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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 851 Session of  
2019

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INTRODUCED BY MUTH, COLLETT, KEARNEY, SANTARSIERO, L. WILLIAMS,  
FARNESE, FONTANA, LEACH, SCHWANK, COSTA, BREWSTER, STREET,  
HUGHES, HAYWOOD, TARTAGLIONE, YUDICHAK, BROWNE AND IOVINO,  
SEPTEMBER 18, 2019

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REFERRED TO JUDICIARY, SEPTEMBER 18, 2019

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AN ACT

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

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

6 Section 1. Section 3124.2(a), (a.1) and (b) of Title 18 of  
7 the Pennsylvania Consolidated Statutes are amended to read:

8 § 3124.2. Institutional sexual assault.

9 (a) General rule.--Except as provided under subsection (a.1)  
10 and in sections 3121 (relating to rape), 3122.1 (relating to  
11 statutory sexual assault), 3123 (relating to involuntary deviate  
12 sexual intercourse), 3124.1 (relating to sexual assault) and  
13 3125 (relating to aggravated indecent assault), a person who is  
14 an employee or agent of the Department of Corrections or a  
15 county correctional authority, youth development center, youth  
16 forestry camp, State or county juvenile detention facility,  
17 other licensed residential facility serving children and youth,

1 or mental health or [mental retardation] intellectual disability  
2 facility or institution or a peace officer commits a felony of  
3 the third degree when that person engages in sexual intercourse,  
4 deviate sexual intercourse or indecent contact with [an inmate,  
5 detainee, patient or resident.] any of the following:

6 (1) An inmate, detainee, patient or resident.

7 (2) Another person who is in the custody of a peace  
8 officer or presumed to be in the custody of a peace officer.

9 (a.1) Institutional sexual assault of a minor.--A person who  
10 is an employee or agent of the Department of Corrections or a  
11 county correctional authority, youth development center, youth  
12 forestry camp, State or county juvenile detention facility,  
13 other licensed residential facility serving children and youth  
14 or mental health or [mental retardation] intellectual disability  
15 facility or institution or a peace officer commits a felony of  
16 the third degree when that person engages in sexual intercourse,  
17 deviate sexual intercourse or indecent contact with [an inmate,  
18 detainee, patient or resident who is under 18 years of age.] any  
19 of the following who is under 18 years of age:

20 (1) An inmate, detainee, patient or resident.

21 (2) Another person who is in the custody of a peace  
22 officer or presumed to be in the custody of a peace officer.

23 \* \* \*

24 (b) Definitions.--As used in this section, the following  
25 words and phrases shall have the meanings given to them in this  
26 subsection unless the context clearly indicates otherwise:

27 "Agent." A person who is assigned to work in a State or  
28 county correctional or juvenile detention facility, a youth  
29 development center, youth forestry camp, other licensed  
30 residential facility serving children and youth or mental health

1 or [mental retardation] intellectual disability facility or  
2 institution, who is employed by any State or county agency or  
3 any person employed by an entity providing contract services to  
4 the agency.

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

17 "Custody." The state of being detained by a peace officer,  
18 including being questioned, handcuffed or arrested by a peace  
19 officer or inside a vehicle designed for law enforcement  
20 purposes.

21 "Peace officer." As defined in section 501 (relating to  
22 definitions).

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