

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 634

Session of  
1983

INTRODUCED BY RHOADES, APRIL 13, 1983

AS AMENDED ON THIRD CONSIDERATION, JUNE 29, 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 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.

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

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

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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.

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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.