

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2155 Session of  
2005

INTRODUCED BY GOODMAN, ARGALL, BELFANTI, BIANCUCCI, BLAUM, BOYD,  
BUXTON, CALTAGIRONE, CURRY, DeLUCA, DeWEESE, J. EVANS,  
FRANKEL, GERGELY, GRUCELA, HARHAI, HARRIS, HERMAN, HESS,  
KENNEY, KILLION, KOTIK, LaGROTTA, LEACH, LEH, MANN, MARKOSEK,  
McCALL, McILHATTAN, MUNDY, PALLONE, PETRARCA, PHILLIPS,  
PISTELLA, REICHLEY, ROONEY, SCAVELLO, SCHRODER, SOLOBAY,  
STABACK, STURLA, SURRA, TANGRETTI, TIGUE, TRUE, WANSACZ,  
WILT, WOJNAROSKI, YOUNGBLOOD AND YUDICHAK, OCTOBER 31, 2005

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 31, 2005

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 the offenses of luring a  
4 child into a motor vehicle, indecent assault, incest and  
5 unlawful contact with a minor; and providing for sentencing  
6 enhancements for individuals convicted of sex crimes.

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

9 Section 1. Sections 2910, 3126(b), 4302 and 6318(b) of Title  
10 18 of the Pennsylvania Consolidated Statutes are amended to  
11 read:

12 § 2910. Luring a child into a motor vehicle.

13 A person who lures a child into a motor vehicle without the  
14 consent, express or implied, of the child's parent or guardian,  
15 unless the circumstances reasonably indicate that the child is  
16 in need of assistance, commits a [misdemeanor of the first]  
17 felony of the third degree.

1 § 3126. Indecent assault.

2 \* \* \*

3 (b) Grading.--Indecent assault under subsection (a)(7) is a  
4 [misdemeanor of the first] felony of the third degree.

5 Otherwise, indecent assault is a misdemeanor of the second  
6 degree.

7 § 4302. Incest.

8 (a) Definition.--A person is guilty of incest[, a felony of  
9 the second degree,] if that person knowingly marries or cohabits  
10 or has sexual intercourse with an ancestor or descendant, a  
11 brother or sister of the whole or half blood or an uncle, aunt,  
12 nephew or niece of the whole blood. The relationships referred  
13 to in this section include blood relationships without regard to  
14 legitimacy, and relationship of parent and child by adoption.

15 (b) Grading.--

16 (1) An individual who commits incest with an individual  
17 under 16 years of age commits a felony of the first degree.

18 (2) In all other cases, incest shall be a felony of the  
19 second degree.

20 § 6318. Unlawful contact with minor.

21 \* \* \*

22 (b) Grading.--A violation of subsection (a) is:

23 (1) an offense of the same grade and degree as the most  
24 serious underlying offense in subsection (a) for which the  
25 defendant contacted the minor; or

26 (2) a [misdemeanor of the first] felony of the third  
27 degree;

28 whichever is greater.

29 \* \* \*

30 Section 2. Chapter 97 of Title 42 is amended by adding a

1 subchapter to read:

2 SUBCHAPTER I  
3 SENTENCING OF INDIVIDUALS  
4 CONVICTED OF SEX CRIMES

5 Sec.

6 9799.21. Definitions.

7 9799.22. Sentencing.

8 9799.23. Second and subsequent offenses.

9 § 9799.21. Definitions.

10 The following words and phrases when used in this subchapter  
11 shall have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Sex crime." Any of the following offenses:

14 18 Pa.C.S. § 2901 (relating to kidnapping) where the  
15 victim is a minor.

16 18 Pa.C.S. § 2910 (relating to luring a child into a  
17 motor vehicle).

18 18 Pa.C.S. § 3121 (relating to rape).

19 18 Pa.C.S. § 3122.1 (relating to statutory sexual  
20 assault) where the victim is under 13 years of age, or has  
21 suffered serious bodily injury as a result of a crime, where  
22 the individual used a deadly weapon or threatened to use a  
23 deadly weapon in the commission of the offense or where the  
24 individual has substantially impaired the victim's ability to  
25 appraise or control the victim's conduct by administering or  
26 employing, without the knowledge of the victim, drugs,  
27 intoxicants or other means for the purpose of preventing  
28 resistance.

29 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual  
30 intercourse).

1 18 Pa.C.S. § 3124.1 (relating to sexual assault).

2 18 Pa.C.S. § 3124.2 (relating to institutional sexual  
3 assault).

4 18 Pa.C.S. § 3125 (relating to aggravated indecent  
5 assault).

6 18 Pa.C.S. § 3126 (relating to indecent assault) where  
7 the victim is under 13 years of age.

8 18 Pa.C.S. § 4302 (relating to incest) where the victim  
9 is under 16 years of age.

10 18 Pa.C.S. § 5902(b) (relating to prostitution and  
11 related offenses) where the actor promotes the prostitution  
12 of a minor.

13 18 Pa.C.S. § 5903(a)(3), (4), (5) or (6) (relating to  
14 obscene and other sexual materials and performances) where  
15 the victim is a minor.

16 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

17 18 Pa.C.S. § 6318 (relating to unlawful contact with  
18 minor).

19 18 Pa.C.S. § 6320 (relating to sexual exploitation of  
20 children).

21 § 9799.22. Sentencing.

22 (a) Felony of first degree.--Notwithstanding any provision  
23 of law to the contrary, the following apply to an individual who  
24 commits a sex crime that is a felony of the first degree:

25 (1) An individual shall be sentenced to a term of  
26 imprisonment not less than ten years but not more than 30  
27 years.

28 (2) An individual shall be sentenced to a term of  
29 imprisonment not less than 15 years but not more than 40  
30 years if any of the following apply:

1 (i) The victim is over 60 years of age.

2 (ii) The victim has suffered serious bodily injury  
3 as a result of the crime.

4 (iii) The individual used a deadly weapon or  
5 threatened to use a deadly weapon in the commission of  
6 the offense.

7 (iv) The individual has substantially impaired the  
8 victim's ability to appraise or control the victim's  
9 conduct by administering or employing, without the  
10 knowledge of the victim, drugs, intoxicants or other  
11 means for the purpose of preventing resistance.

12 (3) An individual shall be sentenced to a term of  
13 imprisonment not less than 25 years but not more than 50  
14 years if all of the following apply:

15 (i) The victim is under 13 years of age at the time  
16 of the offense.

17 (ii) The individual commits any sex crime which is  
18 also a felony of the first degree except for an offense  
19 under 18 Pa.C.S. § 2901 (relating to kidnapping).

20 (4) An individual may be sentenced to a term of life  
21 imprisonment if all of the following apply:

22 (i) The offense is a violation of 18 Pa.C.S. § 3121  
23 (relating to rape) or 3123 (relating to involuntary  
24 deviate sexual intercourse).

25 (ii) The victim is under 13 years of age at the time  
26 of the offense.

27 (iii) The victim suffers serious bodily injury as a  
28 result of the crime.

29 (b) Felony of second degree.--Notwithstanding any provision  
30 of law to the contrary, an individual who commits a sex crime

1 that is a felony of the second degree shall be sentenced as  
2 follows:

3 (1) To a term of imprisonment not less than five years  
4 but not more than 20 years.

5 (2) To a term of imprisonment not less than ten years  
6 but not more than 30 years if any of the following apply:

7 (i) The victim is under 13 years of age or over 60  
8 years of age.

9 (ii) The victim has suffered serious bodily injury  
10 as a result of the crime.

11 (iii) The individual used a deadly weapon in the  
12 commission of the offense.

13 (iv) The individual has substantially impaired the  
14 victim's ability to appraise or control the victim's  
15 conduct by administering or employing, without the  
16 knowledge of the victim, drugs, intoxicants or other  
17 means for the purpose of preventing resistance.

18 (c) Felony of third degree.--Notwithstanding any provision  
19 of law to the contrary, an individual who commits a sex crime  
20 that is a felony of the third degree shall be sentenced as  
21 follows:

22 (1) To a term of imprisonment not less than 42 months  
23 but not more than 15 years.

24 (2) To a term of imprisonment not less than seven years  
25 but not more than 25 years if any of the following apply:

26 (i) The victim is under 13 years of age or over 60  
27 years of age.

28 (ii) The victim has suffered serious bodily injury  
29 as a result of the crime.

30 (iii) The individual used a deadly weapon or

1 threatened to use a deadly weapon in the commission of  
2 the offense.

3 (iv) The individual has substantially impaired the  
4 victim's ability to appraise or control the victim's  
5 conduct by administering or employing, without the  
6 knowledge of the victim, drugs, intoxicants or other  
7 means for the purpose of preventing resistance.

8 § 9799.23. Second and subsequent offenses.

9 (a) Certain first degree felony repeat offenses.--

10 Notwithstanding any provision of law to the contrary:

11 (1) An individual who is convicted of a crime punishable  
12 under section 9799.22(a) (relating to sentencing) shall, if  
13 at the time of conviction the individual has been previously  
14 convicted of a crime punishable under section 9799.22(a) or  
15 (b), be sentenced to a term of imprisonment of not less than  
16 25 years but not more than 50 years. However, the sentencing  
17 court may impose a term of life imprisonment without  
18 eligibility for parole.

19 (2) An individual who is convicted of a crime punishable  
20 under section 9799.22(a) shall, if at the time of conviction  
21 the individual has been previously convicted of two or more  
22 crimes punishable under section 9799.22(a) or (b), be  
23 sentenced to a term of life imprisonment and shall not be  
24 eligible for parole.

25 (b) Certain second degree felony repeat offenses.--

26 Notwithstanding any provision of law to the contrary:

27 (1) An individual who is convicted of a crime punishable  
28 under section 9722.22(b) shall, if at the time of conviction  
29 the individual has been previously convicted of a crime  
30 punishable under section 9799.22(a) or (b), be sentenced to a

1 term of imprisonment of not less than 15 years but not more  
2 than 30 years. However, the sentencing court may impose a  
3 term of life imprisonment without eligibility for parole.

4 (2) An individual who is convicted of a crime punishable  
5 under 9799.22(b) shall, if at the time of conviction the  
6 individual has been previously convicted of two or more  
7 crimes punishable under section 9799.22(a) or (b), be  
8 sentenced to a term of life imprisonment and shall not be  
9 eligible for parole.

10 (c) Certain third degree felony repeat offenses.--

11 Notwithstanding any provision of law to the contrary:

12 (1) An individual who is convicted of a crime punishable  
13 under section 9799.22(c) shall, if at the time of conviction  
14 the individual has been previously convicted of a crime  
15 punishable under section 9799.22(a) or (b), be sentenced to a  
16 term of imprisonment of not less than 12 years, six months,  
17 but not more than 35 years.

18 (2) An individual who is convicted of a crime punishable  
19 under section 9799.22(c) shall, if at the time of conviction  
20 the individual has been previously convicted of a crime  
21 punishable under section 9799.22(c), be sentenced to a term  
22 of imprisonment of not less than ten years but not more than  
23 25 years.

24 (3) An individual who is convicted of a crime punishable  
25 under section 9799.22(c) shall, if at the time of conviction  
26 the individual has been previously convicted of two or more  
27 sex crimes, at least one of which is punishable under section  
28 9799.22(a) or (b), be sentenced to a term of imprisonment of  
29 not less than 40 years but not more than 80 years.

30 (4) An individual who is convicted of a crime punishable

1       under section 9799.22(c) shall, if at the time of conviction  
2       the individual has been previously convicted of two or more  
3       sex crimes, all of which are punishable under section  
4       9799.22(c), be sentenced to a term of imprisonment of not  
5       less than 25 years but not more than 50 years.

6       Section 3. This act shall take effect immediately.