

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 47

Session of  
1999

---

INTRODUCED BY L. I. COHEN, BEBKO-JONES, BELFANTI, BISHOP,  
BROWNE, CHADWICK, CIVERA, CLARK, CORRIGAN, CURRY, DALEY,  
DeLUCA, GEIST, HARHAI, HENNESSEY, HERMAN, JAMES, LAUGHLIN,  
LEDERER, MARSICO, McCALL, MCGILL, MELIO, MYERS, ORIE, RAMOS,  
READSHAW, ROBERTS, ROBINSON, ROEBUCK, RUFFING, SAINATO,  
SATHER, SAYLOR, SEYFERT, SOLOBAY, STABACK, STEELMAN, STERN,  
STURLA, SURRA, E. Z. TAYLOR, THOMAS, TIGUE, TRELLO, MAHER,  
TRUE, WILLIAMS, FARGO AND WASHINGTON, MARCH 17, 1999

---

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, NOVEMBER 15, 2000

---

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, further providing for unlawful restraint, for false  
4 imprisonment and for obscenity; and providing for sex  
5 offender treatment.

6 It is the intent of the General Assembly to protect our most  
7 vulnerable and precious citizens, the Commonwealth's children,  
8 from the ravages of sexual abuse. Because sexual crimes  
9 committed against children are among the most heinous  
10 imaginable, the General Assembly declares it to be in the public  
11 interest to enact this act.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. Sections 2902, 2903 and 5903(h)(2) of Title 18 of  
15 the Pennsylvania Consolidated Statutes are amended to read:

1 § 2902. Unlawful restraint.

2 (a) Offense defined.--A person commits [a misdemeanor of the  
3 first degree] an offense if he knowingly:

4 (1) restrains another unlawfully in circumstances  
5 exposing him to risk of serious bodily injury; or

6 (2) holds another in a condition of involuntary  
7 servitude.

8 (b) Grading.--

9 (1) Except as provided in paragraph (2), an offense  
10 under subsection (a) is a misdemeanor of the first degree.

11 (2) If the victim of the offense is an individual under  
12 18 years of age, an offense under subsection (a) is a felony  
13 of the second degree.

14 § 2903. False imprisonment.

15 (a) Offense defined.--A person commits [a misdemeanor of the  
16 second degree] an offense if he knowingly restrains another  
17 unlawfully so as to interfere substantially with his liberty.

18 (b) Grading.--

19 (1) Except as provided in paragraph (2), an offense  
20 under subsection (a) is a misdemeanor of the second degree.

21 (2) If the victim of the offense is an individual under  
22 18 years of age, an offense under subsection (a) is a felony  
23 of the second degree.

24 § 5903. Obscene and other sexual materials and performances.

25 \* \* \*

26 (h) Criminal prosecution.--

27 \* \* \*

28 (2) Any person who violates subsection (c) or (d) is  
29 guilty of a [misdemeanor] felony of the [first] third degree.  
30 Violation of subsection (c) or (d) is a felony of the [third]

1 second degree if the offender has previously been convicted  
2 of a violation of subsection (c) or (d).

3 \* \* \*

4 Section 2. Title 42 is amended by adding a section to read:

5 § 9718.1. Sexual offender treatment.

6 (a) General rule.--A person, including an offender  
7 designated as a "sexually violent predator" as defined in  
8 section 9792 (relating to definitions), shall attend and  
9 participate in a Department of Corrections program of counseling  
10 or therapy designed for incarcerated sex offenders if the person  
11 is incarcerated in a State institution for any of the following  
12 provisions under 18 Pa.C.S. (relating to crimes and offenses):

13 (1) Any of the offenses enumerated in Chapter 31  
14 (relating to sexual offenses), if the offense involved a  
15 minor under 18 years of age.

16 (2) Section 4304 (relating to endangering welfare of  
17 children), if the offense involved sexual contact with the  
18 victim.

19 (3) Section 6301 (relating to corruption of minors), if  
20 the offense involved sexual contact with the victim.

21 (4) Open lewdness, as defined in section 5901 (relating  
22 to open lewdness), if the offense involved a minor under 18  
23 years of age.

24 (5) Prostitution, as defined in section 5902 (relating  
25 to prostitution and related offenses), if the offense  
26 involved a minor under 18 years of age.

27 (6) Obscene and other sexual materials and performances,  
28 as defined in section 5903 (relating to obscene and other  
29 sexual materials and performances), if the offense involved a  
30 minor under 18 years of age.

1       (7) Sexual abuse of children, as defined in section 6312  
2       (relating to sexual abuse of children).

3       (8) SECTION 6318 (RELATING TO UNLAWFUL CONTACT OR       <—  
4       COMMUNICATION WITH MINOR).

5       (9) SECTION 6320 (RELATING TO SEXUAL EXPLOITATION OF  
6       CHILDREN).

7       (10) SECTION 4302 (RELATING TO INCEST), IF THE OFFENSE  
8       INVOLVED A MINOR UNDER 18 YEARS OF AGE.

9       ~~(8)~~ (11) An attempt or solicitation to commit any of the       <—  
10       offenses listed in this subsection.

11       (b) Eligibility for parole.--For an offender required to  
12       participate in the program under subsection (a), all of the  
13       following apply:

14       (1) The offender shall not be eligible for parole  
15       ~~consideration~~ unless the offender has:       <—

16               (i) served the minimum term of imprisonment;

17               (ii) participated in the program under subsection

18               (a); and

19               (iii) agreed to comply with any special conditions  
20       of parole imposed for therapy or counseling for sex  
21       offenders, including sexually violent predators.

22       (2) Notwithstanding paragraph (1)(iii), an offender who  
23       is a sexually violent predator is subject to section  
24       9799.4(b) (relating to sexually violent predators).

25       (C) DEPARTMENT.--THE DEPARTMENT SHALL DEVELOP AND PROVIDE       <—  
26       THE PROGRAM OF COUNSELING OR THERAPY FOR OFFENDERS AS PROVIDED  
27       IN SUBSECTION (A). THE DEPARTMENT SHALL HAVE THE SOLE DISCRETION  
28       WITH RESPECT TO COUNSELING OR THERAPY PROGRAM CONTENTS AND  
29       ADMINISTRATION, INCLUDING THE SCHEDULING OF AN OFFENDER'S  
30       ATTENDANCE AND PARTICIPATION.

1     (D) NO RIGHT OF ACTION CREATED.--NOTWITHSTANDING ANY OTHER  
2     PROVISION OF LAW TO THE CONTRARY, THIS SECTION SHALL NOT BE  
3     CONSTRUED TO CONFER ANY LEGAL RIGHT UPON ANY INDIVIDUAL,  
4     INCLUDING AN INDIVIDUAL REQUIRED TO PARTICIPATE IN THE  
5     DEPARTMENT'S PROGRAMS OF COUNSELING OR THERAPY FOR INCARCERATED  
6     OFFENDERS, SEEKING TO:

7             (1) PARTICIPATE AND ATTEND THE PROGRAM PROVIDED IN  
8             SUBSECTION (A) AT A TIME OF THE INDIVIDUAL'S OWN CHOOSING;

9             (2) MODIFY THE CONTENTS OF THE PROGRAM PROVIDED IN  
10            SUBSECTION (A);

11            (3) BE PAROLED; OR

12            (4) FILE ANY OTHER CAUSE OF ACTION IN ANY COURT  
13            REGARDING THE PROGRAM PROVIDED IN SUBSECTION (A).

14     ~~Section 3. The amendment of 18 Pa.C.S. §§ 2902, 2903 and~~     <—

15     SECTION 3. THIS ACT SHALL APPLY AS FOLLOWS:     <—

16            (1) THE AMENDMENT OF 18 PA.C.S. §§ 2902, 2903 AND  
17     5903(h)(2) and the addition of 42 Pa.C.S. § 9718.1 shall  
18     apply to offenses committed on or after the effective date of  
19     this act.

20            (2) THE ADDITION OF 42 PA.C.S. § 9718.1 SHALL NOT     <—  
21     PRECLUDE CONSIDERATION OF THE FACTORS SET FORTH IN THAT  
22     SECTION IN GRANTING OR DENYING PAROLE FOR OFFENSES COMMITTED  
23     BEFORE THE EFFECTIVE DATE OF THIS ACT, EXCEPT TO THE EXTENT  
24     THAT CONSIDERATION OF SUCH FACTORS IS PRECLUDED BY THE  
25     CONSTITUTION OF THE UNITED STATES OR THE CONSTITUTION OF THE  
26     COMMONWEALTH OF PENNSYLVANIA.

27     Section 4. This act shall take effect immediately.