

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 924 Session of  
2011

INTRODUCED BY STEPHENS, CLYMER, CUTLER, GEIST, GINGRICH, GROVE,  
KILLION, KNOWLES, MALONEY, MURT, SONNEY, VEREB, WATSON,  
FLECK, O'NEILL, OBERLANDER, HARHART, MOUL, MILNE, FARRY AND  
SHAPIRO, MARCH 3, 2011

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, APRIL 26, 2011

## AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for the offense of  
3 institutional sexual assault.

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

6 Section 1. Section 3124.2 of Title 18 of the Pennsylvania  
7 Consolidated Statutes is amended to read:

8 § 3124.2. Institutional sexual assault.

9 (a) General rule.--Except as provided in sections 3121  
10 (relating to rape), 3122.1 (relating to statutory sexual  
11 assault), 3123 (relating to involuntary deviate sexual  
12 intercourse), 3124.1 (relating to sexual assault) and 3125  
13 (relating to aggravated indecent assault), a person who is an  
14 employee or agent of the Department of Corrections or a county  
15 correctional authority, youth development center, youth forestry  
16 camp, State or county juvenile detention facility, other  
17 licensed residential facility serving children and youth, or

1 mental health or mental retardation facility or institution  
2 commits a felony of the third degree when that person engages in  
3 sexual intercourse, deviate sexual intercourse or indecent  
4 contact with an inmate, detainee, patient or resident.

5 (a.1) Schools.--

6 (1) Except as provided in sections 3121, 3122.1, 3123,  
7 3124.1 and 3125, a person who is a volunteer or an employee  
8 of a school commits a felony of the third degree when he  
9 engages in sexual intercourse, deviate sexual intercourse or  
10 indecent contact with a student of any THE school. A ←  
11 conviction under this subsection shall also constitute a bar  
12 to employment under section 111 of the act of March 10, 1949  
13 (P.L.30, No.14), known as the Public School Code of 1949.

14 (2) As used in this subsection, the term "employee"  
15 shall include a teacher, substitute teacher, janitor,  
16 cafeteria worker, counselor, coach, athletic trainer or  
17 independent contractor, except those independent contractors  
18 who have no direct contact with students.

19 (2) AS USED IN THIS SUBSECTION, THE FOLLOWING TERMS ←  
20 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS PARAGRAPH:

21 (I) "EMPLOYEE." THE TERM MEANS AND INCLUDES A  
22 PROFESSIONAL EMPLOYEE AS DEFINED HEREIN, A SUBSTITUTE  
23 TEACHER, A JANITOR, A CAFETERIA WORKER, A BUS DRIVER, A  
24 TEACHER AIDE, AN INDEPENDENT CONTRACTOR AS DEFINED  
25 HEREIN, A COACH, AN ATHLETIC TRAINER, ANY COACH HIRED AS  
26 AN INDEPENDENT CONTRACTOR BY THE PIAA OR ANY ATHLETIC  
27 TRAINER HIRED AS AN INDEPENDENT CONTRACTOR BY THE PIAA.  
28 THE TERM DOES NOT INCLUDE A STUDENT EMPLOYED AT THE  
29 SCHOOL.

30 (II) "INDEPENDENT CONTRACTOR." THE TERM MEANS ANY

1 PERSON OR ANY EMPLOYEE OF THAT PERSON WHO HAS A CONTRACT  
2 WITH A SCHOOL FOR THE PURPOSE OF PERFORMING A SERVICE FOR  
3 THE SCHOOL. THE TERM DOES NOT INCLUDE ANY INDEPENDENT  
4 CONTRACTOR OR ANY EMPLOYEE OF AN INDEPENDENT CONTRACTOR  
5 WHO HAS NO DIRECT CONTACT WITH CHILDREN.

6 (III) "PROFESSIONAL EMPLOYEE." AS DEFINED IN  
7 SECTION 1101(1) OF THE ACT OF MARCH 10, 1949 (P.L.30,  
8 NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949.

9 (IV) "SCHOOL." A PUBLIC OR PRIVATE SCHOOL,  
10 INTERMEDIATE UNIT OR AREA VOCATIONAL-TECHNICAL SCHOOL.

11 (V) "VOLUNTEER." THE TERM DOES NOT INCLUDE A SCHOOL  
12 STUDENT.

13 (a.2) Child-care.--Except as provided in sections 3121,  
14 3122.1, 3123, 3124.1 and 3125, a person who is a volunteer or an  
15 employee of a center for children commits a felony of the third  
16 degree when he engages in sexual intercourse, deviate sexual  
17 intercourse or indecent contact with a child who is receiving  
18 services at the center.

19 (b) [Definition.--As used in this section, the term "agent"  
20 means a person who is assigned to work in a State or county  
21 correctional or juvenile detention facility, a youth development  
22 center, youth forestry camp, other licensed residential facility  
23 serving children and youth, or mental health or mental  
24 retardation facility or institution who is employed by any State  
25 or county agency or any person employed by an entity providing  
26 contract services to the agency.] Definitions.--As used in this  
27 section, the following words and phrases shall have the meanings  
28 given to them in this subsection unless the context clearly  
29 indicates otherwise:

30 "Agent." A person who is assigned to work in a State or

1 county correctional or juvenile detention facility, a youth  
2 development center, youth forestry camp, other licensed  
3 residential facility serving children and youth or mental health  
4 or mental retardation facility or institution, who is employed  
5 by any State or county agency or any person employed by an  
6 entity providing contract services to the agency.

7 "Center for children." Includes a child day-care center,  
8 group and family day-care home, boarding home for children, a  
9 center providing early intervention and drug and alcohol  
10 services for children or other facility which provides child-  
11 care services which are subject to approval, licensure,  
12 registration or certification by the Department of Public  
13 Welfare or a county social services agency or which are provided  
14 pursuant to a contract with the department or a county social  
15 services agency. The term does not include a youth development  
16 center, youth forestry camp, State or county juvenile detention  
17 facility and other licensed residential facility serving  
18 children and youth.

19 ~~"Independent contractor." A person who has a contract with a~~ ←  
20 ~~school for the purpose of performing a service for the school.~~

21 ~~"School." A public or private school, intermediate unit or~~  
22 ~~area vocational technical school.~~

23 Section 2. This act shall take effect in 60 days.