

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 896 Session of
1991

INTRODUCED BY DeWEESE, BLAUM, PICCOLA, HAGARTY, KUKOVICH,
LAUGHLIN, PISTELLA, NAHILL, PRESTON, CAPPABIANCA, HERMAN,
VEON, WAMBACH, SALOOM, BELARDI, KRUSZEWSKI, D. R. WRIGHT,
BELFANTI, STABACK, TRELLO, OLASZ, BATTISTO, GIGLIOTTI, MELIO,
DALEY, PESCI, HAYDEN, BARLEY, HARPER, VROON, BUNT, BILLOW,
CORRIGAN, SAURMAN, CALTAGIRONE, JAMES, DeLUCA, KOSINSKI AND
STUBAN, APRIL 2, 1991

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, DECEMBER 10, 1991

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, specifically providing for sexual
3 offenses by psychotherapists; prohibiting a defense with
4 respect to such offenses; and providing for restitution.

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

7 Section 1. Title 18 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 3129. Psychotherapist sexual offenses.

10 (a) Sexual assault by a psychotherapist.--A psychotherapist
11 commits sexual assault, a felony of the third degree, when he
12 engages in sexual intercourse, as defined in section 3101
13 (relating to definitions), with his patient or client,
14 regardless of whether it occurred during any treatment,
15 consultation, assessment, interview or examination where the act
16 occurred during the ongoing therapist-patient or therapist-

client relationship or within six months of the termination of the relationship.

(b) Deviate sexual intercourse by a psychotherapist.--A psychotherapist commits deviate sexual intercourse, a felony of the third degree, when he engages in deviate sexual intercourse, as defined in section 3101, with his patient or client, regardless of whether it occurred during any treatment, consultation, assessment, interview or examination where the act occurred during the ongoing therapist-patient or therapist-client relationship or within six months of the termination of the relationship.

(c) Indecent assault by a psychotherapist.--A psychotherapist commits indecent assault, a misdemeanor of the second degree, when he has indecent contact, as defined in section 3101, with his patient or client, regardless of whether it occurred during any treatment, consultation, assessment, interview or examination where the act occurred during the ongoing therapist-patient or therapist-client relationship or within six months of the termination of the relationship.

(d) Prohibited defense.--It shall not be a defense to a prosecution brought under this section that the patient or client consented to the act.

(e) Prosecutions under subsection (a), (b) or (c).--In prosecutions under subsection (a), (b) or (c), physical or mental injury to the patient need not be established.

(f) Restitution.--Upon sentencing a defendant for a conviction under this section, the court may order, pursuant to 42 Pa.C.S. § 9721(c) (relating to sentencing generally), that the defendant pay the cost of rehabilitative psychotherapy for the victim.

1 (g) Definitions.--As used in this section, the following
2 words and phrases shall have the meanings given to them in this
3 subsection:

4 ~~"Patient" or "client." A person who seeks or obtains the~~ <—
5 ~~services of a psychotherapist, whether or not that person is~~
6 ~~charged for the services.~~

7 ~~"Psychotherapist." A psychiatrist, psychologist,~~
8 ~~psychoanalyst, registered nurse certified to practice~~
9 ~~psychotherapy, mental health counselor, chemical dependency~~
10 ~~counselor, hypnotist or other person, whether or not licensed by~~
11 ~~the Commonwealth, who performs or purports to perform~~
12 ~~psychotherapy.~~

13 ~~"Psychotherapy." The professional treatment, assessment or~~
14 ~~counseling of a mental or emotional illness, symptom or~~
15 ~~condition.~~

16 "PATIENT" OR "CLIENT." A PERSON WHO RECEIVES <—
17 PSYCHOTHERAPEUTIC SERVICES FROM A PSYCHOTHERAPIST, REGARDLESS OF
18 WHETHER THE PSYCHOTHERAPIST RECEIVES REMUNERATION FOR THE
19 SERVICES FROM THE PERSON.

20 "PSYCHOTHERAPIST." A PSYCHIATRIST, PSYCHOLOGIST,
21 PSYCHOANALYST, REGISTERED NURSE CERTIFIED TO PRACTICE
22 PSYCHOTHERAPY, MENTAL HEALTH COUNSELOR, CHEMICAL DEPENDENCY
23 COUNSELOR, HYPNOTIST, MEMBER OF THE CLERGY, CLINICAL SOCIAL
24 WORKER OR ANY PERSON WHO REPRESENTS HIMSELF AS SUCH, WHETHER OR
25 NOT LICENSED BY THE COMMONWEALTH, WHO PROVIDES PSYCHOTHERAPEUTIC
26 SERVICES TO PATIENTS OR CLIENTS.

27 "PSYCHOTHERAPY." THE PROFESSIONAL TREATMENT OF A MENTAL OR
28 EMOTIONAL ILLNESS OR DISABILITY THROUGH THE CREATION OF AN
29 ONGOING THERAPEUTIC RELATIONSHIP BETWEEN THE THERAPIST AND THE
30 PATIENT OR CLIENT.

1 Section 2. The provisions of this act are severable. If any
2 provision of this act or its application to any person or
3 circumstance is held invalid, the invalidity shall not affect
4 other provisions or applications of this act which can be given
5 effect without the invalid provision or application.

6 Section 3. This act shall apply to offenses committed on or
7 after the effective date of this act.

8 Section 4. This act shall take effect in 60 days.