

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2052 Session of  
2005

INTRODUCED BY WOJNAROSKI, PETRARCA, MANN, REED, CALTAGIRONE,  
HASAY, READSHAW, FLEAGLE, BUNT, BARRAR, BELFANTI, BAKER,  
CAPPELLI, MUNDY, KOTIK, HICKERNELL, BENNINGHOFF, CLYMER,  
SHAPIRO, LaGROTTA, MARKOSEK, KAUFFMAN, GEIST, BLAUM, GOODMAN,  
MARSICO, STABACK, GRUCELA, HESS, PISTELLA, SAINATO, WALKO,  
CRAHALLA, HUTCHINSON, SAYLOR, WANSACZ, CORRIGAN, DeLUCA,  
MELIO, M. KELLER, McILHATTAN, MUSTIO, REICHLEY, HARRIS,  
SIPTROTH AND BEYER, OCTOBER 17, 2005

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 17, 2005

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, further providing for rape, for involuntary deviate  
4 sexual intercourse and for indecent assault; barring the  
5 presence of sexual offenders in certain areas; providing for  
6 hindering identification of sexual offenders and for  
7 electronic monitoring of certain sexual offenders; imposing  
8 duties on the Pennsylvania State Police; and imposing  
9 penalties.

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

12 Section 1. Sections 3121(e), 3123(d) and 3125(c) of Title 18  
13 of the Pennsylvania Consolidated Statutes are amended to read:

14 § 3121. Rape.

15 \* \* \*

16 (e) Sentences.--Notwithstanding the provisions of section  
17 1103 (relating to sentence of imprisonment for felony), a person  
18 convicted of an offense under:

(1) Subsection (c) shall be sentenced to a term of imprisonment which shall be fixed by the court at not less than 25 nor more than 40 years if the offense was a first offense and was a singular occurrence involving one victim.

(2) Subsection (c) which is not covered by paragraph (1) or under subsection (d) shall be sentenced to a minimum term of 25 years up to a maximum term of life imprisonment.

§ 3123. Involuntary deviate sexual intercourse.

\* \* \*

(d) Sentences.--Notwithstanding the provisions of section 1103 (relating to sentence of imprisonment for felony), a person convicted of an offense under:

(1) Subsection (b) shall be sentenced to a term of imprisonment which shall be fixed by the court at not less than 25 years nor more than 40 years if the offense was a first offense and was a singular occurrence involving one victim.

(2) Subsection (b) which is not covered by paragraph (1) or under subsection (c) shall be sentenced to a minimum term of 25 years up to a maximum term of life imprisonment.

\* \* \*

§ 3125. Aggravated indecent assault.

\* \* \*

(c) Grading and sentences.--

(1) An offense under subsection (a) is a felony of the second degree.

(2) An offense under subsection (b) is a felony of the first degree. If the offense was a first offense and was a singular occurrence involving one victim, the defendant shall be sentenced to a term of imprisonment which shall be fixed

1 by the court at not less than 25 years nor more than 40  
2 years. Otherwise, the defendant shall be sentenced to a  
3 minimum term of 25 years up to a maximum term of life  
4 imprisonment.

5 Section 2. Title 18 is amended by adding sections to read:

6 § 3130. Sexual offenders barred from certain areas.

7 (a) Offense defined.--A sexual offender who intentionally or  
8 knowingly enters a protected area other than to serve a criminal  
9 sentence or receive health care commits a felony of the third  
10 degree.

11 (b) Changed circumstances.--If a new protected area is  
12 constructed or established in such manner as to incorporate the  
13 legal residence of a sexual offender, the sexual offender shall  
14 comply with subsection (a) within six months of learning of  
15 construction or establishment of the new protected area.

16 (c) Definitions.--As used in this section, the following  
17 words and phrases shall have the meanings given to them in this  
18 subsection:

19 "Protected area." The area located within 5,000 feet of the  
20 real property comprising an elementary or secondary school, a  
21 child care center or a playground.

22 "Sexual offender." A person who is required to register with  
23 the Pennsylvania State Police pursuant to the provisions of 42  
24 Pa.C.S. § 9795.1 (relating to registration).

25 § 5105.1. Hindering identification of sexual offender.

26 (a) Offense defined.--A person who has reason to believe  
27 that a sexual offender has violated section 4915 (relating to  
28 failure to comply with registration of sexual offenders  
29 requirements) commits an offense if the person intentionally or  
30 knowingly does any of the following:

1       (1) Fails to notify law enforcement authorities of the  
2       violation.

3       (2) Withholds information from law enforcement  
4       authorities or provides false or misleading information to  
5       law enforcement authorities concerning the sexual offender or  
6       the violation.

7       (3) Harbors or conceals the sexual offender or assists  
8       another person in harboring or concealing the sexual  
9       offender.

10      (b) Penalty.--A violation of this section is an offense of  
11      the same grade and degree as the most serious offense committed  
12      by the sexual offender under section 4915.

13      (c) Definition.--As used in this section, the term "sexual  
14      offender" means a person who is required to register with the  
15      Pennsylvania State Police pursuant to the provisions of 42  
16      Pa.C.S. § 9795.1 (relating to registration).

17      Section 3. Title 42 is amended by adding a section to read:  
18      § 9795.6. Electronic monitoring of certain offenders.

19      (a) General rule.--The State Police shall affix to each  
20      sexual offender a device which enables the location of the  
21      offender to be monitored through use of GPS and related  
22      technology. The device shall be designed so that it:

23              (1) actively and continuously monitors, identifies and  
24              reports location data;

25              (2) permits the State Police or an entity operating on  
26              behalf of the State Police to receive location data, record  
27              it securely and confidentially and retain it indefinitely;

28              (3) can be worn around the wrist or ankle; and

29              (4) cannot be removed without employing specialized  
30              equipment specifically designed for that purpose.

A person who intentionally removes, alters, tampers with, interferes with the operation of, damages or destroys a device affixed pursuant to this subsection commits a felony of the third degree.

(b) Utilization of data.--All data collected under this section shall be combined and retained in a single database which can be searched by date, time and location. Information in the database is confidential and shall be accessed only by authorized State Police personnel in connection with official investigation of cases in which a person's status as a registered sexual offender may be relevant to the investigation. A person who violates any provision of this subsection commits a misdemeanor of the third degree.

(c) Applicability.--This section shall apply to all sexual offenders regardless of the date of conviction.

(d) Costs.--Unless a court finds that undue hardship would result, any person tracked by an electronic monitoring device pursuant to this section shall be required to reimburse the State Police for the costs of the electronic monitoring device at a rate of \$10 per day, which shall be in addition to any other costs imposed pursuant to statutory authority. The State Police shall be responsible for all costs related to implementation of this section.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"GPS." A global positioning system operated by the United States Department of Defense which provides specially coded satellite signals that can be processed by a receiver to compute location.

1     "Sexual offender." An individual who is required to register  
2 under section 9795.1 (relating to registration).

3     "State Police." The Pennsylvania State Police.

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