

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1075 Session of 2020

INTRODUCED BY ARNOLD, MUTH, MARTIN, BARTOLOTTA, SANTARSIERO, YAW, MENSCH, SCAVELLO, STEFANO AND AUMENT, APRIL 13, 2020

AS AMENDED ON THIRD CONSIDERATION, OCTOBER 5, 2020

AN ACT

1 ~~Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and~~ <--
2 ~~Judicial Procedure) of the Pennsylvania Consolidated~~
3 ~~Statutes, in minors, further providing for the offense of~~
4 ~~sexual abuse of children and providing for child sexual abuse~~
5 ~~prevention task force; and, in sentencing, further providing~~
6 ~~for sentencing for offenses involving sexual abuse of~~
7 ~~children.~~ AMENDING TITLES 18 (CRIMES AND OFFENSES), 23 <--
8 (DOMESTIC RELATIONS) AND 42 (JUDICIARY AND JUDICIAL
9 PROCEDURE) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, IN
10 MINORS, FURTHER PROVIDING FOR THE OFFENSE OF SEXUAL ABUSE OF
11 CHILDREN; IN CHILD PROTECTIVE SERVICES, PROVIDING FOR TASK
12 FORCE ON CHILD PORNOGRAPHY; AND, IN SENTENCING, FURTHER
13 PROVIDING FOR SENTENCING FOR OFFENSES INVOLVING SEXUAL ABUSE
14 OF CHILDREN.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 6312(d.1) of Title 18 of the Pennsylvania
18 Consolidated Statutes is amended to read:

19 § 6312. Sexual abuse of children.

20 * * *

21 (d.1) Grading.--The offenses shall be graded as follows:

22 (1) Except as provided in paragraph (3), an offense
23 under subsection (b) is a felony of the second degree.

24 (2) (i) Except as provided in paragraph (3), a first

1 offense under subsection (c) or (d) is a felony of the
2 third degree.

3 (ii) A second or subsequent offense under subsection
4 (c) or (d) is a felony of the second degree.

5 (3) When a person commits an offense graded under
6 paragraph (1) or (2)(i) [and indecent contact with the child
7 as defined in section 3101 (relating to definitions) is
8 depicted], the grading of the offense shall be one grade
9 higher than the grade specified in paragraph (1) or (2)(i) [.]
10 if:

11 (i) indecent contact with the child as defined in
12 section 3101 (relating to definitions) is depicted; or

13 (ii) the child depicted is under 10 years of age or
14 prepubescent.

15 * * *

16 ~~Section 2. Title 18 is amended by adding a section to read: <--~~

17 ~~§ 6312.1. Child sexual abuse prevention task force.~~

18 ~~(a) Establishment. The Child Sexual Abuse Prevention Task~~
19 ~~Force shall be created within the Department of Human Services.~~

20 ~~(b) Purpose. The task force shall perform the following:~~

21 ~~(1) Develop guidance, tools and sexual abuse prevention~~
22 ~~and intervention frameworks for supporting Pennsylvania Child~~
23 ~~Welfare Services and the General Assembly in efforts to~~
24 ~~better protect the children and youth entrusted to the care~~
25 ~~of Pennsylvania Child Welfare Services.~~

26 ~~(2) Create long range plans and strategies for statewide~~
27 ~~community education about child sexual abuse and its~~
28 ~~prevention.~~

29 ~~(c) Composition. The task force shall consist of the~~
30 ~~following members:~~

1 ~~(1) One member of the Pennsylvania Senate, appointed by~~
2 ~~the President Pro Tempore of the Senate.~~

3 ~~(2) One member of the public, appointed by the President~~
4 ~~Pro Tempore of the Senate.~~

5 ~~(3) One member of the Pennsylvania House of~~
6 ~~Representatives, appointed by the Speaker of the House of~~
7 ~~Representatives.~~

8 ~~(4) One member of the public, appointed by the Speaker~~
9 ~~of the House of Representatives.~~

10 ~~(5) One member of the public who is a survivor of child~~
11 ~~sexual abuse, appointed by the Governor.~~

12 ~~(6) The Secretary of Education, or a designee.~~

13 ~~(7) The Secretary of Human Services, who shall serve as~~
14 ~~chairperson of the task force;~~

15 ~~(8) The Secretary of Health, or a designee.~~

16 ~~(9) The President of the Pennsylvania District~~
17 ~~Attorney's Association, or a designee.~~

18 ~~(10) Two representatives of a children's advocacy center~~
19 ~~that assists in the investigation, prosecution and treatment~~
20 ~~of child sexual and physical abuse cases, appointed by the~~
21 ~~Governor.~~

22 ~~(11) Two medical professionals that specialize in the~~
23 ~~field of child sexual abuse, one of whom shall be appointed~~
24 ~~by the President Pro Tempore of the Senate and one of whom~~
25 ~~shall be appointed by the Speaker of the House of~~
26 ~~Representatives.~~

27 ~~(12) The Director of the Pennsylvania Coalition Against~~
28 ~~Rape, or a designee.~~

29 ~~(13) The director of a rape crisis center located in~~
30 ~~this Commonwealth, or a designee.~~

1 ~~(14) A representative of an organization representing~~
2 ~~law enforcement, appointed by the Commissioner of the~~
3 ~~Pennsylvania State Police.~~

4 ~~(15) The Victim Advocate from the Office of Victim~~
5 ~~Advocate, or a designee.~~

6 ~~(16) A member of the Pennsylvania Sex Offender~~
7 ~~Assessment Board. If possible, this member shall also be a~~
8 ~~member of The Association for the Treatment of Sexual~~
9 ~~Abusers.~~

10 ~~(17) The Attorney General of Pennsylvania, or a~~
11 ~~designee.~~

12 ~~(d) Member requirements. Members of the task force must be~~
13 ~~individuals who are actively involved in the fields of the~~
14 ~~prevention of child abuse and neglect and child welfare. The~~
15 ~~appointment of members must reflect the geographic diversity of~~
16 ~~the Commonwealth.~~

17 ~~(e) Vacancies. The following shall apply:~~

18 ~~(1) Except as provided under paragraph (2), the Governor~~
19 ~~shall appoint a member for a membership on the task force~~
20 ~~that remains vacant for 90 days or more.~~

21 ~~(2) The President pro tempore of the Senate shall~~
22 ~~appoint a member for a membership appointed under subsection~~
23 ~~(c) (5) or (10) that remains vacant for 90 days or more.~~

24 ~~(f) Designee. A task force member who intends to utilize a~~
25 ~~designee shall notify the chairperson of the task force in~~
26 ~~writing of the designee.~~

27 ~~(g) Terms. The term of a task force member appointed under~~
28 ~~subsection (c) (1), (2), (3), (4), (10), (11) or (14) shall be~~
29 ~~three years. A task force member may be reappointed for~~
30 ~~additional terms. An individual appointed to fill a vacancy on~~

1 ~~the task force under subsection (c) shall serve for the~~
2 ~~unexpired term of the membership and shall be eligible for~~
3 ~~reappointment.~~

4 ~~(h) Meetings and expenses. The following shall apply:~~

5 ~~(1) The task force shall meet at least four times~~
6 ~~annually, but may hold additional meetings as determined by~~
7 ~~the chairperson. The chairperson shall provide notice of at~~
8 ~~least 14 days in advance for a regular meeting and shall~~
9 ~~provide notice of at least three days in advance of a special~~
10 ~~meeting.~~

11 ~~(2) A record of meeting attendance shall be maintained,~~
12 ~~and a member shall receive written notice if the member~~
13 ~~misses two consecutive meetings. A member who misses three~~
14 ~~consecutive meetings without good cause acceptable to the~~
15 ~~chairperson may be replaced by a member appointed by the~~
16 ~~Governor at the discretion of the chairperson.~~

17 ~~(3) Minutes of the meetings shall be prepared and filed~~
18 ~~with the task force and distributed to each member. Each~~
19 ~~record shall be a matter of public record.~~

20 ~~(4) A member may not receive per diem expenses.~~

21 ~~(5) The department shall provide appropriate staff~~
22 ~~support to enable the task force to properly carry out the~~
23 ~~task force's duties.~~

24 ~~(i) Powers. The task force shall have the power to advise~~
25 ~~and consult the General Assembly and Commonwealth agencies and~~
26 ~~may make recommendations in accordance with subsection (b). In~~
27 ~~making those recommendations, the task force shall perform the~~
28 ~~following:~~

29 ~~(1) Review existing laws, regulations and policies~~
30 ~~within the context of current empirical evidence evaluating~~

1 ~~effective child sexual abuse.~~

2 ~~(2) Review current best practices for primary, secondary~~
3 ~~and tertiary child sexual abuse prevention strategies.~~

4 ~~(3) Gather information concerning child sexual abuse~~
5 ~~throughout this Commonwealth.~~

6 ~~(4) Receive reports and testimony from individuals,~~
7 ~~Commonwealth and local agencies, community based~~
8 ~~organizations and other public and private organizations.~~

9 ~~(5) Develop guidelines and tools for the development of~~
10 ~~sexual abuse prevention and intervention plans by~~
11 ~~organizations serving children and youth.~~

12 ~~(6) Recommend policies and procedures for implementation~~
13 ~~and oversight of the guidelines.~~

14 ~~(7) Recommend strategies for incentivizing organizations~~
15 ~~to develop and implement sexual abuse prevention and~~
16 ~~intervention plans.~~

17 ~~(8) Develop a five year plan for using community~~
18 ~~education and other strategies to increase public awareness~~
19 ~~about child sexual abuse, including how to recognize signs,~~
20 ~~minimize risk and act on suspicions or disclosures of such~~
21 ~~abuse.~~

22 ~~(9) Create goals for education policy that would prevent~~
23 ~~child sexual abuse.~~

24 ~~(10) Create goals for other areas of Commonwealth policy~~
25 ~~that would prevent child sexual abuse.~~

26 ~~(j) Annual report. Submit an annual report to the Governor~~
27 ~~and the General Assembly, which shall include, but not be~~
28 ~~limited to, the task force's recommendations under this section.~~
29 ~~The report shall be published on the department's publicly~~
30 ~~accessible Internet website.~~

1 ~~(k) Definitions. As used in this section, the following~~
2 ~~words and phrases shall have the meanings given to them in this~~
3 ~~subsection unless the context clearly indicates otherwise:~~

4 ~~"Chairperson." The chairperson of the task force.~~

5 ~~"Member." A member of the task force.~~

6 ~~"Task force." The Child Sexual Abuse Prevention Task Force~~
7 ~~established under subsection (a).~~

8 SECTION 2. TITLE 23 IS AMENDED BY ADDING A SECTION TO READ: <--

9 § 6388. TASK FORCE ON CHILD PORNOGRAPHY.

10 (A) ESTABLISHMENT.--THE TASK FORCE ON CHILD PORNOGRAPHY IS
11 ESTABLISHED.

12 (B) PURPOSE.--THE PURPOSE OF THE TASK FORCE IS TO CONDUCT A
13 REVIEW TO ASCERTAIN ANY INADEQUACIES RELATING TO THE OFFENSE OF
14 CHILD PORNOGRAPHY IN 18 PA.C.S. § 6312 (RELATING TO SEXUAL ABUSE
15 OF CHILDREN).

16 (C) COMPOSITION.--THE TASK FORCE SHALL CONSIST OF THE
17 FOLLOWING MEMBERS, WHO SHALL BE APPOINTED WITHIN 25 DAYS AFTER
18 THE EFFECTIVE DATE OF THIS SECTION:

19 (1) THE SECRETARY OR A DESIGNEE.

20 (2) THE ATTORNEY GENERAL OR A DESIGNEE.

21 (3) THE COMMISSIONER OF THE PENNSYLVANIA STATE POLICE OR
22 A DESIGNEE.

23 (4) THE CHAIRMAN OF THE PENNSYLVANIA COMMISSION ON CRIME
24 AND DELINQUENCY OR A DESIGNEE.

25 (5) THE EXECUTIVE DIRECTOR OF THE PENNSYLVANIA
26 COMMISSION ON SENTENCING OR A DESIGNEE.

27 (6) TWO MEMBERS OF THE SENATE, ONE APPOINTED BY THE
28 PRESIDENT PRO TEMPORE OF THE SENATE AND ONE APPOINTED BY THE
29 MINORITY LEADER OF THE SENATE.

30 (7) TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES, ONE

1 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND
2 ONE APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF
3 REPRESENTATIVES.

4 (8) THE VICTIM ADVOCATE FROM THE OFFICE OF VICTIM
5 ADVOCATE OR A DESIGNEE FROM THAT OFFICE.

6 (9) THE PRESIDENT OF THE PENNSYLVANIA DISTRICT ATTORNEYS
7 ASSOCIATION OR A DESIGNEE.

8 (10) THE DIRECTOR OF THE PENNSYLVANIA COALITION AGAINST
9 RAPE OR A DESIGNEE.

10 (11) ONE MEMBER OF THE PENNSYLVANIA SEXUAL OFFENDERS
11 ASSESSMENT BOARD. IF POSSIBLE, THE MEMBER SHALL BE A MEMBER
12 OF THE ASSOCIATION FOR THE TREATMENT OF SEXUAL ABUSERS.

13 (12) ONE MEMBER OF THE PENNSYLVANIA INTERNET CRIMES
14 AGAINST CHILDREN (ICAC) TASK FORCE.

15 (13) THE DIRECTOR OF A RAPE CRISIS CENTER LOCATED IN
16 THIS COMMONWEALTH OR A DESIGNEE, APPOINTED BY THE GOVERNOR.

17 (14) ONE REPRESENTATIVE OF A CHILDREN'S ADVOCACY CENTER
18 THAT ASSISTS IN THE INVESTIGATION, PROSECUTION AND TREATMENT
19 OF CHILD SEXUAL AND PHYSICAL ABUSE CASES, APPOINTED BY THE
20 GOVERNOR.

21 (15) TWO MEDICAL PROFESSIONALS THAT SPECIALIZE IN THE
22 FIELD OF CHILD SEXUAL ABUSE, ONE OF WHOM SHALL BE APPOINTED
23 BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND ONE OF WHOM
24 SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF
25 REPRESENTATIVES.

26 (16) ONE MEMBER OF THE PUBLIC, APPOINTED BY THE
27 PRESIDENT PRO TEMPORE OF THE SENATE.

28 (17) ONE MEMBER OF THE PUBLIC, APPOINTED BY THE SPEAKER
29 OF THE HOUSE OF REPRESENTATIVES.

30 (D) CHAIRPERSON.--THE GOVERNOR SHALL SELECT THE CHAIRPERSON

1 OF THE TASK FORCE.

2 (E) MEMBER REQUIREMENTS.--

3 (1) APPOINTED MEMBERS OF THE TASK FORCE MUST BE
4 INDIVIDUALS WHO HAVE EXPERIENCE IN INVESTIGATIONS OR
5 PROSECUTIONS OR ARE VICTIMS OF CHILD PORNOGRAPHY OR SEXUAL
6 ABUSE OF CHILDREN.

7 (2) THE APPOINTMENT OF MEMBERS MUST REFLECT THE
8 GEOGRAPHIC DIVERSITY OF THIS COMMONWEALTH.

9 (F) MEETINGS AND EXPENSES.--THE TASK FORCE SHALL CONDUCT ITS
10 BUSINESS AS FOLLOWS:

11 (1) THE TASK FORCE SHALL MEET AT LEAST FOUR TIMES BUT
12 MAY HOLD ADDITIONAL MEETINGS AS DETERMINED BY THE CHAIRPERSON
13 OF THE TASK FORCE.

14 (2) THE CHAIRPERSON OF THE TASK FORCE SHALL SCHEDULE A
15 MEETING UPON WRITTEN REQUEST OF EIGHT MEMBERS OF THE TASK
16 FORCE.

17 (3) THE FIRST MEETING OF THE TASK FORCE SHALL BE
18 CONVENED WITHIN 45 DAYS OF THE EFFECTIVE DATE OF THIS
19 SECTION.

20 (4) THE TASK FORCE SHALL HOLD PUBLIC HEARINGS AS
21 NECESSARY TO OBTAIN THE INFORMATION REQUIRED TO CONDUCT ITS
22 REVIEW.

23 (5) ACTION OF THE TASK FORCE SHALL BE AUTHORIZED OR
24 RATIFIED BY MAJORITY VOTE OF THE MEMBERS OF THE TASK FORCE.

25 (6) THE PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY
26 AND THE JOINT STATE GOVERNMENT COMMISSION SHALL COOPERATE TO
27 PROVIDE ADMINISTRATIVE OR OTHER ASSISTANCE TO THE TASK FORCE.

28 (7) THE MEMBERS OF THE TASK FORCE SHALL NOT RECEIVE
29 COMPENSATION BUT SHALL BE REIMBURSED FOR REASONABLE AND
30 NECESSARY EXPENSES INCURRED IN THE SERVICE OF THE TASK FORCE.

1 (G) POWERS.--THE TASK FORCE SHALL HAVE THE FOLLOWING POWERS:

2 (1) TO RECOMMEND ANY IMPROVEMENTS RELATING TO THE
3 INVESTIGATION AND PROSECUTION OF CHILD PORNOGRAPHY AS DEFINED
4 IN 18 PA.C.S. § 6312.

5 (2) TO RECOMMEND ANY NECESSARY CHANGES IN STATE STATUTES
6 AND PRACTICES, POLICIES AND PROCEDURES RELATING TO THE
7 RECOGNITION OR PROSECUTION OF CHILD PORNOGRAPHY AS DEFINED IN
8 18 PA.C.S. § 6312.

9 (H) REPORT.--

10 (1) WITHIN ONE YEAR OF THE FIRST MEETING OF THE TASK
11 FORCE, THE TASK FORCE SHALL SUBMIT A REPORT WITH ITS
12 RECOMMENDATIONS TO THE FOLLOWING:

13 (I) THE GOVERNOR.

14 (II) THE PRESIDENT PRO TEMPORE OF THE SENATE.

15 (III) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

16 (IV) THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE
17 JUDICIARY COMMITTEE OF THE SENATE.

18 (V) THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE
19 JUDICIARY COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

20 (2) THE REPORT UNDER THIS SUBSECTION MUST BE ADOPTED AT
21 A PUBLIC MEETING OF THE TASK FORCE.

22 (3) THE REPORT UNDER THIS SUBSECTION SHALL BE A PUBLIC
23 RECORD UNDER THE ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3),
24 KNOWN AS THE RIGHT-TO-KNOW LAW.

25 (I) DEFINITION.--AS USED IN THIS SECTION, THE TERM "TASK
26 FORCE" MEANS THE TASK FORCE ON CHILD PORNOGRAPHY ESTABLISHED IN
27 THIS SECTION.

28 Section 3. Section 9720.5 of Title 42 is amended to read:

29 § 9720.5. Sentencing for offenses involving sexual abuse of
30 children.

1 (a) General rule.--The Pennsylvania Commission on
2 Sentencing, in accordance with section 2154 (relating to
3 adoption of guidelines for sentencing), shall provide for a
4 sentence enhancement within its guidelines for an offense under
5 18 Pa.C.S. § 6312 (relating to sexual abuse of children),
6 specifying variations from the range of sentences applicable
7 based on such aggravating circumstances as the age of the child
8 or a determination of prepubescence, the number of images
9 possessed by the defendant, if the child depicted is known to
10 the defendant and the nature and character of the abuse depicted
11 in the images.

12 (b) Other circumstances.--When a person commits an offense
13 to which the grading provisions under 18 Pa.C.S. § 6312(d.1)(3)
14 apply, the Pennsylvania Commission on Sentencing shall, in
15 accordance with section 2154, provide for a sentence enhancement
16 within its guidelines if indecent contact with the child as
17 defined in 18 Pa.C.S. § 3101 (relating to definitions) is
18 depicted and the child depicted is under 10 years of age or
19 prepubescent.

20 Section 4. This act shall take effect in 60 days.