate legal action, to recover from the defendant the said property or the true value thereof less such payments as shall have been actually made by the defendant in compliance therewith.]

(a) *Definitions.*—As used in this section:

(1) "*Crime*" means any felony or misdemeanor punishable under this act.

(2) "*Violent crimes*" means crimes in which force or threat of force was directed against any person.

(3) "*Injuries to property*" means loss of real or personal property, including negotiable instruments, or decrease in its value, directly resulting from the crime.

(4) "*Personal injuries*" means actual bodily harm, including pregnancy, directly resulting from the crime.

(5) "*Property*" means any real or personal property, including currency and negotiable instruments, of the victim.

(6) "*Victim*" means any person, except an offender as defined herein, who suffered injuries to his person or property as a direct result of the crime.

(7) "*Offender*" means any person who has been found guilty in the court of common pleas of any crime as defined herein.

(8) "*Restitution*" means return of the property of the victim or payments in cash or the equivalent thereof, pursuant to an order of the court.

(b) Restitution Authorized.—

(1) Upon conviction for any crime wherein property has been stolen, converted, or otherwise unlawfully obtained; or, its value substantially decreased as a direct result of the crime; or, wherein the victim suffered personal injury directly resulting from the crime, the offender may be sentenced, by a judge of the court of common pleas, in addition to the punishment prescribed therefor, to make restitution.

(2) Whenever restitution has been ordered pursuant to clause (1) of this subsection and the offender has been placed on probation or parole, his compliance with such order may be made a condition of such probation or parole.

(3) In determining whether to order restitution as a part of the sentence or as a condition of probation or parole, the judge:

(i) shall consider the financial means of the offender; the extent of injury suffered by the victim; and such other matters of record as he deems appropriate;

(ii) may order restitution in a lump sum, by monthly installments, or according to such other schedule as he deems just, provided that the period of time during which the offender is ordered to make restitution shall not exceed the maximum term of imprisonment to which the offender could have been sentenced for the crime of which he was convicted;

(iii) may at any time alter or amend any order of restitution made pursuant to this section.

(4) No judgment or order of restitution shall debar the owner of the property or the victim who sustained personal injury, by appropriate action, to recover from the offender as otherwise provided by law, provided that any civil award shall take into account the money paid under the criminal judgment.

(c) Enforcement of Restitution Order.—

(1) Restitution shall be made by the offender to the probation department of the county in which he was convicted, according to the order of the court.

(2) The probation department shall maintain records of the restitution order and its satisfaction.

(3) The probation department shall forward to the victim the property or payments made pursuant to the restitution order of the court.

(4) Whenever the offender shall fail to make restitution as provided in the order of the court, the probation department shall notify the court within twenty (20) days of such failure.

(5) Upon such notice of failure to make restitution, the court shall order a hearing to determine if the offender is in contempt of court or has violated his probation or parole.

APPROVED—The 27th day of November, A. D. 1970.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly
No. 257.

A handwritten signature in black ink, appearing to read "Joseph P. Kelly II". The signature is written in a cursive style with a large initial "J" and a prominent "K".

Secretary of the Commonwealth.