

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILLNo. 544 Session of
1979

Report of the Committee of Conference

To the Members of the Senate and House of Representatives:

We, the undersigned, Committee of Conference on the part of the Senate and House of Representatives for the purpose of considering Senate Bill No. 544, entitled:

"An act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further PROVIDING CRIMINAL PENALTIES FOR CARRYING WEAPONS ON SCHOOL PROPERTY AND defining aggravated assault and increasing the grading for certain types of aggravated assault on a second and subsequent conviction AND AUTHORIZING PROSECUTION FOR OBSCENITY VIOLATIONS WHETHER OR NOT THE ACTIVITY IS ENJOINED."

respectfully submit the following bill as our report:

MICHAEL A. O'PAKE

MICHAEL P. SCHAEFER

PHILIP PRICE, Jr.

(Committee on the part of the Senate.)

D. MICHAEL FISHER

FRED C. NOYE

(Committee on the part of the House of Representatives.)

AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing criminal penalties for carrying weapons on school property and defining aggravated assault and increasing the grading for certain types of aggravated assault on a second and subsequent conviction and authorizing prosecution for obscenity violations whether or not the activity is enjoined.

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

Section 1. Title 18, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, is amended by adding a section to read:

§ 912. Possession of weapon on school property.

(a) Definition.--Notwithstanding the definition of "weapon" in section 907 (relating to possessing instruments of crime), "weapon" for purposes of this section shall include but not be limited to any knife, cutting instrument, cutting tool, nun-chuck stick, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

(b) Offense defined.--A person commits a misdemeanor of the first degree if he possesses a weapon in the buildings of, on the grounds of, or in any conveyance providing transportation to or from any elementary or secondary publicly-funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school.

(c) Defense.--It shall be a defense that the weapon is possessed and used in conjunction with a lawful supervised school activity or course or is possessed for other lawful purpose.

1 Section 2. Section 2702 and subsections (a) and (h) of
2 section 5903 of Title 18 are amended and section 5903 is amended
3 by adding a subsection to read:

4 § 2702. Aggravated assault.

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

7 (1) attempts to cause serious bodily injury to another,
8 or causes such injury intentionally, knowingly or recklessly
9 under circumstances manifesting extreme indifference to the
10 value of human life;

11 (2) attempts to cause or intentionally, knowingly or
12 recklessly causes serious bodily injury to a police officer
13 making or attempting to make a lawful arrest;

14 (3) attempts to cause or intentionally or knowingly
15 causes bodily injury to a police officer making or attempting
16 to make a lawful arrest; [or]

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

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

28 (b) Grading.--Aggravated assault under [paragraphs]
29 subsection (a)(1) and [(a)] (2) [of this section] is a felony of
30 the second degree. Aggravated assault under [paragraphs]

1 subsection (a)(3), [and (a)](4) and (5) [of this section] is a
2 misdemeanor of the first degree. Whenever any person has been
3 previously convicted or adjudicated a delinquent in this
4 Commonwealth for the offense set forth in subsection (a)(5), a
5 subsequent petition, indictment or information of aggravated
6 assault under subsection (a)(5) shall be classified as a felony
7 of the third degree.

8 § 5903. Obscene and other sexual materials.

9 (a) Offenses defined.--No person, knowing the obscene
10 character of the materials involved, shall:

11 (1) display or cause or permit the display of any
12 [obscene] explicit sexual materials as defined in subsection
13 (c), in or on any window, showcase, newsstand, display rack,
14 billboard, display board, viewing screen, motion picture
15 screen, marquee or similar place in such manner that the
16 display is visible from any public street, highway, sidewalk,
17 transportation facility or other public thoroughfare, or in
18 any business or commercial establishment where minors, as a
19 part of the general public or otherwise, are or will probably
20 be exposed to view all or any part of such materials.

21 * * *

22 (h) Criminal prosecution [for enjoined activities].--

23 (1) Any person who violates subsection (a) or (f) [as to
24 the matters enjoined pursuant to subsection (g) commits] is
25 guilty of a misdemeanor of the [second] first degree.
26 Violation of subsection (a) is a felony of the third degree
27 if the offender has previously been convicted of a violation
28 of subsection (a) or if the material was sold, distributed,
29 prepared or published for the purpose of resale.

30 (2) Any person who violates subsection (c) or (d) [as to

1 matters enjoined pursuant to subsection (g) commits] is
2 guilty of a misdemeanor of the first degree. Violation of
3 subsection (c) or (d) is a felony of the third degree if the
4 offender has previously been convicted of a violation of
5 subsection (c) or (d).

6 (3) [Elements of the offense shall be determined de novo
7 at the criminal proceeding and findings] Findings made in
8 [the] an equity action shall not be binding in the criminal
9 proceedings.

10 * * *

11 (k) Ordinances or resolutions.--Nothing in this chapter
12 shall be construed to invalidate, supersede, repeal or preempt
13 any ordinance or resolution of any political subdivision insofar
14 as it is consistent with this chapter, and political
15 subdivisions further retain the right to regulate any
16 activities, displays, exhibitions, or materials not specifically
17 regulated by this chapter.

18 Section 3. If any provision of this amendatory act,
19 including any part of any section, or the application thereof to
20 any person or circumstances is held invalid, such invalidity
21 shall not affect other provisions or applications of the act
22 which can be given effect without the invalid provision or
23 application, and to this end the provisions of this act are
24 declared to be severable.

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