

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1028 Session of
2005

INTRODUCED BY COSTA, O'PAKE, BOSCOLA, ERICKSON, FONTANA, BROWNE,
KITCHEN, WOZNIAK, LAVALLE, STACK AND RHOADES,
NOVEMBER 22, 2005

REFERRED TO JUDICIARY, NOVEMBER 22, 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 the offenses of luring a
4 child into a motor vehicle, indecent assault, incest and
5 unlawful contact with a minor; and providing for sentencing
6 enhancements for individuals convicted of sex crimes.

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

9 Section 1. Sections 2910, 3126(b), 4302 and 6318(b) of Title
10 18 of the Pennsylvania Consolidated Statutes are amended to
11 read:

12 § 2910. Luring a child into a motor vehicle.

13 A person who lures a child into a motor vehicle without the
14 consent, express or implied, of the child's parent or guardian,
15 unless the circumstances reasonably indicate that the child is
16 in need of assistance, commits a [misdemeanor of the first]
17 felony of the third degree.

18 § 3126. Indecent assault.

19 * * *

1 (b) Grading.--Indecent assault under subsection (a)(7) is a
2 [misdemeanor of the first] felony of the third degree.

3 Otherwise, indecent assault is a misdemeanor of the second
4 degree.

5 § 4302. Incest.

6 (a) Definition.--A person is guilty of incest[, a felony of
7 the second degree,] if that person knowingly marries or cohabits
8 or has sexual intercourse with an ancestor or descendant, a
9 brother or sister of the whole or half blood or an uncle, aunt,
10 nephew or niece of the whole blood. The relationships referred
11 to in this section include blood relationships without regard to
12 legitimacy, and relationship of parent and child by adoption.

13 (b) Grading.--

14 (1) An individual who commits incest with an individual
15 under 16 years of age commits a felony of the first degree.

16 (2) In all other cases, incest shall be a felony of the
17 second degree.

18 § 6318. Unlawful contact with minor.

19 * * *

20 (b) Grading.--A violation of subsection (a) is:

21 (1) an offense of the same grade and degree as the most
22 serious underlying offense in subsection (a) for which the
23 defendant contacted the minor; or

24 (2) a [misdemeanor of the first] felony of the third
25 degree;

26 whichever is greater.

27 * * *

28 Section 2. Chapter 97 of Title 42 is amended by adding a
29 subchapter to read:

30 SUBCHAPTER I

1 SENTENCING OF INDIVIDUALS
2 CONVICTED OF SEX CRIMES

3 Sec.

4 9799.21. Definitions.

5 9799.22. Sentencing.

6 9799.23. Second and subsequent offenses.

7 § 9799.21. Definitions.

8 The following words and phrases when used in this subchapter
9 shall have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Sex crime." Any of the following offenses:

12 18 Pa.C.S. § 2901 (relating to kidnapping) where the
13 victim is a minor.

14 18 Pa.C.S. § 2910 (relating to luring a child into a
15 motor vehicle).

16 18 Pa.C.S. § 3121 (relating to rape).

17 18 Pa.C.S. § 3122.1 (relating to statutory sexual
18 assault) where the victim is under 13 years of age, or has
19 suffered serious bodily injury as a result of a crime, where
20 the individual used a deadly weapon or threatened to use a
21 deadly weapon in the commission of the offense or where the
22 individual has substantially impaired the victim's ability to
23 appraise or control the victim's conduct by administering or
24 employing, without the knowledge of the victim, drugs,
25 intoxicants or other means for the purpose of preventing
26 resistance.

27 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
28 intercourse).

29 18 Pa.C.S. § 3124.1 (relating to sexual assault).

30 18 Pa.C.S. § 3124.2 (relating to institutional sexual

1 assault).

2 18 Pa.C.S. § 3125 (relating to aggravated indecent
3 assault).

4 18 Pa.C.S. § 3126 (relating to indecent assault) where
5 the victim is under 13 years of age.

6 18 Pa.C.S. § 4302 (relating to incest) where the victim
7 is under 16 years of age.

8 18 Pa.C.S. § 5902(b) (relating to prostitution and
9 related offenses) where the actor promotes the prostitution
10 of a minor.

11 18 Pa.C.S. § 5903(a)(3), (4), (5) or (6) (relating to
12 obscene and other sexual materials and performances) where
13 the victim is a minor.

14 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

15 18 Pa.C.S. § 6318 (relating to unlawful contact with
16 minor).

17 18 Pa.C.S. § 6320 (relating to sexual exploitation of
18 children).

19 § 9799.22. Sentencing.

20 (a) Felony of first degree.--Notwithstanding any provision
21 of law to the contrary, the following apply to an individual who
22 commits a sex crime that is a felony of the first degree:

23 (1) An individual shall be sentenced to a term of
24 imprisonment not less than ten years but not more than 30
25 years.

26 (2) An individual shall be sentenced to a term of
27 imprisonment not less than 15 years but not more than 40
28 years if any of the following apply:

29 (i) The victim is over 60 years of age.

30 (ii) The victim has suffered serious bodily injury

1 as a result of the crime.

2 (iii) The individual used a deadly weapon or
3 threatened to use a deadly weapon in the commission of
4 the offense.

5 (iv) The individual has substantially impaired the
6 victim's ability to appraise or control the victim's
7 conduct by administering or employing, without the
8 knowledge of the victim, drugs, intoxicants or other
9 means for the purpose of preventing resistance.

10 (3) An individual shall be sentenced to a term of
11 imprisonment not less than 25 years but not more than 50
12 years if all of the following apply:

13 (i) The victim is under 13 years of age at the time
14 of the offense.

15 (ii) The individual commits any sex crime which is
16 also a felony of the first degree except for an offense
17 under 18 Pa.C.S. § 2901 (relating to kidnapping).

18 (4) An individual may be sentenced to a term of life
19 imprisonment if all of the following apply:

20 (i) The offense is a violation of 18 Pa.C.S. § 3121
21 (relating to rape) or 3123 (relating to involuntary
22 deviate sexual intercourse).

23 (ii) The victim is under 13 years of age at the time
24 of the offense.

25 (iii) The victim suffers serious bodily injury as a
26 result of the crime.

27 (b) Felony of second degree.--Notwithstanding any provision
28 of law to the contrary, an individual who commits a sex crime
29 that is a felony of the second degree shall be sentenced as
30 follows:

1 (1) To a term of imprisonment not less than five years
2 but not more than 20 years.

3 (2) To a term of imprisonment not less than ten years
4 but not more than 30 years if any of the following apply:

5 (i) The victim is under 13 years of age or over 60
6 years of age.

7 (ii) The victim has suffered serious bodily injury
8 as a result of the crime.

9 (iii) The individual used a deadly weapon in the
10 commission of the offense.

11 (iv) The individual has substantially impaired the
12 victim's ability to appraise or control the victim's
13 conduct by administering or employing, without the
14 knowledge of the victim, drugs, intoxicants or other
15 means for the purpose of preventing resistance.

16 (c) Felony of third degree.--Notwithstanding any provision
17 of law to the contrary, an individual who commits a sex crime
18 that is a felony of the third degree shall be sentenced as
19 follows:

20 (1) To a term of imprisonment not less than 42 months
21 but not more than 15 years.

22 (2) To a term of imprisonment not less than seven years
23 but not more than 25 years if any of the following apply:

24 (i) The victim is under 13 years of age or over 60
25 years of age.

26 (ii) The victim has suffered serious bodily injury
27 as a result of the crime.

28 (iii) The individual used a deadly weapon or
29 threatened to use a deadly weapon in the commission of
30 the offense.

(iv) The individual has substantially impaired the victim's ability to appraise or control the victim's conduct by administering or employing, without the knowledge of the victim, drugs, intoxicants or other means for the purpose of preventing resistance.

§ 9799.23. Second and subsequent offenses.

(a) Certain first degree felony repeat offenses.--

Notwithstanding any provision of law to the contrary:

(1) An individual who is convicted of a crime punishable under section 9799.22(a) (relating to sentencing) shall, if at the time of conviction the individual has been previously convicted of a crime punishable under section 9799.22(a) or (b), be sentenced to a term of imprisonment of not less than 25 years but not more than 50 years. However, the sentencing court may impose a term of life imprisonment without eligibility for parole.

(2) An individual who is convicted of a crime punishable under section 9799.22(a) shall, if at the time of conviction the individual has been previously convicted of two or more crimes punishable under section 9799.22(a) or (b), be sentenced to a term of life imprisonment and shall not be eligible for parole.

(b) Certain second degree felony repeat offenses.--

Notwithstanding any provision of law to the contrary:

(1) An individual who is convicted of a crime punishable under section 9722.22(b) shall, if at the time of conviction the individual has been previously convicted of a crime punishable under section 9799.22(a) or (b), be sentenced to a term of imprisonment of not less than 15 years but not more than 30 years. However, the sentencing court may impose a

1 term of life imprisonment without eligibility for parole.

2 (2) An individual who is convicted of a crime punishable
3 under 9799.22(b) shall, if at the time of conviction the
4 individual has been previously convicted of two or more
5 crimes punishable under section 9799.22(a) or (b), be
6 sentenced to a term of life imprisonment and shall not be
7 eligible for parole.

8 (c) Certain third degree felony repeat offenses.--

9 Notwithstanding any provision of law to the contrary:

10 (1) An individual who is convicted of a crime punishable
11 under section 9799.22(c) shall, if at the time of conviction
12 the individual has been previously convicted of a crime
13 punishable under section 9799.22(a) or (b), be sentenced to a
14 term of imprisonment of not less than 12 years, six months,
15 but not more than 35 years.

16 (2) An individual who is convicted of a crime punishable
17 under section 9799.22(c) shall, if at the time of conviction
18 the individual has been previously convicted of a crime
19 punishable under section 9799.22(c), be sentenced to a term
20 of imprisonment of not less than ten years but not more than
21 25 years.

22 (3) An individual who is convicted of a crime punishable
23 under section 9799.22(c) shall, if at the time of conviction
24 the individual has been previously convicted of two or more
25 sex crimes, at least one of which is punishable under section
26 9799.22(a) or (b), be sentenced to a term of imprisonment of
27 not less than 40 years but not more than 80 years.

28 (4) An individual who is convicted of a crime punishable
29 under section 9799.22(c) shall, if at the time of conviction
30 the individual has been previously convicted of two or more

1 sex crimes, all of which are punishable under section
2 9799.22(c), be sentenced to a term of imprisonment of not
3 less than 25 years but not more than 50 years.
4 Section 3. This act shall take effect immediately.