

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 634

Session of
1983

INTRODUCED BY RHOADES, APRIL 13, 1983

AS AMENDED ON THIRD CONSIDERATION, JUNE 28, 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~~ 12 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

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 minimum sentences provided in this section.

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

§ 9718. Sentences for offenses against infant persons.

(a) Mandatory sentence.--A person convicted of any of the
following offenses when the victim is under [16] 12 years of age
shall be sentenced to a mandatory minimum term of imprisonment
as follows:

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

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

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

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

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

(d) Proof at sentencing.--Provisions of this section shall
not be an element of the crime and notice thereof 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 any evidence
presented at trial and shall afford the Commonwealth and the
defendant an opportunity to present any necessary additional
evidence and shall determine, by a preponderance of the
evidence, if this section is applicable.

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

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

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