

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**  
**No. 2621** Session of  
1994

INTRODUCED BY BARLEY, TRUE, LAUB, SAYLOR, BLAUM, NYCE,  
HUTCHINSON, BUNT, GEIST, PITTS, MELIO, FICHTER, SATHER,  
CESSAR, WAUGH, RAYMOND, STERN, CONTI, HESS, PETTIT, GERLACH,  
TRELLO, LYNCH, RUBLEY, MARSICO, PLATTS, STABACK, KING,  
PHILLIPS, BELFANTI, DeLUCA, COLAIZZO, J. TAYLOR, ZUG,  
KASUNIC, STAIRS, STURLA, HARLEY, E. Z. TAYLOR, KENNEY,  
ADOLPH, GANNON, MERRY, GODSHALL, L. I. COHEN, FREEMAN,  
MAITLAND, ARMSTRONG, SCHEETZ, SCHULER, STRITTMATTER, HERSHEY  
AND TOMLINSON, MARCH 21, 1994

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 21, 1994

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for sentencing and  
3 penalties for trafficking drugs to minors.

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

6 Section 1. Section 6314 of Title 18 of the Pennsylvania  
7 Consolidated Statutes is amended to read:

8 § 6314. Sentencing and penalties for trafficking drugs to  
9 minors.

10 (a) General rule.--A person [over] 18 years of age or older  
11 who is convicted in any court of this Commonwealth of a  
12 violation of section 13(a)(14) or (30) of the act of April 14,  
13 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,  
14 Device and Cosmetic Act, shall, if the delivery or possession  
15 with intent to deliver of the controlled substance was to a

1 minor, be sentenced to a minimum sentence of at least one year  
2 total confinement, notwithstanding any other provision of this  
3 title or other statute to the contrary.

4 (b) Additional penalties.--In addition to the mandatory  
5 minimum sentence set forth in subsection (a), the person shall  
6 be sentenced to [an] the following additional minimum sentence  
7 [of at least two years total confinement], notwithstanding any  
8 other provision of this title or other statute to the contrary[,  
9 if the person did any of the following:

10 (1) Committed the offense with the intent to promote the  
11 habitual use of the controlled substance.

12 (2) Intended to engage the minor in the trafficking,  
13 transportation, delivery, manufacturing, sale or conveyance.

14 (3) Committed the offense within 1,000 feet of the real  
15 property on which is located a public, private or parochial  
16 school or a college or university.]:

17 (1) Two years' total confinement if the person committed  
18 the offense with the intent to promote the habitual use of  
19 the controlled substance.

20 (2) Ten years' total confinement if the person intended  
21 to engage the minor in the trafficking, transportation,  
22 delivery, manufacturing, sale or conveyance within 1,000 feet  
23 of the real property on which is located a public, private or  
24 parochial school or a college or university.

25 (b.1) Trafficking drugs in vicinity of schools.--A person 18  
26 years of age or older who is convicted in a court of this  
27 Commonwealth of violating section 13(a)(14) or (30) of The  
28 Controlled Substance, Drug, Device and Cosmetic Act shall, if  
29 the offense was committed within 1,000 feet of the real property  
30 on which is located a public, private or parochial school or a

college or university be sentenced to a minimum sentence of at least five years' total confinement, notwithstanding any other provision of this title or other statute to the contrary.

(c) Proof at sentencing.--The provisions of this section shall not be an element of the crime. Notice of the applicability of this section to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The court shall consider evidence presented at trial, shall afford the Commonwealth and the defendant an opportunity to present necessary additional evidence, and shall determine, by a preponderance of the evidence, if this section is applicable.

(d) Authority of court in sentencing.--There shall be no authority for a court to impose on a defendant to which this section is applicable a lesser sentence than provided for in subsection (a), to place the defendant on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section. Disposition under section 17 or 18 of The Controlled Substance, Drug, Device and Cosmetic Act shall not be available to a defendant to which this section applies.

(e) Appeal by Commonwealth.--If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence

1 and remand the case to the sentencing court for imposition of a  
2 sentence in accordance with this section if it finds that the  
3 sentence was imposed in violation of this section.

4 (f) Forfeiture.--Assets against which a forfeiture petition  
5 has been filed and is pending or against which the Commonwealth  
6 has indicated an intention to file a forfeiture petition shall  
7 not be subject to a fine under this section.

8 (g) Definition.--As used in this section, the term "minor"  
9 means an individual under 18 years of age.

10 Section 2. This act shall take effect in 60 days.