

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 504 Session of 2019

INTRODUCED BY MIHALEK, KAUFFMAN, HERSHEY, EVERETT, DUNBAR, MURT, TOEPEL, ROTHMAN, OTTEN, STEPHENS, IRVIN, MILLARD, PICKETT, ZIMMERMAN AND PYLE, FEBRUARY 12, 2019

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 12, 2019

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
 18 admissible pursuant to the rules of evidence.

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

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

17 Chapter 27 (relating to assault).

18 Chapter 29 (relating to kidnapping).

19 Chapter 30 (relating to human trafficking).

20 Chapter 31 (relating to sexual offenses).

21 Section 4302 (relating to incest).

22 Section 4304 (relating to endangering welfare of
23 children), if the offense involved sexual contact with the
24 victim.

25 Section 6301(a)(1)(ii) (relating to corruption of
26 minors).

27 Section 6312(b) (relating to sexual abuse of children).

28 Section 6318 (relating to unlawful contact with minor).

29 Section 6320 (relating to sexual exploitation of
30 children).

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