



Lifers Incorporated SCI-Graterford Judiciary Committee Pamphlet

WHAT DOES A LIFE SENTENCE MEAN UNDER PENNSYLVANIA LAW?

What is the life-sentenced prisoners' reality; what is their plight in the state of Pennsylvania, and is there any hope of release on parole or having his/her sentence commuted by the Governor? In this brochure, Lifer Incorporated will attempt to provide some answers to these questions.

The first penitentiary in the United States was established in the "City of Brotherly Love," Philadelphia, PA. This was the "Walnut Street Jail," which opened in the 1700's. This marked the beginning of the "modern correctional system and philosophy in America." However, in 2010 (over 300 years later), Pennsylvania remains a dinosaur with its sentencing policies regarding lifers. How could the "originator" of the modern correctional system and philosophy be so out of touch with its own creation?

This is particularly so, when it comes to a life-sentence under Pennsylvania law, a sentence to "natural life" is the most severe penalty other than a death sentence that the criminal justice system can impose on a convicted offender. In Pennsylvania, any person convicted of "First-Degree Murder" or "Second-Degree murder" (18 Pa.C.S. §2502(a) and (b)), is sentenced to life imprisonment.

Unlike many other states, Pennsylvania law prohibits the release on parole of any life-sentenced inmates. It does not matter how rehabilitated or how many years an inmate has served, nor whether or not the circumstances surrounding the crime render the life sentence penalty excessive. In Pennsylvania, a life sentence means exactly that: "confinement for natural life."

Although a life-sentenced inmate may file an application seeking commutation from the Governor (thereby reducing the life sentence to a term of years), those applications are rarely granted. In fact, during the past thirty (30) years, an average of one (1) lifer has received commutation each year.

In 1980, there were only 848 lifers in the state prison system. As of June 2010, there are well over 5,400 lifers, an increase of approximately 700%. Even if executive clemency (commutation) were granted to ten (10) lifers beginning today, it would take well over 500 years for the current lifers confined in Pennsylvania's prison system to be released.

**SENTENCING FOR FIRST AND SECOND DEGREE MURDER
AUTHORIZED DISPOSITION OF OFFENDERS**

If you were convicted of first or second-degree murder, you fall under these Pennsylvania Consolidated Statutes. 18 Pa.C.S. § 1102 (Act of 1972, Dec. 6, P.L. 1482, No. 334, §1, as amended by the Act of 1974, March 26, P.L. 213, No. 46, §2).

§1102: Sentence For Murder

Murder of the First degree: a person who has been convicted of murder of the first degree shall be sentenced to death or a term of life imprisonment in accordance with section 1311(d) of this title (relating to sentencing procedure of murder of the first degree). Murder of the Second Degree: a person who has been convicted of murder of the second degree shall be sentenced to a term of life imprisonment.

**SYNOPSIS OF "HISTORY" OF LEGISLATIVE INTENT REGARDING
DISCRETIONARY MINIMUM TERMS FOR LIFE SENTENCES**

1939 PENAL CODE

(A) **18 P.S. §4701:** Whoever is convicted of the crime of murder of the first degree shall be sentenced to undergo imprisonment for life. Whoever is convicted of the crime of murder of the second degree shall, for the first offense, be sentenced to undergo imprisonment by separate or solitary confinement not exceeding twenty (20) years, and for the second offense, shall undergo imprisonment for the period of his natural life.

(B) **19 P.S. §1057:** Any person convicted of any crime punishable by imprisonment in a state penitentiary shall receive a sentence of imprisonment for an indefinite term, stating in such sentence the minimum and maximum limits thereof and the minimum limit shall never exceed one-half of the maximum sentence prescribed by any court.

1941 Parole Act

Parole Board authorized to parole any convict sentenced to a maximum term of two years or more [61 P.S. §331.17] but may not release such convicts until expiration of minimum term; Parole Board may not release on parole those serving life imprisonment [61 P.S. §331.21].

1942 PAROLE EQUALS IMPRISONMENT

Parole is, in legal effect, imprisonment; parole is the legal equivalent of imprisonment. Com. Ex rel Bank vs. Cain, 345 Pa. 581 (1942); Com ex rel. Alexander vs. Rundle, 206 Pa. Super. Ct. 528 (1965).

1973 Crimes Code

Purpose of crimes code, as well as included Sentencing Code, is to provide individualized treatment for all offenders [18 Pa. C.S. §104]; this general purpose is to control if specific purposes are absent from individual provisions within the crimes/sentencing codes [18 Pa. C.S. §105].

1975 AMENDMENT TO CRIMES CODE

(1) 18 Pa. C.S. §1356 [(1980) 42 Pa. C.S. §9756]

(a) Every sentence of imprisonment shall have a maximum term; (b) Every sentence of imprisonment shall have a minimum term not to exceed one-half of the maximum; (c) Court may impose sentence without right to parole in only explicit situations, one of which – first-degree murder – may involve a life sentence. (There is no specific exception to sentences of life imprisonment, specifically second-degree murder, assault by lifers, and second homicides.

(2) 18 Pa. C.S. § 1357 [(1980) 42 Pa. C.S. §9757]

Total minimum term of consecutive sentences must be sum total of individual minimum terms. (There is no explicit exception for life sentences. See Commonwealth vs. Button).

(3) 18 Pa. C.S. §1331, Rule 1403, and Rules of Criminal Procedure §1331, which excluded life sentences from requisite pre-sentences investigation reports, was repealed concurrently with the adoption of §1356 and 1357. Its language was amended and transferred to 1403, which permits the courts discretion to order pre-sentence investigation reports for all sentences.

1984 LIFE IMPRISONMENT WITHOUT RIGHT TO PAROLE [18 PA C.S. §3301(B)]

For the first time, PA General assembly included a specific sentence of "life imprisonment 'without' right to parole" within the Crime/Sentencing codes; that is, for "arson-related" first and second-degree murder.

1995 CONSTITUTIONAL AMENDMENT

From 1967 to 1979, 346 life-sentenced prisoners received commutation of their sentence. In the 31 years since then, only approximately 37 life-sentences have been commuted. The General Assembly's Special Session No. 1 of 1995 yielded a substantial change to Article IV, Section 9, of the PA Constitution concerning the composition of the commutation board, which raised the threshold for commutation from the previous requirement of a majority vote of the board, to a required unanimous vote. This further

reduced the likelihood that a petition for commutation would reach the Governor's desk for final approval.

2000 Amendment to 42 Pa. C.S. §9756(c), which stated the court may impose a sentence without the right to parole in only four explicit situations, one of which was first-degree murder. This amendment removed all reference to the crime of murder. Thus, removing any perceived ambiguity between first and second-degree murder for the purpose of parole.

LEGISLATIVE BILLS SEEKING PAROLE ELIGIBILITY FOR LIFERS

In 1965, Senator Johanson submitted Senate Bill (S.B.), No. 313 to the PA General Assembly. This bill was designed to prohibit parole eligibility for lifers until fifteen (15) years of the sentence had been served. This bill failed and lifers continued to seek commutation.

House Bill 1581 introduced in 1990, seeking parole eligibility for all lifers was the only legislation submitted to the Pennsylvania General assembly in the past forty-five (45) years. Due to a hostile political climate, H.B. 1581 failed to gain support and parole eligibility for lifers was put on hold.

However, in 2010, there are currently two (2) House Bills seeking parole eligibility for juvenile lifers, H.B. 1994 and H.B. 1999. Please have your family members, friends, and love-ones support these bills.

So, what are your options as a life-sentenced prisoner under Pennsylvania's second severest penalty (life without the possibility of parole), and whom can you turn to for help?

OPTIONS FOR LIFERS

(1) Continue to work on your appeals seeking relief through the court; **(2)** Join forces with the Lifers Incorporated and fight for the enactment of "retroactive" legislative changes in Pennsylvania's sentencing of lifers; **(3)** Seek commutation of your life sentence; or **(4)** die in prison

Lifers Incorporated strongly suggests that you pursue the first three (3) options in your fight for freedom. We further implore you to join forces with Lifers Incorporated to fight for the enactment of "retroactive" legislative changes in Pennsylvania's sentencing of lifers. United we stand, divided we fall!!

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