

CRIMES CODE (18 PA.C.S.) AND JUDICIAL CODE (42 PA.C.S.) - SEXUAL
ABUSE OF CHILDREN AND SENTENCING FOR OFFENSES INVOLVING SEXUAL
ABUSE OF CHILDREN

Act of Dec. 18, 2013, P.L. 1163, No. 105
Session of 2013
No. 2013-105

Cl. 18

HB 321

AN ACT

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
Judicial Procedure) of the Pennsylvania Consolidated
Statutes, in sexual offenses, further providing for
definitions; in minors, further providing for the offense
of sexual abuse of children; and, in sentencing, providing
for sentencing for offenses involving sexual abuse of
children.

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

Section 1. The definition of "indecent contact" in section
3101 of Title 18 of the Pennsylvania Consolidated Statutes is
amended to read:

§ 3101. Definitions.

Subject to additional definitions contained in subsequent
provisions of this chapter which are applicable to specific
provisions of this chapter, the following words and phrases
when used in this chapter shall have, unless the context clearly
indicates otherwise, the meanings given to them in this section:

* * *

"Indecent contact." Any touching of the sexual or other
intimate parts of the person for the purpose of arousing or
gratifying sexual desire, in [either] **any** person.

* * *

Section 2. Section 6312(b), (c) and (d) of Title 18 are
amended and the section is amended by adding a subsection to
read:

§ 6312. Sexual abuse of children.

(b) Photographing, videotaping, depicting on computer or
filming sexual acts.--

(1) Any person who causes or knowingly permits a child
under the age of 18 years to engage in a prohibited sexual
act or in the simulation of such act [is guilty of a felony
of the second degree] **commits an offense** if such person
knows, has reason to know or intends that such act may be
photographed, videotaped, depicted on computer or filmed.

(2) Any person who knowingly photographs, videotapes,
depicts on computer or films a child under the age of 18
years engaging in a prohibited sexual act or in the
simulation of such an act [is guilty of a felony of the
second degree] **commits an offense**.

(c) Dissemination of photographs, videotapes, computer
depictions and films.--

[(1)] Any person who knowingly sells, distributes,
delivers, disseminates, transfers, displays or exhibits to
others, or who possesses for the purpose of sale,
distribution, delivery, dissemination, transfer, display or
exhibition to others, any book, magazine, pamphlet, slide,
photograph, film, videotape, computer depiction or other

material depicting a child under the age of 18 years engaging in a prohibited sexual act or in the simulation of such act commits an offense.

[(2) A first offense under this subsection is a felony of the third degree, and a second or subsequent offense under this subsection is a felony of the second degree.]

(d) Child pornography.--

[(1)] Any person who intentionally views or knowingly possesses or controls any book, magazine, pamphlet, slide, photograph, film, videotape, computer depiction or other material depicting a child under the age of 18 years engaging in a prohibited sexual act or in the simulation of such act commits an offense.

[(2) A first offense under this subsection is a felony of the third degree, and a second or subsequent offense under this subsection is a felony of the second degree.]

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

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

(2) (i) Except as provided in paragraph (3), a first offense under subsection (c) or (d) is a felony of the third degree.

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

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

* * *

Section 3. Title 42 is amended by adding a section to read:
§ 9720.5. Sentencing for offenses involving sexual abuse of children.

The Pennsylvania Commission on Sentencing, in accordance with section 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentence enhancement within its guidelines for an offense under 18 Pa.C.S. § 6312 (relating to sexual abuse of children), specifying variations from the range of sentences applicable based on such aggravating circumstances as the age of the child or a determination of prepubescence, the number of images possessed by the defendant and the nature and character of the abuse depicted in the images.

Section 4. This act shall take effect January 1, 2014, or immediately, whichever occurs later.

APPROVED--The 18th day of December, A.D. 2013.

TOM CORBETT