

AMENDMENTS TO HOUSE BILL NO. 256

Sponsor: SENATOR BAKER

Printer's No. 2919

1 Amend Bill, page 1, line 4, by striking out the period after
2 "~~prisoner~~" and inserting
3 ; in sexual offenses, further providing for the offense of
4 institutional sexual assault; and, in registration of sexual
5 offenders, further providing for sexual offenses and tier
6 system.

7 Amend Bill, page 3, by inserting between lines 17 and 18

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

11 § 3124.2. Institutional sexual assault.

12 (a) General rule.--Except as provided under subsection (a.1)
13 and in sections 3121 (relating to rape), 3122.1 (relating to
14 statutory sexual assault), 3123 (relating to involuntary deviate
15 sexual intercourse), 3124.1 (relating to sexual assault) and
16 3125 (relating to aggravated indecent assault), a person who is
17 an employee or agent of the Department of Corrections or a
18 county correctional authority, youth development center, youth
19 forestry camp, State or county juvenile detention facility,
20 other licensed residential facility serving children and youth,
21 or mental health or mental retardation facility or institution
22 commits a felony of the third degree when that person engages in
23 sexual intercourse, deviate sexual intercourse or indecent
24 contact with an inmate, detainee, another person being
25 supervised by that person under probation or parole supervision,
26 patient or resident.

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

1 * * *

2 (a.4) Peace officers.--

3 (1) Except as provided under sections 3121, 3122.1,
4 3123, 3124.1 and 3125, a person who is a peace officer or
5 employee of an agency employing a peace officer in his
6 official capacity commits a felony of the third degree when
7 the person engages in sexual intercourse, deviate sexual
8 intercourse or indecent contact with another person who is
9 under official detention or in the custody of the person or
10 is a confidential informant of the person.

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

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

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

22 "Agent." A person who is assigned to work in a State or
23 county correctional or juvenile detention facility, a youth
24 development center, youth forestry camp, other licensed
25 residential facility serving children and youth or mental health
26 or mental retardation facility or institution, who is employed
27 by any State or county agency or any person employed by an
28 entity providing contract services to the agency.

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

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

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

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

49 "Official detention." As that term is defined in section
50 5121 (relating to escape).

51 Section 3. Section 9799.14(b)(5) and (d)(6) of Title 42 are

1 amended to read:
2 § 9799.14. Sexual offenses and tier system.
3 * * *
4 (b) Tier I sexual offenses.--The following offenses shall be
5 classified as Tier I sexual offenses:
6 * * *
7 (5) 18 Pa.C.S. § 3124.2(a) and (a.4)(1) (relating to
8 institutional sexual assault).
9 * * *
10 (d) Tier III sexual offenses.--The following offenses shall
11 be classified as Tier III sexual offenses:
12 * * *
13 (6) 18 Pa.C.S. § 3124.2(a.1) and (a.4)(2).
14 * * *
15 Amend Bill, page 3, line 18, by striking out "2" and
16 inserting
17 4