

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2070 Session of
2001

INTRODUCED BY J. EVANS, ARGALL, BENNINGHOFF, BOYES, M. BAKER,
BARRAR, BASTIAN, BELARDI, BELFANTI, BROWNE, CAPPELLI,
CASORIO, CLARK, L. I. COHEN, COLEMAN, CORRIGAN, CREIGHTON,
DALEY, DALLY, FAIRCHILD, FEESE, FICHTER, FREEMAN, GEIST,
GEORGE, GRUCELA, HARHAI, HARPER, HASAY, HENNESSEY, HERMAN,
HORSEY, HUTCHINSON, KAISER, LEWIS, MACKERETH, McCALL,
McILHATTAN, S. MILLER, NAILOR, PETRARCA, PETRONE, PHILLIPS,
PIPPY, READSHAW, ROBERTS, RUBLEY, SAINATO, SATHER, SCHULER,
SHANER, B. SMITH, SOLOBAY, STABACK, J. TAYLOR, THOMAS, TIGUE,
TRICH, TURZAI, WATSON, WILT, YOUNGBLOOD, YUDICHAK, ZUG AND
G. WRIGHT, OCTOBER 24, 2001

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, NOVEMBER 26, 2002

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for simple assault
3 ~~and for the crime of retaliation against prosecutor or~~ <—
4 ~~judicial officer.~~; PROVIDING FOR RESTORATION OF FIREARM <—
5 RIGHTS FOR OFFENSES UNDER PRIOR LAWS OF THIS COMMONWEALTH;
6 AND FURTHER PROVIDING FOR UNLAWFUL CONTACT WITH A MINOR.

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

9 ~~Section 1. Sections 2701 and 4953.1(b) of Title 18 of the~~ <—
10 ~~Pennsylvania Consolidated Statutes are amended to read:~~

11 SECTION 1. SECTION 2701 OF TITLE 18 OF THE PENNSYLVANIA <—
12 CONSOLIDATED STATUTES IS AMENDED TO READ:

13 § 2701. Simple assault.

14 (a) Offense defined.--A person is guilty of assault if he:

15 (1) attempts to cause or intentionally, knowingly or

recklessly causes bodily injury to another;

(2) negligently causes bodily injury to another with a deadly weapon;

(3) attempts by physical menace to put another in fear of imminent serious bodily injury; or

(4) conceals or attempts to conceal a hypodermic needle on his person and intentionally or knowingly penetrates a law enforcement officer or an officer or an employee of a correctional institution, county jail or prison, detention facility or mental hospital, during the course of an arrest or any search of the person.

(b) Grading.--Simple assault is a misdemeanor of the second degree unless committed:

(1) in a fight or scuffle entered into by mutual consent, in which case it is a misdemeanor of the third degree; or

(2) against a child under 12 years of age by an adult 21 years of age or older, in which case it is a misdemeanor of the first degree.

~~§ 4953.1. Retaliation against prosecutor or judicial official.~~ <—

~~* * *~~

~~(b) Grading. The offense is a felony of the second degree if any of the following apply:~~

~~(1) The actor employs force, violence or deception, or attempts or threatens to employ force, violence or deception, upon the prosecutor or judicial official [or, with the requisite intent or knowledge, upon any other person].~~

~~(2) The actor's conduct is in furtherance of a conspiracy to retaliate against a prosecutor or judicial official.~~

1 ~~(3) The actor solicits another to or accepts or agrees~~
2 ~~to accept any pecuniary or other benefit to retaliate against~~
3 ~~a prosecutor or judicial official.~~

4 ~~(4) The actor has suffered any prior conviction for any~~
5 ~~violation of this title or any predecessor law hereto, or has~~
6 ~~been convicted, under any Federal statute or statute of any~~
7 ~~other state, of an act which would be a violation of this~~
8 ~~title if committed in this Commonwealth.~~

9 ~~(5) The actor causes property damage or loss in excess~~
10 ~~of \$1,000.~~

11 ~~Otherwise the offense is a misdemeanor of the first degree.~~

12 * * *

13 ~~Section 2. This act shall take effect in 60 days.~~

14 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ: <—

15 § 6105.1. RESTORATION OF FIREARM RIGHTS FOR OFFENSES UNDER
16 PRIOR LAWS OF THIS COMMONWEALTH.

17 (A) RESTORATION.--A PERSON CONVICTED OF A DISABLING OFFENSE
18 MAY MAKE APPLICATION TO THE COURT OF COMMON PLEAS IN THE COUNTY
19 WHERE THE PRINCIPAL RESIDENCE OF THE APPLICANT IS SITUATED FOR
20 RESTORATION OF FIREARMS RIGHTS. THE COURT SHALL GRANT
21 RESTORATION OF FIREARMS RIGHTS AFTER A HEARING IN OPEN COURT TO
22 DETERMINE WHETHER THE REQUIREMENTS OF THIS SECTION HAVE BEEN MET
23 UNLESS:

24 (1) THE APPLICANT HAS BEEN CONVICTED OF ANY OTHER
25 OFFENSE SPECIFIED IN SECTION 6105(A) OR (B) (RELATING TO
26 PERSONS NOT TO POSSESS, USE, MANUFACTURE, CONTROL, SELL OR
27 TRANSFER FIREARMS) OR THE APPLICANT'S CONDUCT MEETS THE
28 CRITERIA IN SECTION 6105(C)(1), (2), (3), (4), (5), (6) OR
29 (7);

30 (2) THE APPLICANT HAS BEEN CONVICTED OF ANY OTHER CRIME

PUNISHABLE BY IMPRISONMENT EXCEEDING ONE YEAR AS DEFINED IN
SECTION 6102 (RELATING TO DEFINITIONS); OR

(3) THE APPLICANT'S CHARACTER AND REPUTATION IS SUCH
THAT THE APPLICANT WOULD BE LIKELY TO ACT IN A MANNER
DANGEROUS TO PUBLIC SAFETY.

(B) NOTICE AND STANDING.--

(1) NOTICE OF AN APPLICATION FOR RESTORATION OF FIREARMS
RIGHTS SHALL BE PROVIDED TO THE PENNSYLVANIA STATE POLICE,
THE DISTRICT ATTORNEY OF THE COUNTY WHERE THE DISABLING
OFFENSE OCCURRED AND THE DISTRICT ATTORNEY OF THE COUNTY
WHERE THE APPLICATION IS FILED. THE DISTRICT ATTORNEY OF THE
COUNTY WHERE THE APPLICATION IS FILED, THE DISTRICT ATTORNEY
OF THE COUNTY WHERE THE DISABLING OFFENSE OCCURRED AND THE
PENNSYLVANIA STATE POLICE MAY, AT THEIR OPTION, BE PARTIES TO
THE PROCEEDING.

(2) NOTWITHSTANDING PARAGRAPH (1), THE STANDING OF THE
PENNSYLVANIA STATE POLICE AS A PARTY TO A PROCEEDING UNDER
THIS SECTION SHALL BE LIMITED TO DETERMINATIONS OF WHETHER
THE OFFENSE MEETS THE DEFINITION OF THE PHRASE "DISABLING
OFFENSE" OR WHETHER THE PROVISIONS OF SUBSECTION (A)(1) AND
(2) HAVE BEEN SATISFIED.

(C) COPY OF ORDER TO PENNSYLVANIA STATE POLICE.--IF THE
COURT GRANTS RESTORATION OF FIREARMS RIGHTS TO AN APPLICANT, A
COPY OF THE ORDER SHALL BE SENT BY THE PROTHONOTARY WITHIN TEN
DAYS OF THE ENTRY OF THE ORDER TO THE DISTRICT ATTORNEYS AND THE
PENNSYLVANIA STATE POLICE, FIREARMS DIVISION, AND SHALL INCLUDE
THE NAME, DATE OF BIRTH AND SOCIAL SECURITY NUMBER OF THE
APPLICANT.

(D) EXPUNGEMENT AND PARDON.--A RESTORATION OF FIREARMS
RIGHTS UNDER THIS SECTION SHALL NOT RESULT IN THE EXPUNGEMENT OF

1 ANY CRIMINAL HISTORY RECORD INFORMATION NOR WILL IT CONSTITUTE A
2 GUBERNATORIAL PARDON.

3 (E) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
4 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
5 SUBSECTION:

6 "DISABLING OFFENSE." A CONVICTION FOR ANY OFFENSE WHICH:

7 (1) RESULTED IN A FEDERAL FIREARMS DISABILITY AND IS
8 SUBSTANTIALLY SIMILAR TO EITHER AN OFFENSE CURRENTLY GRADED
9 AS A CRIME PUNISHABLE BY A TERM OF IMPRISONMENT FOR NOT MORE
10 THAN TWO YEARS OR CONDUCT WHICH NO LONGER CONSTITUTES A
11 VIOLATION OF LAW; AND

12 (2) WAS A VIOLATION OF EITHER OF THE FOLLOWING:

13 (I) THE FORMER ACT OF MAY 1, 1929 (P.L.905, NO.403),
14 KNOWN AS THE VEHICLE CODE, OR THE FORMER ACT OF APRIL 29,
15 1959 (P.L.58, NO.32), KNOWN AS THE VEHICLE CODE; OR

16 (II) THE FORMER ACT OF JUNE 24, 1939 (P.L.872,
17 NO.375), KNOWN AS THE PENAL CODE.

18 THE DEFINITION SHALL NOT INCLUDE ANY OFFENSE WHICH, IF COMMITTED
19 UNDER CONTEMPORARY STANDARDS, WOULD CONSTITUTE A MISDEMEANOR OF
20 THE SECOND DEGREE OR GREATER UNDER SECTION 2701 (RELATING TO
21 SIMPLE ASSAULT) AND WAS COMMITTED BY A CURRENT OR FORMER SPOUSE,
22 PARENT OR GUARDIAN OF THE VICTIM, BY A PERSON WITH WHOM THE
23 VICTIM SHARES A CHILD IN COMMON, BY A PERSON WHO IS COHABITATING
24 WITH OR HAS COHABITATED WITH THE VICTIM AS A SPOUSE, PARENT OR
25 GUARDIAN, OR BY A PERSON SIMILARLY SITUATED TO A SPOUSE, PARENT
26 OR GUARDIAN OF THE VICTIM.

27 "RESTORATION OF FIREARMS RIGHTS." RELIEVING ANY AND ALL
28 DISABILITIES WITH RESPECT TO A PERSON'S RIGHT TO OWN, POSSESS,
29 USE, CONTROL, SELL, PURCHASE, TRANSFER, MANUFACTURE, RECEIVE,
30 SHIP OR TRANSPORT FIREARMS, INCLUDING ANY DISABILITIES IMPOSED

1 PURSUANT TO THIS SUBCHAPTER. THE PHRASE SHALL ALSO MEAN THE
2 RESTORATION OF THE RIGHT TO VOTE, TO HOLD PUBLIC OFFICE AND TO
3 SERVE ON A JURY.

4 SECTION 3. SECTION 6318(A) AND (B) OF TITLE 18, AMENDED
5 NOVEMBER 20, 2002 (P.L.1104, NO.134), ARE AMENDED TO READ:
6 § 6318. UNLAWFUL CONTACT WITH MINOR.

7 (A) OFFENSE DEFINED.--A PERSON COMMITS AN OFFENSE IF HE [OR
8 SHE INTENTIONALLY CONTACTS A MINOR, AND EITHER THE PERSON
9 INITIATING THE CONTACT OR THE MINOR BEING CONTACTED IS WITHIN
10 THIS COMMONWEALTH,] IS INTENTIONALLY IN CONTACT WITH A MINOR FOR
11 THE PURPOSE OF ENGAGING IN AN ACTIVITY PROHIBITED UNDER ANY OF
12 THE FOLLOWING, AND EITHER THE PERSON INITIATING THE CONTACT OR
13 THE PERSON BEING CONTACTED IS WITHIN THIS COMMONWEALTH:

14 (1) ANY OF THE OFFENSES ENUMERATED IN CHAPTER 31
15 (RELATING TO SEXUAL OFFENSES).

16 (2) OPEN LEWDNESS AS DEFINED IN SECTION 5901 (RELATING
17 TO OPEN LEWDNESS).

18 (3) PROSTITUTION AS DEFINED IN SECTION 5902 (RELATING TO
19 PROSTITUTION AND RELATED OFFENSES).

20 (4) OBSCENE AND OTHER SEXUAL MATERIALS AND PERFORMANCES
21 AS DEFINED IN SECTION 5903 (RELATING TO OBSCENE AND OTHER
22 SEXUAL MATERIALS AND PERFORMANCES).

23 (5) SEXUAL ABUSE OF CHILDREN AS DEFINED IN SECTION 6312
24 (RELATING TO SEXUAL ABUSE OF CHILDREN).

25 (6) SEXUAL EXPLOITATION OF CHILDREN AS DEFINED IN
26 SECTION 6320 (RELATING TO SEXUAL EXPLOITATION OF CHILDREN).

27 (B) GRADING.--A VIOLATION OF SUBSECTION (A) IS:

28 (1) AN OFFENSE OF THE SAME GRADE AND DEGREE AS THE MOST
29 SERIOUS UNDERLYING OFFENSE IN SUBSECTION (A) FOR WHICH THE
30 DEFENDANT CONTACTED [OR COMMUNICATED WITH] THE MINOR; OR

1 (2) A MISDEMEANOR OF THE FIRST DEGREE;
2 WHICHEVER IS GREATER.

3 * * *

4 SECTION 4. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ:
5 § 7515. CONTINGENT COMPENSATION.

6 (A) OFFENSE DEFINED.--

7 (1) NO PERSON MAY COMPENSATE OR INCUR AN OBLIGATION TO
8 COMPENSATE ANY PERSON TO ENGAGE IN LOBBYING FOR COMPENSATION
9 CONTINGENT IN WHOLE OR IN PART UPON THE PASSAGE, DEFEAT,
10 APPROVAL OR VETO OF LEGISLATION.

11 (2) NO PERSON MAY ENGAGE OR AGREE TO ENGAGE IN LOBBYING
12 FOR COMPENSATION CONTINGENT IN WHOLE OR IN PART UPON THE
13 PASSAGE, DEFEAT, APPROVAL OR VETO OF LEGISLATION.

14 (B) PENALTY.--ANY PERSON WHO VIOLATES THIS SECTION COMMITS A
15 MISDEMEANOR OF THE THIRD DEGREE.

16 (C) DEFINITION.--AS USED IN THIS SECTION, THE TERM
17 "LOBBYING" MEANS AN EFFORT TO INFLUENCE STATE LEGISLATIVE ACTION
18 FOR ECONOMIC CONSIDERATION.

19 SECTION 5. THIS ACT SHALL TAKE AS FOLLOWS:

20 (1) THE ADDITION OF 18 PA.C.S. §§ 6105.1 AND 7515 SHALL
21 TAKE EFFECT IMMEDIATELY.

22 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

23 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
24 DAYS.