

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1291 Session of
1991

INTRODUCED BY HARPER, COHEN, E. Z. TAYLOR, TRELLO, PESCI,
STABACK, DALEY, LINTON, KOSINSKI, JOHNSON, VROON, HERMAN,
FOX, TANGRETTI, CORRIGAN, McCALL, BILLOW, OLASZ, MRKONIC AND
KASUNIC, MAY 6, 1991

REFERRED TO COMMITTEE ON JUDICIARY, MAY 6, 1991

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for corruption of
3 minors.

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

6 Section 1. Section 6301 of Title 18 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 6301. Corruption of minors.

9 (a) Offense defined.--Whoever, being [of the age of 18 years
10 and upwards] 18 years of age or older, by any act corrupts or
11 tends to corrupt the morals of any minor less than 18 years of
12 age, or who aids, abets, entices or encourages any such minor in
13 the commission of any crime, or who knowingly assists or
14 encourages such minor in violating his or her parole or any
15 order of court, is guilty of a misdemeanor of the first degree
16 unless subject to a greater penalty imposed under subsection
17 (a.1).

1 (a.1) Involving a minor in a drug violation.--A person 21
2 years of age or older who knowingly engages or attempts to
3 engage a minor under 18 years of age in a violation of section
4 13(a)(14) and (30) of the act of April 14, 1972 (P.L.233,
5 No.64), known as The Controlled Substance, Drug, Device and
6 Cosmetic Act, commits a felony of the first degree.

7 (b) Adjudication of delinquency unnecessary.--A conviction
8 under the provisions of this section may be had whether or not
9 the jurisdiction of any juvenile court has attached or shall
10 thereafter attach to such minor or whether or not such minor has
11 been adjudicated a delinquent or shall thereafter be adjudicated
12 a delinquent.

13 (c) Presumptions.--In trials and hearings upon charges of
14 violating the provisions of this section, knowledge of the
15 minor's age and of the court's orders and decrees concerning
16 such minor shall be presumed in the absence of proof to the
17 contrary.

18 (d) Mistake as to age.--

19 (1) Whenever in this section the criminality of conduct
20 depends upon the corruption of a minor whose actual age is
21 under 16 years, it is no defense that the actor did not know
22 the age of the minor or reasonably believed the minor to be
23 older than 18 years.

24 (2) Whenever in this section the criminality of conduct
25 depends upon the corruption of a minor whose actual age is 16
26 years or more but less than 18 years, it is a defense for the
27 actor to prove by a preponderance of the evidence that he
28 reasonably believed the minor to be 18 years or older.

29 Section 2. Section 6314 of Title 18 is amended to read:

30 § 6314. Sentencing and penalties for trafficking drugs to

1 minors.

2 (a) General rule.--A person over 18 years of age who is
3 convicted in any court of this Commonwealth of a violation of
4 section 13(a)(14) or (30) of the act of April 14, 1972 (P.L.233,
5 No.64), known as The Controlled Substance, Drug, Device and
6 Cosmetic Act, shall, if the delivery or possession with intent
7 to deliver of the controlled substance was to a minor, be
8 sentenced to a minimum sentence of at least one year total
9 confinement, notwithstanding any other provision of this title
10 or other statute to the contrary.

11 (b) Additional penalties.--In addition to the mandatory
12 minimum sentence set forth in subsection (a) and notwithstanding
13 any other provision of this title or other statute to the
14 contrary, the person shall be sentenced to an additional
15 mandatory minimum [sentence of at least two years total
16 confinement, notwithstanding any other provision of this title
17 or other statute to the contrary, if the person did any of the
18 following:

19 (1) Committed the offense with the intent to promote the
20 habitual use of the controlled substance.

21 (2) Intended to engage the minor in the trafficking,
22 transportation, delivery, manufacturing, sale or conveyance.

23 (3) Committed the offense within 1,000 feet of the real
24 property on which is located a public, private or parochial
25 school or a college or university.] term of imprisonment of
26 ten years if the person is convicted of a violation of
27 section 6301(a.1) (relating to corruption of minors).

28 (c) Proof at sentencing.--The provisions of this section
29 shall not be an element of the crime. Notice of the
30 applicability of this section to the defendant shall not be

1 required prior to conviction, but reasonable notice of the
2 Commonwealth's intention to proceed under this section shall be
3 provided after conviction and before sentencing. The
4 applicability of this section shall be determined at sentencing.
5 The court shall consider evidence presented at trial, shall
6 afford the Commonwealth and the defendant an opportunity to
7 present necessary additional evidence and shall determine, by a
8 preponderance of the evidence, if this section is applicable.

9 (d) Authority of court in sentencing.--There shall be no
10 authority for a court to impose on a defendant to which this
11 section is applicable a lesser sentence than provided for in
12 subsection (a), to place the defendant on probation or to
13 suspend sentence. Nothing in this section shall prevent the
14 sentencing court from imposing a sentence greater than that
15 provided in this section. Sentencing guidelines promulgated by
16 the Pennsylvania Commission on Sentencing shall not supersede
17 the mandatory sentences provided in this section. Disposition
18 under section 17 or 18 of The Controlled Substance, Drug, Device
19 and Cosmetic Act shall not be available to a defendant to which
20 this section applies.

21 (e) 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 (f) Forfeiture.--Assets against which a forfeiture petition
29 has been filed and is pending or against which the Commonwealth
30 has indicated an intention to file a forfeiture petition shall

1 not be subject to a fine under this section.

2 (g) Definition.--As used in this section, the term "minor"
3 means an individual under 18 years of age.

4 Section 3. This act shall take effect in 60 days.