

CRIMES CODE (18 PA.C.S.) - OFFENSE OF ASSAULT BY PRISONER,
OFFENSE OF INSTITUTIONAL SEXUAL ASSAULT AND SEXUAL OFFENSES AND
TIER SYSTEM

Act of Jul. 23, 2020, P.L. 641, No. 63

Cl. 18

Session of 2020
No. 2020-63

HB 256

AN ACT

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in assault, further providing for the offense of assault by prisoner; in sexual offenses, further providing for the offense of institutional sexual assault; and, in registration of sexual offenders, further providing for sexual offenses and tier system.

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

Section 1. Section 2703(a) of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 2703. Assault by prisoner.

(a) Offense defined.--[A]

(1) Except as provided under section 2704 (relating to assault by life prisoner), a person who is confined in or committed to any local or county detention facility, jail or prison or any State penal or correctional institution or other State penal or correctional facility located in this Commonwealth is guilty of a felony of the second degree if he, while so confined or committed or while undergoing transportation to or from such an institution or facility in or to which he was confined or committed intentionally or knowingly, commits an assault upon any of the following:

(i) Except as provided under subparagraph (ii), another with a deadly weapon or instrument, or by any means or force likely to produce serious bodily injury.

(ii) A detention facility or correctional facility employee with a deadly weapon or instrument, or by any means or force likely to produce bodily injury.

(2) A person is guilty of this offense if he intentionally or knowingly causes another to come into contact with blood, seminal fluid, saliva, urine or feces by throwing, tossing, spitting or expelling such fluid or material when, at the time of the offense, the person knew, had reason to know, should have known or believed such fluid or material to have been obtained from an individual, including the person charged under this section, infected by a communicable disease, including, but not limited to, human immunodeficiency virus (HIV) or hepatitis B.

(3) Except as provided under section 2704, a person who is confined in or committed to any local or county detention facility, jail or prison or any State penal or correctional institution or other State penal or correctional facility located in this Commonwealth is guilty of a felony of the first degree if he, while so confined or committed or while undergoing transportation to or from an institution or facility in or to which he was confined or committed, intentionally or knowingly, commits an assault upon a

detention facility or correctional facility employee with a deadly weapon or instrument, or by any means or force likely to produce serious bodily injury.

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Section 2. Section 3124.2(a), (a.1) and (b) of Title 18 are amended and the section is amended by adding subsections to read:

§ 3124.2. Institutional sexual assault.

(a) General rule.--Except as provided under subsection (a.1) and in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) and 3125 (relating to aggravated indecent assault), a person who is an employee or agent of the Department of Corrections or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth, or mental health or mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, detainee, **another person being supervised by that person under probation or parole supervision**, patient or resident.

(a.1) Institutional sexual assault of a minor.--A person who is an employee or agent of the Department of Corrections or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth or mental health or mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, **another person being supervised by that person under probation or parole supervision**, detainee, patient or resident who is under 18 years of age.

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(a.4) Peace officers.--

(1) Except as provided under sections 3121, 3122.1, 3123, 3124.1 and 3125, a person who is a peace officer or employee of an agency employing a peace officer in his official capacity commits a felony of the third degree when the person engages in sexual intercourse, deviate sexual intercourse or indecent contact with another person who is under official detention or in the custody of the person or is a confidential informant of the person.

(2) A person who is a peace officer commits a felony of the third degree when the person engages in sexual intercourse, deviate sexual intercourse or indecent contact with a child who is under official detention or in the custody of the person or is a confidential informant of the person.

(a.5) Consent not a defense.--Consent is not a defense to a violation of subsection (a), (a.1), (a.2), (a.3) or (a.4).

(b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Agent." A person who is assigned to work in a State or county correctional or juvenile detention facility, a youth development center, youth forestry camp, other licensed residential facility serving children and youth or mental health or mental retardation facility or institution, who is employed

by any State or county agency or any person employed by an entity providing contract services to the agency.

"Center for children." Includes a child day-care center, group and family day-care home, boarding home for children, a center providing early intervention and drug and alcohol services for children or other facility which provides child-care services which are subject to approval, licensure, registration or certification by the Department of Public Welfare or a county social services agency or which are provided pursuant to a contract with the department or a county social services agency. The term does not include a youth development center, youth forestry camp, State or county juvenile detention facility and other licensed residential facility serving children and youth.

"Child." An individual who is less than 18 years of age.

"Confidential informant." An individual who engages in the activity of associating with persons engaged in criminal activity for the purpose of furnishing information to or acting as an agent for a law enforcement agency.

"Custody." The term includes a traffic stop, a custodial interrogation or an interview conducted in connection with an investigation.

"Official detention." As that term is defined in section 5121 (relating to escape).

Section 3. Section 9799.14(b) (5) and (d) (6) of Title 42 are amended to read:

§ 9799.14. Sexual offenses and tier system.

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(b) Tier I sexual offenses.--The following offenses shall be classified as Tier I sexual offenses:

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(5) 18 Pa.C.S. § 3124.2(a) **and (a.4) (1)** (relating to institutional sexual assault).

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(d) Tier III sexual offenses.--The following offenses shall be classified as Tier III sexual offenses:

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(6) 18 Pa.C.S. § 3124.2(a.1) **and (a.4) (2)**.

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

APPROVED--The 23rd day of July, A.D. 2020.

TOM WOLF