

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 634

Session of
1983

INTRODUCED BY RHOADES, APRIL 13, 1983

REFERRED TO JUDICIARY, APRIL 13, 1983

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for minimum
3 terms for aggravated assault, theft by deception, rape and
4 involuntary deviate sexual intercourse committed against
5 persons over 60 or under 16 years of age.

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

8 Section 1. Sections 9717 and 9718 of Title 42 of the
9 Pennsylvania Consolidated Statutes, added December 30, 1982
10 (P.L.1472, No.334), are amended to read:

11 § 9717. Sentences for offenses against elderly persons.

12 (a) Mandatory sentence.--A person under 60 years of age
13 convicted of any of the following offenses when the victim is
14 over 60 years of age [and not a police officer] shall be
15 sentenced to a mandatory minimum term of imprisonment as
16 follows:

17 18 Pa.C.S. § 2702(a)(1) and (4) (relating to aggravated
18 assault) - not less than two years of total confinement.

19 18 Pa.C.S. § 3121 (relating to rape) - not less than five

1 years of total confinement.

2 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
3 intercourse) - not less than five years of total confinement.

4 18 Pa.C.S. § 3701(a)(1)(i), (ii) and (iii) (relating to
5 robbery) - not less than five years of total confinement.

6 18 Pa.C.S. § 3922 (relating to theft by deception) - not
7 less than 12 months of total confinement, but the imposition
8 of the minimum sentence shall be discretionary with the court
9 where the court finds justifiable cause and that finding is
10 written in the opinion.

11 (b) Eligibility for parole.--Parole shall not be granted
12 until the minimum term of imprisonment has been served.

13 (c) Calculation of age.--For purposes of subsection (a), the
14 ages of the offender and the victim shall be calculated as of
15 the date of commission of the offense.

16 (d) Proof at sentencing.--Provisions of this section shall
17 not be an element of the crime and notice thereof to the
18 defendant shall not be required prior to conviction, but
19 reasonable notice of the Commonwealth's intention to proceed
20 under this section shall be provided after conviction and before
21 sentencing. The applicability of this section shall be
22 determined at sentencing. The court shall consider any evidence
23 presented at trial and shall afford the Commonwealth and the
24 defendant an opportunity to present any necessary additional
25 evidence and shall determine, by a preponderance of the
26 evidence, if this section is applicable.

27 (e) Authority of court in sentencing.--There shall be no
28 authority in any court to impose on an offender to which this
29 section is applicable any lesser sentence than provided for in
30 subsection (a) or to place the offender on probation or to

1 suspend sentence. Nothing in this section shall prevent the
2 sentencing court from imposing a sentence greater than that
3 provided in this section. Sentencing guidelines promulgated by
4 the Pennsylvania Commission on Sentencing shall not supersede
5 the mandatory minimum sentences provided in this section.

6 (f) Appeal by Commonwealth.--If a sentencing court refuses
7 to apply this section where applicable, the Commonwealth shall
8 have the right to appellate review of the action of the
9 sentencing court. The appellate court shall vacate the sentence
10 and remand the case to the sentencing court for imposition of a
11 sentence in accordance with this section if it finds that the
12 sentence was imposed in violation of this section.

13 § 9718. Sentences for offenses against infant persons.

14 (a) Mandatory sentence.--A person convicted of any of the
15 following offenses when the victim is under [16] ten years of
16 age shall be sentenced to a mandatory minimum term of
17 imprisonment as follows:

18 18 Pa.C.S. § 2702(a)(1) and (4) (relating to aggravated
19 assault) - not less than two years of total confinement.

20 18 Pa.C.S. § 3121 (relating to rape) - not less than five
21 years of total confinement.

22 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
23 intercourse) - not less than five years of total confinement.

24 (b) Eligibility for parole.--Parole shall not be granted
25 until the minimum term of imprisonment has been served.

26 (c) Calculation of age.--For purposes of subsection (a), the
27 age of the victim shall be calculated as of the date of
28 commission of the offense.

29 (d) Proof at sentencing.--Provisions of this section shall
30 not be an element of the crime and notice thereof to the

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

10 (e) Authority of court in sentencing.--There shall be no
11 authority in any court to impose on an offender to which this
12 section is applicable any lesser sentence than provided for in
13 subsection (a) or to place the offender on probation or to
14 suspend sentence. Nothing in this section shall prevent the
15 sentencing court from imposing a sentence greater than that
16 provided in this section. Sentencing guidelines promulgated by
17 the Pennsylvania Commission on Sentencing shall not supersede
18 the mandatory minimum sentences provided in this section.

19 (f) Appeal by Commonwealth.--If a sentencing court refuses
20 to apply this section where applicable, the Commonwealth shall
21 have the right to appellate review of the action of the
22 sentencing court. The appellate court shall vacate the sentence
23 and remand the case to the sentencing court for imposition of a
24 sentence in accordance with this section if it finds that the
25 sentence was imposed in violation of this section.

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