

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2324 Session of 2018

INTRODUCED BY BARBIN, EVERETT, BLOOM, M. K. KELLER, MILLARD, TOOHIL, KINSEY, SCHLOSSBERG, J. McNEILL, CHARLTON, HELM, MUSTIO, CALTAGIRONE, COX, STEPHENS, READSHAW, MARSICO, MURT, STURLA, ROEBUCK, D. COSTA, YOUNGBLOOD, BRIGGS, SAYLOR AND HILL-EVANS, MAY 3, 2018

REFERRED TO COMMITTEE ON JUDICIARY, MAY 3, 2018

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in sexual offenses, further providing  
3 for evidence of victim's sexual conduct.

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

6 Section 1. Section 3104 of Title 18 of the Pennsylvania  
7 Consolidated Statutes is amended to read:

8 § 3104. Evidence of victim's sexual conduct.

9 (a) General rule.--Evidence of specific instances of the  
10 alleged victim's past sexual conduct, past sexual victimization,  
11 allegations of past sexual victimization, opinion evidence of  
12 the alleged victim's past sexual conduct, and reputation  
13 evidence of the alleged victim's past sexual conduct shall not  
14 be admissible in prosecutions [under this chapter] of any  
15 offense listed in subsection (c) except evidence of the alleged  
16 victim's past sexual conduct with the defendant where consent of  
17 the alleged victim is at issue and such evidence is otherwise

1 admissible pursuant to the rules of evidence.

2 (b) Evidentiary proceedings.--A defendant who proposes to  
3 offer evidence of the alleged victim's past sexual conduct, past  
4 sexual victimization, allegations of past sexual victimization,  
5 opinion evidence of the alleged victim's past sexual conduct and  
6 reputation evidence of the alleged victim's past sexual conduct  
7 pursuant to subsection (a) shall file a written motion and offer  
8 of proof at the time of trial. If, at the time of trial, the  
9 court determines that the motion and offer of proof are  
10 sufficient on their faces, the court shall order an in camera  
11 hearing and shall make findings on the record as to the  
12 relevance and admissibility of the proposed evidence pursuant to  
13 the standards set forth in subsection (a).

14 (c) Applicability.--This section shall apply to prosecutions  
15 of any of the following offenses, including conspiracy, attempt  
16 or solicitation to commit any of the following offenses,  
17 enumerated in this title:

18 Chapter 25 (relating to criminal homicide).

19 Chapter 27 (relating to assault).

20 Chapter 29 (relating to kidnapping).

21 Chapter 30 (relating to human trafficking).

22 Chapter 31 (relating to sexual offenses).

23 Chapter 35 (relating to burglary and other criminal  
24 intrusion).

25 Chapter 37 (relating to robbery).

26 Section 4302 (relating to incest).

27 Section 4304 (relating to endangering welfare of  
28 children), if the offense involved sexual contact with the  
29 victim.

30 Section 6301(a)(1)(ii) (relating to corruption of

1     minors).  
2             Section 6312(b) (relating to sexual abuse of children).  
3             Section 6318 (relating to unlawful contact with minor).  
4             Section 6320 (relating to sexual exploitation of  
5     children).  
6     Section 2.   This act shall take effect in 60 days.