
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 634

Session of
1983

INTRODUCED BY RHOADES, APRIL 13, 1983

AS AMENDED ON THIRD CONSIDERATION, JULY 6, 1983

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for minimum
3 terms for ROBBERY, aggravated assault, theft by deception, <—
4 rape and involuntary deviate sexual intercourse committed
5 against persons over 60 or AGGRAVATED ASSAULT, RAPE AND <—
6 INVOLUNTARY DEVIATE SEXUAL INTERCOURSE COMMITTED AGAINST
7 PERSONS under 12 years of age.

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

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

13 § 9717. Sentences for offenses against elderly persons.

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

19 18 Pa.C.S. § 2702(a)(1) and (4) (relating to aggravated

1 assault) - not less than two years.

2 18 Pa.C.S. § 3121 (relating to rape) - not less than five
3 years.

4 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
5 intercourse) - not less than five years.

6 18 Pa.C.S. § 3701(a)(1)(i), (ii) and (iii) (relating to
7 robbery) - not less than five years.

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

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

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

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

29 (e) Authority of court in sentencing.--There shall be no
30 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.

§ 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.

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

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

(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.

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

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

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

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