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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 944 Session of  
2015

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INTRODUCED BY AUMENT, STEFANO, RAFFERTY, VULAKOVICH AND WARD,  
JULY 7, 2015

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REFERRED TO JUDICIARY, JULY 7, 2015

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AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, in criminal homicide, further providing for murder;  
4 in assault, further providing for aggravated assault; in  
5 sexual offenses, further providing for rape, for involuntary  
6 deviate sexual intercourse and for aggravated indecent  
7 assault; and, in sentencing, further providing for sentences  
8 for offenses against infant persons.

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

11 Section 1. Section 2502 of Title 18 of the Pennsylvania  
12 Consolidated Statutes is amended by adding a subsection to read:  
13 § 2502. Murder.

14 \* \* \*

15 (c.1) Murder of the third degree if the victim is less than  
16 13 years of age.--All other kinds of murder shall be murder of  
17 the third degree if the victim is less than 13 years of age.  
18 Murder of the third degree is a felony of the first degree.

19 \* \* \*

20 Section 2. Section 2702(a) of Title 18 is amended to read:  
21 § 2702. Aggravated assault.

1 (a) Offense defined.--A person is guilty of aggravated  
2 assault if he:

3 (1) attempts to cause serious bodily injury to another,  
4 or causes such injury intentionally, knowingly or recklessly  
5 under circumstances manifesting extreme indifference to the  
6 value of human life;

7 (2) attempts to cause or intentionally, knowingly or  
8 recklessly causes serious bodily injury to any of the  
9 officers, agents, employees or other persons enumerated in  
10 subsection (c) or to an employee of an agency, company or  
11 other entity engaged in public transportation, while in the  
12 performance of duty;

13 (3) attempts to cause or intentionally or knowingly  
14 causes bodily injury to any of the officers, agents,  
15 employees or other persons enumerated in subsection (c), in  
16 the performance of duty;

17 (4) attempts to cause or intentionally or knowingly  
18 causes bodily injury to another with a deadly weapon;

19 (4.1) attempts to cause or intentionally or knowingly  
20 causes bodily injury to a child less than 16 years of age  
21 with a deadly weapon;

22 (5) attempts to cause or intentionally or knowingly  
23 causes bodily injury to a teaching staff member, school board  
24 member or other employee, including a student employee, of  
25 any elementary or secondary publicly-funded educational  
26 institution, any elementary or secondary private school  
27 licensed by the Department of Education or any elementary or  
28 secondary parochial school while acting in the scope of his  
29 or her employment or because of his or her employment  
30 relationship to the school;

1 (6) attempts by physical menace to put any of the  
2 officers, agents, employees or other persons enumerated in  
3 subsection (c), while in the performance of duty, in fear of  
4 imminent serious bodily injury;

5 (7) uses tear or noxious gas as defined in section  
6 2708(b) (relating to use of tear or noxious gas in labor  
7 disputes) or uses an electric or electronic incapacitation  
8 device against any officer, employee or other person  
9 enumerated in subsection (c) while acting in the scope of his  
10 employment;

11 (8) attempts to cause or intentionally, knowingly or  
12 recklessly causes bodily injury to a child less than six  
13 years of age, by a person 18 years of age or older; [or]

14 (9) attempts to cause or intentionally, knowingly or  
15 recklessly causes serious bodily injury to a child less than  
16 13 years of age, by a person 18 years of age or older[.]; or

17 (10) attempts to cause or intentionally, knowingly or  
18 recklessly causes serious bodily injury to a child less than  
19 16 years of age, by a person 18 years of age or older.

20 \* \* \*

21 Section 3. Sections 3121(a), 3123(a) and 3125(a) of Title 18  
22 are amended by adding paragraphs to read:

23 § 3121. Rape.

24 (a) Offense defined.--A person commits a felony of the first  
25 degree when the person engages in sexual intercourse with a  
26 complainant:

27 \* \* \*

28 (7) Who is less than 16 years of age:

29 (i) by forcible compulsion;

30 (ii) by threat of forcible compulsion that would

1 prevent resistance by a person of reasonable  
2 resolution;

3 (iii) who is unconscious or where the person knows  
4 that the complainant is unaware that the sexual  
5 intercourse is occurring;

6 (iv) where the person has substantially impaired the  
7 complainant's power to appraise or control his or her  
8 conduct by administering or employing, without the  
9 knowledge of the complainant, drugs, intoxicants or other  
10 means for the purpose of preventing resistance; or

11 (v) who suffers from a mental disability which  
12 renders the complainant incapable of consent.

13 \* \* \*

14 § 3123. Involuntary deviate sexual intercourse.

15 (a) Offense defined.--A person commits a felony of the first  
16 degree when the person engages in deviate sexual intercourse  
17 with a complainant:

18 \* \* \*

19 (8) who is less than 16 years of age:

20 (i) by forcible compulsion;

21 (ii) by threat of forcible compulsion that would  
22 prevent resistance by a person of reasonable resolution;

23 (iii) who is unconscious or where the person knows  
24 that the complainant is unaware that the sexual  
25 intercourse is occurring;

26 (iv) where the person has substantially impaired the  
27 complainant's power to appraise or control his or her  
28 conduct by administering or employing, without the  
29 knowledge of the complainant, drugs, intoxicants or other  
30 means for the purpose of preventing resistance; or

1           (v) who suffers from a mental disability which  
2           renders the complainant incapable of consent.

3           \* \* \*

4 § 3125. Aggravated indecent assault.

5           (a) Offenses defined.--Except as provided in sections 3121  
6 (relating to rape), 3122.1 (relating to statutory sexual  
7 assault), 3123 (relating to involuntary deviate sexual  
8 intercourse) and 3124.1 (relating to sexual assault), a person  
9 who engages in penetration, however slight, of the genitals or  
10 anus of a complainant with a part of the person's body for any  
11 purpose other than good faith medical, hygienic or law  
12 enforcement procedures commits aggravated indecent assault if:

13           \* \* \*

14           (9) the complainant is less than 16 years of age:

15           (i) without the complainant's consent;

16           (ii) by forcible compulsion;

17           (iii) by threat of forcible compulsion that would  
18 prevent resistance by a person of reasonable  
19 resolution;

20           (iv) the complainant is unconscious or the person  
21 knows that the complainant is unaware that the  
22 penetration is occurring;

23           (v) the person has substantially impaired the  
24 complainant's power to appraise or control his or her  
25 conduct by administering or employing, without the  
26 knowledge of the complainant, drugs, intoxicants or other  
27 means for the purpose of preventing resistance; or

28           (vi) the complainant suffers from a mental  
29 disability which renders him or her incapable of consent.

30           \* \* \*

1 Section 4. Section 9718(a) and (c) of Title 42 are amended  
2 to read:

3 § 9718. Sentences for offenses against infant persons.

4 (a) Mandatory sentence.--

5 (1) A person convicted of the following offenses when  
6 the victim is less than 16 years of age shall be sentenced to  
7 a mandatory term of imprisonment as follows:

8 18 Pa.C.S. § 2702(a) (1) [and] (4), (4.1) and (10)  
9 (relating to aggravated assault) - not less than two years.

10 18 Pa.C.S. § 3121(a) (1), (2), (3), (4) [and] (5) and (7)  
11 (relating to rape) - not less than ten years.

12 18 Pa.C.S. § 3123 (a) (7) and (8) (relating to involuntary  
13 deviate sexual intercourse) - not less than ten years.

14 18 Pa.C.S. § 3125(a) (1) through (6), (8) and (9)  
15 (relating to aggravated indecent assault) - not less than  
16 five years.

17 (2) A person convicted of the following offenses when  
18 the victim is less than 13 years of age shall be sentenced to  
19 a mandatory term of imprisonment as follows:

20 18 Pa.C.S. § 2502(c) (relating to murder) - not less than  
21 15 years.

22 18 Pa.C.S. § 2702(a) (1) and (9) - not less than five  
23 years.

24 (3) A person convicted of the following offenses shall  
25 be sentenced to a mandatory term of imprisonment as follows:

26 18 Pa.C.S. § 2702(a) (8) - not less than ten years.

27 18 Pa.C.S. § 3121(c) and (d) - not less than ten years.

28 18 Pa.C.S. § 3125(a) (7) - not less than five years.

29 18 Pa.C.S. § 3125(b) - not less than ten years.

30 \* \* \*

1        [(c) Proof at sentencing.--The provisions of this section  
2 shall not be an element of the crime, and notice of the  
3 provisions of this section to the defendant shall not be  
4 required prior to conviction, but reasonable notice of the  
5 Commonwealth's intention to proceed under this section shall be  
6 provided after conviction and before sentencing. The  
7 applicability of this section shall be determined at sentencing.  
8 The court shall consider any evidence presented at trial and  
9 shall afford the Commonwealth and the defendant an opportunity  
10 to present any necessary additional evidence and shall  
11 determine, by a preponderance of the evidence, if this section  
12 is applicable.]

13        \* \* \*

14        Section 5. This act shall take effect in 60 days.