
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1361 Session of
1984

INTRODUCED BY GREENLEAF, FISHER AND O'PAKE, APRIL 30, 1984

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 27, 1984

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, LIMITING THE BAIL-SETTING <—
3 JURISDICTION OF DISTRICT JUSTICES; AUTHORIZING SERVICE OF
4 PROCESS FOR MISDEMEANORS ON SUNDAY; FURTHER PROVIDING FOR
5 LIMITATIONS OF PROSECUTIONS FOR CERTAIN CRIMINAL OFFENSES;
6 providing for the rights of child victims and witnesses of
7 criminal acts; providing for the videotaping of testimony in
8 certain cases; authorizing certain services; providing for
9 the testimony of children; and providing for the use of dolls <—
10 as testimonial aids; FURTHER PROVIDING FOR THE DISPOSITION OF <—
11 PERSONS CONVICTED OF CERTAIN SEX CRIMES; AND PROVIDING FOR
12 MINIMUM TERMS FOR ROBBERY, AGGRAVATED ASSAULT, THEFT BY
13 DECEPTION, RAPE AND INVOLUNTARY DEVIATE SEXUAL INTERCOURSE
14 COMMITTED AGAINST PERSONS OVER 60.

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

17 SECTION 1. SECTIONS 1515(A)(4), 5107, 5551 AND 5552(A) AND <—
18 (B) OF TITLE 42 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE
19 AMENDED TO READ:

20 § 1515. JURISDICTION AND VENUE.

21 (A) JURISDICTION.--EXCEPT AS OTHERWISE PRESCRIBED BY GENERAL
22 RULE ADOPTED PURSUANT TO SECTION 503 (RELATING TO REASSIGNMENT

OF MATTERS), DISTRICT JUSTICES SHALL, UNDER PROCEDURES
PRESCRIBED BY GENERAL RULE, HAVE JURISDICTION OF ALL OF THE
FOLLOWING MATTERS:

* * *

(4) AS COMMISSIONERS TO PRESIDE AT ARRAIGNMENTS, FIX AND
ACCEPT BAIL, EXCEPT FOR OFFENSES UNDER 18 PA.C.S. §§ 2502
(RELATING TO MURDER) AND 2503 (RELATING TO VOLUNTARY
MANSLAUGHTER) FOR WHICH THE FIXING AND ACCEPTING OF BAIL
SHALL BE PERFORMED BY ANY JUDGE OF ANY COURT OF COMMON PLEAS,
AND TO ISSUE WARRANTS AND PERFORM DUTIES OF A SIMILAR NATURE,
INCLUDING THE JURISDICTION OF A COMMITTING MAGISTRATE IN ALL
CRIMINAL PROCEEDINGS.

* * *

§ 5107. SERVICE OF PROCESS ON SUNDAY.

(A) GENERAL RULE.--NO PROCESS SHALL BE SERVED OR EXECUTED ON
A SUNDAY EXCEPT IN THE CASE OF:

(1) FELONY OR MISDEMEANOR.

(2) BREACH OF THE PEACE.

(3) CRIMINAL OR CIVIL CONTEMPT OF COURT IN ORDERS
RELATING TO SUPPORT OR CUSTODY MATTERS.

(4) WHEN AUTHORIZED OR DIRECTED BY THE COURT UPON A
FINDING THAT THE EXIGENCY OF THE CASE IS SUCH AS TO IMPEL THE
COURT TO SUSPEND THE RULE AGAINST SERVICE OR EXECUTION OF
PROCESS ON A SUNDAY.

(5) ANY MATTER WHERE THE SERVICE OR EXECUTION OF PROCESS
ON A SUNDAY IS EXPRESSLY AUTHORIZED BY STATUTE.

(B) EFFECT OF VIOLATION.--PROCESS SERVED OR EXECUTED IN
VIOLATION OF SUBSECTION (A) SHALL BE VOID AND THE PERSON SO
SERVING OR EXECUTING SUCH PROCESS SHALL BE LIABLE TO ANY PERSON
AGGRIEVED TO THE SAME EXTENT AS IF THE ACTION WAS TAKEN WITHOUT

1 ANY PROCESS AT ALL.

2 § 5551. NO LIMITATION APPLICABLE [TO MURDER OR VOLUNTARY
3 MANSLAUGHTER].

4 A PROSECUTION FOR [MURDER OR FOR VOLUNTARY MANSLAUGHTER] THE
5 FOLLOWING OFFENSES MAY BE COMMENCED AT ANY TIME:

6 (1) MURDER.

7 (2) VOLUNTARY MANSLAUGHTER.

8 (3) CONSPIRACY TO COMMIT MURDER OR SOLICITATION TO
9 COMMIT MURDER IF A MURDER RESULTS FROM THE CONSPIRACY OR
10 SOLICITATION.

11 (4) ANY FELONY ALLEGED TO HAVE BEEN PERPETRATED IN
12 CONNECTION WITH A MURDER OF THE FIRST OR SECOND DEGREE, AS
13 SET FORTH IN 18 PA.C.S. § 2502(A) OR (B) AND (D) (RELATING TO
14 MURDER).

15 ~~SECTION 2. SECTION 5552(A) AND (B) OF TITLE 42, (B) AMENDED~~ <—
16 ~~DECEMBER 20, 1982 (P.L.1409, NO.326), ARE AMENDED TO READ:~~

17 § 5552. OTHER OFFENSES.

18 (A) GENERAL RULE.--EXCEPT AS OTHERWISE PROVIDED IN THIS
19 SUBCHAPTER, A PROSECUTION FOR AN OFFENSE [OTHER THAN MURDER OR
20 VOLUNTARY MANSLAUGHTER] MUST BE COMMENCED WITHIN TWO YEARS AFTER
21 IT IS COMMITTED.

22 (B) MAJOR OFFENSES.--A PROSECUTION FOR ANY OF THE FOLLOWING
23 OFFENSES MUST BE COMMENCED WITHIN FIVE YEARS AFTER IT IS
24 COMMITTED:

25 (1) UNDER THE FOLLOWING PROVISIONS OF TITLE 18 (RELATING
26 TO CRIMES AND OFFENSES):

27 SECTION 911 (RELATING TO CORRUPT ORGANIZATIONS).

28 SECTION 2706 (RELATING TO TERRORISTIC THREATS).

29 SECTION 2901 (RELATING TO KIDNAPPING).

30 SECTION 3121 (RELATING TO RAPE).

1 SECTION 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL
2 INTERCOURSE).

3 SECTION 3301 (RELATING TO ARSON AND RELATED
4 OFFENSES).

5 SECTION 3502 (RELATING TO BURGLARY).

6 SECTION 3701 (RELATING TO ROBBERY).

7 SECTION 3921 (RELATING TO THEFT BY UNLAWFUL TAKING OR
8 DISPOSITION) THROUGH SECTION 3931 (RELATING TO THEFT OF
9 UNPUBLISHED DRAMAS AND MUSICAL COMPOSITIONS).

10 SECTION 4101 (RELATING TO FORGERY).

11 SECTION 4108 (RELATING TO COMMERCIAL BRIBERY AND
12 BREACH OF DUTY TO ACT DISINTERESTEDLY).

13 SECTION 4109 (RELATING TO RIGGING PUBLICLY EXHIBITED
14 CONTEST).

15 SECTION 4302 (RELATING TO INCEST).

16 SECTION 4701 (RELATING TO BRIBERY IN OFFICIAL AND
17 POLITICAL MATTERS) THROUGH SECTION 4703 (RELATING TO
18 RETALIATION FOR PAST OFFICIAL ACTION).

19 SECTION 4902 (RELATING TO PERJURY) THROUGH SECTION
20 4912 (RELATING TO IMPERSONATING A PUBLIC SERVANT).

21 SECTION 4952 (RELATING TO INTIMIDATION OF WITNESSES
22 OR VICTIMS).

23 SECTION 4953 (RELATING TO RETALIATION AGAINST WITNESS
24 OR VICTIM).

25 SECTION 5101 (RELATING TO OBSTRUCTING ADMINISTRATION
26 OF LAW OR OTHER GOVERNMENTAL FUNCTION).

27 SECTION 5512 (RELATING TO LOTTERIES, ETC.) THROUGH
28 SECTION 5514 (RELATING TO POOL SELLING AND BOOKMAKING).

29 SECTION 5902(B) (RELATING TO PROSTITUTION AND RELATED
30 OFFENSES).

(2) ANY OFFENSE PUNISHABLE UNDER SECTION 13(F) OF THE
ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS "THE
CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT."

(3) ANY CONSPIRACY TO COMMIT ANY OF THE OFFENSES SET
FORTH IN PARAGRAPHS (1) AND (2) AND ANY SOLICITATION TO
COMMIT ANY OF THE OFFENSES IN PARAGRAPHS (1) AND (2) IF THE
SOLICITATION RESULTS IN THE COMPLETED OFFENSE.

(4) UNDER THE ACT OF JUNE 13, 1967 (P.L.31, NO.21),
KNOWN AS THE "PUBLIC WELFARE CODE."

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Section ~~±~~ 2. Chapter 59 of Title 42 ~~of the Pennsylvania~~ <—
~~Consolidated Statutes~~ is amended by adding a subchapter to read:

CHAPTER 59

DEPOSITIONS AND WITNESSES

* * *

SUBCHAPTER D

CHILD VICTIMS AND WITNESSES

Sec.

5981. Legislative intent.

5982. Rights and services.

5983. Duty to expedite proceedings.

5984. Videotaped depositions.

5985. Testimony of child.

5986. Use of ANATOMICALLY CORRECT dolls. <—

5987. Victims of sexual or physical abuse.

§ 5981. Legislative intent.

In order to promote the best interests of the children of
this Commonwealth, and in recognition of the necessity of
affording to children who are witnesses to or victims of crime
additional consideration and different treatment than that

1 usually required by adults, the General Assembly declares its
2 intent, in this subchapter, to provide these children with
3 additional rights and protections during their involvement with
4 the criminal justice system. The General Assembly urges the news
5 media to use restraint in revealing the identity of children who
6 are victims of or witnesses to crimes, especially in sensitive
7 cases.

8 § 5982. Rights and services.

9 (a) Designation of persons to act on behalf of children.--
10 Courts of common pleas are directed to designate one or more
11 persons to ACT IN THE BEST INTEREST OF THE CHILD AND provide the <—
12 following services on behalf of children who are involved in
13 criminal proceedings OR JUVENILE PROCEEDINGS as victims or <—
14 witnesses:

15 (1) To explain, in language understood by the child, all
16 legal proceedings in which the child will be involved.

17 (2) To act, as a friend of the court, to advise the
18 judge, whenever appropriate, of the child's ability to
19 understand and cooperate with any court proceedings.

20 (3) To assist the child and the child's family in coping
21 with the emotional impact of the crime and subsequent
22 criminal proceedings in which the child is involved.

23 ~~(4) To advise the district attorney concerning the <—~~
24 ~~ability of a child witness to cooperate with the prosecution~~
25 ~~and the potential effects of the proceedings on the child.~~

26 (b) Qualifications.--Persons designated under subsection (a)
27 may be attorneys at law or other persons who, by virtue of
28 service as rape crisis or domestic violence counselors or by
29 virtue of membership in a community service organization or of
30 other experience acceptable to the court, possess education,

1 experience or training in child or sexual abuse and a basic
2 understanding of the criminal justice system.

3 § 5983. Duty to expedite proceedings.

4 In all criminal cases and juvenile proceedings involving a
5 child victim or witness, the court and the district attorney
6 shall take appropriate action to ensure a speedy trial in order
7 to minimize the length of time the child must endure the stress
8 of involvement in the proceedings. In ruling on any motion or
9 other request for a delay or continuance of proceedings, the
10 court shall consider and give weight to any adverse impact the
11 delay or continuance may have on the well-being of a child
12 victim or witness.

13 § 5984. Videotaped depositions.

14 ~~In any prosecution involving a child victim or witness, the~~ <—
15 ~~court, on its own motion or the motion of the child victim or~~
16 ~~witness, the child's attorney or the attorney for the~~
17 ~~Commonwealth, for good cause shown, THE COURT may order the~~ <—
18 ~~taking of a videotaped deposition of the victim or witness which~~ <—
19 ~~ON ITS OWN MOTION. IN ADDITION, THE CHILD VICTIM OR WITNESS, THE~~ <—
20 ~~CHILD'S ATTORNEY OR THE ATTORNEY FOR THE COMMONWEALTH MAY MOVE,~~
21 ~~FOR GOOD CAUSE SHOWN, FOR THE TAKING OF A VIDEOTAPED DEPOSITION~~
22 ~~OF THE VICTIM OR WITNESS. SUCH VIDEOTAPE DEPOSITIONS shall be~~
23 ~~used at any preliminary hearing, pretrial proceeding and at the~~
24 ~~trial in lieu of the testimony of the child. The depositions~~
25 ~~shall be taken before the court in chambers or in the judge's~~
26 ~~chambers or in a special facility designed for taking the~~
27 ~~depositions of children. in the presence of the district~~ <—
28 ~~attorney, the defendant and the defendant's attorney. At the~~
29 ~~request of the child, the child's parent or guardian or the~~
30 ~~district attorney, the court shall exclude all persons not~~

1 ~~officers of the court, appointed child advocates, family members~~
2 ~~of the child or the defendant or others deemed by the court to~~
3 ~~be supportive of them, or otherwise required to attend.~~ ONLY THE <—
4 ATTORNEYS FOR THE DEFENDANT AND FOR THE COMMONWEALTH, PERSONS
5 NECESSARY TO OPERATE THE EQUIPMENT, AND ANY PERSON WHOSE
6 PRESENCE WOULD CONTRIBUTE TO THE WELFARE AND WELL-BEING OF THE
7 CHILD, INCLUDING PERSONS DESIGNATED UNDER SECTION 5982 (RELATING
8 TO RIGHTS AND SERVICES), MAY BE PRESENT IN THE ROOM WITH THE
9 CHILD DURING HIS DEPOSITION. THE PERSONS OPERATING THE EQUIPMENT
10 SHALL BE CONFINED TO AN ADJACENT ROOM OR BEHIND A SCREEN OR
11 MIRROR THAT PERMITS THEM TO SEE AND HEAR THE CHILD DURING THE
12 TESTIMONY BUT DOES NOT PERMIT THE CHILD TO SEE OR HEAR THEM. The
13 court shall permit the defendant to observe and hear the
14 testimony of the child in person but shall ensure that the child
15 cannot hear or see the defendant. Examination and cross-
16 examination of the child shall proceed in the same manner as
17 permitted at trial.

18 § 5985. Testimony of child.

19 (a) Methods of taking testimony.--In any prosecution
20 involving a child victim or witness, where a videotaped
21 deposition has not been taken under section 5984 (relating to
22 videotaped depositions), the child victim or child witness shall
23 testify in open court or the child's testimony shall be taken as
24 provided in subsection (b).

25 (b) Closed circuit television.--The court may, ~~on the motion~~ <—
26 ~~of the attorney for the child victim or witness, order that the~~
27 ~~testimony of the child be taken in a room other than the~~
28 ~~courtroom and be televised by closed circuit equipment in the~~
29 ~~courtroom~~ ORDER THE CHILD'S TESTIMONY BE TAKEN IN A ROOM OTHER <—
30 THAN A COURTROOM AND TELEVISED BY CLOSED CIRCUIT EQUIPMENT to be

1 viewed by the court and the finder of fact in the proceeding. IN <—
2 ADDITION, THE CHILD VICTIM OR WITNESS, THE CHILD'S ATTORNEY OR
3 THE ATTORNEY FOR THE COMMONWEALTH MAY MOVE, FOR GOOD CAUSE
4 SHOWN, THAT THE TESTIMONY OF A CHILD BE TAKEN IN A ROOM OTHER
5 THAN THE COURTROOM AND TELEVISED BY CLOSED CIRCUIT EQUIPMENT TO
6 BE VIEWED BY THE COURT AND THE FINDER OF FACT IN THE PROCEEDING.
7 Only the attorneys for the defendant and for the Commonwealth,
8 persons necessary to operate the equipment, and any person whose
9 presence would contribute to the welfare and well-being of the
10 child, including persons designated under section 5982 (relating
11 to rights and services), may be present in the room with the
12 child during his testimony. Only the attorneys may question the
13 child. The persons operating the equipment shall be confined to
14 an adjacent room or behind a screen or mirror that permits them
15 to see and hear the child during the testimony, but does not
16 permit the child to see or hear them. The court shall permit the
17 defendant to observe and hear the testimony of the child in
18 person but shall ensure that the child cannot hear or see the
19 defendant.

20 (c) Effect of order.--If the court orders the testimony of a
21 child to be taken under subsection (b), the child may not be
22 required to testify in court at the proceeding for which the
23 testimony was taken.

24 § 5986. Use of ANATOMICALLY CORRECT dolls. <—

25 In any criminal proceeding charging unlawful sexual contact
26 or penetration with or on a child, the court shall permit the
27 use of ANATOMICALLY CORRECT dolls or mannequins to assist an <—
28 alleged victim in testifying on direct and cross-examination.

29 § 5987. Victims of sexual or physical abuse.

30 In a prosecution involving a child victim of sexual or

1 physical abuse, the news media may not reveal the name of the
2 child victim.

3 SECTION 3. CHAPTER 95 OF TITLE 42 IS AMENDED BY ADDING A
4 SUBCHAPTER TO READ:

5 CHAPTER 95
6 POST-TRIAL MATTERS
7 * * *
8 SUBCHAPTER C
9 TREATMENT OF SEXUAL OFFENDERS

10 SEC.

11 9561. REFERRAL TO STATE DIAGNOSTIC AND CLASSIFICATION CENTER.

12 9562. REPORT ON EXAMINATION.

13 9563. DISPOSITION.

14 9564. TREATMENT.

15 9565. PAROLE.

16 § 9561. REFERRAL TO STATE DIAGNOSTIC AND CLASSIFICATION CENTER.

17 WHENEVER A PERSON IS CONVICTED UNDER 18 PA.C.S. § 3121
18 (RELATING TO RAPE), 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL
19 INTERCOURSE), 3126 (RELATING TO INDECENT ASSAULT), 3128
20 (RELATING TO CHILD MOLESTATION) OR 6312 (RELATING TO SEXUAL
21 ABUSE OF CHILDREN), OR AN ATTEMPT TO COMMIT ANY OF THESE
22 OFFENSES, THE COURT SHALL ORDER THAT THE DEFENDANT BE REFERRED
23 TO A STATE CORRECTIONAL DIAGNOSTIC AND CLASSIFICATION CENTER FOR
24 SUCH PERIOD AS SHALL BE NECESSARY TO COMPLETE A PHYSICAL AND
25 PSYCHOLOGICAL EXAMINATION. THIS PERIOD SHALL NOT EXCEED TEN
26 DAYS.

27 § 9562. REPORT ON EXAMINATION.

28 UPON COMPLETION OF THE PHYSICAL AND PSYCHOLOGICAL
29 EXAMINATION, BUT IN NO EVENT LATER THAN 30 DAYS AFTER THE DATE
30 OF THE ORDER OF REFERRAL, A WRITTEN REPORT OF THE RESULTS OF THE

1 EXAMINATION SHALL BE SENT TO THE COURT.

2 § 9563. DISPOSITION.

3 (A) TREATMENT PROGRAM.--IF THE EXAMINATION REVEALS THAT THE
4 OFFENDER IS A SEXUALLY DANGEROUS PERSON, THE COURT MAY, UPON THE
5 RECOMMENDATION OF THE STATE CORRECTIONAL DIAGNOSTIC AND
6 CLASSIFICATION CENTER, SENTENCE THE OFFENDER TO A STATE
7 CORRECTIONAL INSTITUTION FOR A PROGRAM OF SPECIALIZED TREATMENT,
8 BUT NO OFFENDER SHALL BE SENTENCED TO THE PROGRAM UNLESS HE IS
9 DETERMINED TO BE A SEXUALLY DANGEROUS PERSON.

10 (B) DEFINITION.--AS USED IN THIS SECTION THE TERM "SEXUALLY
11 DANGEROUS PERSON" MEANS ANY PERSON WHOSE CONDUCT WAS
12 CHARACTERIZED BY A GENERAL LACK OF POWER TO CONTROL HIS SEXUAL
13 IMPULSES, AS EVIDENCED BY REPETITIVE OR COMPULSIVE BEHAVIOR,
14 VIOLENCE OR AGGRESSION DIRECTED AGAINST HIS VICTIM OR SEXUAL
15 MISCONDUCT BY THE PERSON AGAINST A VICTIM UNDER 14 YEARS OF AGE,
16 AND WHO IS LIKELY TO CONTINUE SUCH CONDUCT.

17 § 9564. TREATMENT.

18 (A) DEVELOPMENT OF TREATMENT PROGRAM.--THE BUREAU OF
19 CORRECTION AND THE DEPARTMENT OF HEALTH'S DIVISION OF MENTAL
20 HEALTH SHALL DEVELOP A SPECIALIZED TREATMENT PROGRAM FOR PERSONS
21 SENTENCED PURSUANT TO THIS SUBCHAPTER. THIS TREATMENT PROGRAM
22 SHALL BE ESTABLISHED IN A SPECIALLY DESIGNATED UNIT OF ONE OR
23 MORE OF THE STATE CORRECTIONAL INSTITUTIONS.

24 (B) STAFF.--IN ADDITION, THE BUREAU OF CORRECTION AND THE
25 DIVISION OF MENTAL HEALTH SHALL HIRE SUCH ADDITIONAL STAFF AS
26 SHALL BE NECESSARY TO PROVIDE FOR THE APPROPRIATE IMPLEMENTATION
27 OF THE SPECIALIZED TREATMENT PROGRAM. PERSONS HIRED AS STAFF
28 PURSUANT TO THIS SECTION SHALL, BY VIRTUE OF THEIR TRAINING AND
29 EDUCATION, BE EXPERIENCED IN TREATING PERSONS WITH SEXUAL
30 DISORDERS.

1 (C) TERM OF TREATMENT.--TREATMENT ORDERED PURSUANT TO THIS
2 SUBCHAPTER SHALL NOT EXCEED THE TERM OF IMPRISONMENT IMPOSED BY
3 THE COURT.

4 § 9565. PAROLE.

5 (A) GENERAL RULE.--A PERSON SENTENCED UNDER THIS SUBCHAPTER
6 SHALL NOT BE RELEASED UNDER PAROLE SUPERVISION UNLESS IT APPEARS
7 TO THE SATISFACTION OF THE PENNSYLVANIA BOARD OF PROBATION AND
8 PAROLE, AFTER RECOMMENDATION BY THE DIRECTOR OF THE SPECIALIZED
9 TREATMENT PROGRAM, THAT THE PERSON IS NO LONGER DETERMINED TO BE
10 A SEXUALLY DANGEROUS PERSON. THE DIRECTOR OF THE PROGRAM SHALL
11 REPORT IN WRITING AT LEAST SEMIANNUALLY TO THE COURT AND THE
12 BOARD CONCERNING THE PHYSICAL AND PSYCHOLOGICAL CONDITION OF THE
13 PERSON WITH A RECOMMENDATION AS TO HIS CONTINUED CONFINEMENT OR
14 CONSIDERATION FOR RELEASE ON PAROLE. THE DIRECTOR OF THE PROGRAM
15 SHALL MAKE A RECOMMENDATION TO THE BOARD PRIOR TO THE PERSON'S
16 RELEASE DATE AS TO WHETHER THE PERSON SHOULD RECEIVE OUTPATIENT
17 TREATMENT AS A CONDITION OF PAROLE. A PERSON PAROLED PURSUANT TO
18 THIS SECTION SHALL BE SUBJECT TO ALL THE LAWS OF THIS
19 COMMONWEALTH RELATING TO PAROLE.

20 (B) MINIMUM TERM.--NO PERSON SHALL BE PAROLED UNDER THIS
21 SECTION WHO HAS NOT SERVED HIS MINIMUM TERM OF IMPRISONMENT.

22 (C) SERVICE OF TERM IN PRISON.--IF THE DIRECTOR OF THE
23 PROGRAM DETERMINES THAT AN INDIVIDUAL IS NOT RESPONSIVE TO
24 TREATMENT, THAT PERSON SHALL SERVE HIS TERM IN PRISON IN LIKE
25 MANNER AS OTHER INMATES.

26 SECTION 4. SECTION 9717 OF TITLE 42 IS AMENDED TO READ:

27 § 9717. SENTENCES FOR OFFENSES AGAINST ELDERLY PERSONS.

28 (A) MANDATORY SENTENCE.--A PERSON UNDER 60 YEARS OF AGE
29 CONVICTED OF ANY OF THE FOLLOWING OFFENSES WHEN THE VICTIM IS
30 OVER 60 YEARS OF AGE [AND NOT A POLICE OFFICER] SHALL BE

1 SENTENCED TO A MANDATORY MINIMUM TERM OF IMPRISONMENT AS
2 FOLLOWS:

3 18 PA.C.S. § 2702(A)(1) AND (4) (RELATING TO AGGRAVATED
4 ASSAULT) - NOT LESS THAN TWO YEARS.

5 18 PA.C.S. § 3121 (RELATING TO RAPE) - NOT LESS THAN FIVE
6 YEARS.

7 18 PA.C.S. § 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL
8 INTERCOURSE) - NOT LESS THAN FIVE YEARS.

9 18 PA.C.S. § 3701(A)(1)(I), (II) AND (III) (RELATING TO
10 ROBBERY) - NOT LESS THAN FIVE YEARS.

11 18 PA.C.S. § 3922 (RELATING TO THEFT BY DECEPTION) - NOT
12 LESS THAN 12 MONTHS, BUT THE IMPOSITION OF THE MINIMUM
13 SENTENCE SHALL BE DISCRETIONARY WITH THE COURT WHERE THE
14 COURT FINDS JUSTIFIABLE CAUSE AND THAT FINDING IS WRITTEN IN
15 THE OPINION.

16 (B) ELIGIBILITY FOR PAROLE.--PAROLE SHALL NOT BE GRANTED
17 UNTIL THE MINIMUM TERM OF IMPRISONMENT HAS BEEN SERVED.

18 (C) CALCULATION OF AGE.--FOR PURPOSES OF SUBSECTION (A), THE
19 AGES OF THE OFFENDER AND THE VICTIM SHALL BE CALCULATED AS OF
20 THE DATE OF COMMISSION OF THE OFFENSE.

21 (D) PROOF AT SENTENCING.--PROVISIONS OF THIS SECTION SHALL
22 NOT BE AN ELEMENT OF THE CRIME AND NOTICE THEREOF TO THE
23 DEFENDANT SHALL NOT BE REQUIRED PRIOR TO CONVICTION, BUT
24 REASONABLE NOTICE OF THE COMMONWEALTH'S INTENTION TO PROCEED
25 UNDER THIS SECTION SHALL BE PROVIDED AFTER CONVICTION AND BEFORE
26 SENTENCING. THE APPLICABILITY OF THIS SECTION SHALL BE
27 DETERMINED AT SENTENCING. THE COURT SHALL CONSIDER ANY EVIDENCE
28 PRESENTED AT TRIAL AND SHALL AFFORD THE COMMONWEALTH AND THE
29 DEFENDANT AN OPPORTUNITY TO PRESENT ANY NECESSARY ADDITIONAL
30 EVIDENCE AND SHALL DETERMINE, BY A PREPONDERANCE OF THE

1 EVIDENCE, IF THIS SECTION IS APPLICABLE.

2 (E) AUTHORITY OF COURT IN SENTENCING.--THERE SHALL BE NO
3 AUTHORITY IN ANY COURT TO IMPOSE ON AN OFFENDER TO WHICH THIS
4 SECTION IS APPLICABLE ANY LESSER SENTENCE THAN PROVIDED FOR IN
5 SUBSECTION (A) OR TO PLACE THE OFFENDER ON PROBATION OR TO
6 SUSPEND SENTENCE. NOTHING IN THIS SECTION SHALL PREVENT THE
7 SENTENCING COURT FROM IMPOSING A SENTENCE GREATER THAN THAT
8 PROVIDED IN THIS SECTION. SENTENCING GUIDELINES PROMULGATED BY
9 THE PENNSYLVANIA COMMISSION ON SENTENCING SHALL NOT SUPERSEDE
10 THE MANDATORY MINIMUM SENTENCES PROVIDED IN THIS SECTION.

11 (F) APPEAL BY COMMONWEALTH.--IF A SENTENCING COURT REFUSES
12 TO APPLY THIS SECTION WHERE APPLICABLE, THE COMMONWEALTH SHALL
13 HAVE THE RIGHT TO APPELLATE REVIEW OF THE ACTION OF THE
14 SENTENCING COURT. THE APPELLATE COURT SHALL VACATE THE SENTENCE
15 AND REMAND THE CASE TO THE SENTENCING COURT FOR IMPOSITION OF A
16 SENTENCE IN ACCORDANCE WITH THIS SECTION IF IT FINDS THAT THE
17 SENTENCE WAS IMPOSED IN VIOLATION OF THIS SECTION.

18 Section 2 5. This act shall take effect in 60 days.

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