

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 601

Session of
1983

INTRODUCED BY CIVERA, MANMILLER, SERAFINI, CIMINI, WILSON, ARTY,
AFFLERBACH, PRATT, GRUPPO, CAWLEY, LETTERMAN, WOGAN,
E. Z. TAYLOR, MICOZZIE, DURHAM, SIRIANNI, SPITZ, PISTELLA,
GODSHALL, PHILLIPS, MRKONIC, MORRIS, JAROLIN, KOSINSKI,
LASHINGER, POTT, WACHOB, PERZEL, MACKOWSKI, DeLUCA, DAVIES,
RICHARDSON, GLADECK, JOHNSON, PITTS, FLICK, BELARDI, GANNON
AND FREIND, MARCH 23, 1983

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 23, 1983

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, providing for the offense of child molestation and
4 for certain minimum sentences.

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

7 Section 1. Title 18 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 3128. Child molestation.

10 A person 18 years of age or older who has indecent contact
11 with any person under 14 years of age who is not his spouse
12 commits child molestation, a felony of the third degree.

13 Section 2. Title 42 is amended by adding a section to read:

14 § 9719. Sentences for sexual offenses against children.

15 (a) Mandatory sentence.--A person 18 years of age or older
16 convicted of the following offenses shall be sentenced to a

1 mandatory minimum prison term of total confinement as follows if
2 the person knew or had reason to believe that the victim was
3 under 14 years of age at the time the offense was committed:

4 18 Pa.C.S. § 3122 (relating to statutory rape) - not less
5 than four years.

6 18 Pa.C.S. § 3128 (relating to child molestation) - not
7 less than three years.

8 (b) Proof at sentencing.--Provisions of this section shall
9 not be an element of the crime and notice thereof to the
10 defendant shall not be required prior to conviction, but
11 reasonable notice of the Commonwealth's intention to proceed
12 under this section shall be provided after conviction and before
13 sentencing. The applicability of this section shall be
14 determined at sentencing. The court shall consider any evidence
15 presented at trial and shall afford the Commonwealth and the
16 defendant an opportunity to present any necessary additional
17 evidence and shall determine, by a preponderance of the
18 evidence, if this section is applicable.

19 (c) Authority of court in sentencing.--There shall be no
20 authority in any court to impose on an offender to which this
21 section is applicable any lesser sentence than provided for in
22 subsection (a) or to place the offender on probation or to
23 suspend sentence. Nothing in this section shall prevent the
24 sentencing court from imposing a sentence greater than that
25 provided in this section. Sentencing guidelines promulgated by
26 the Pennsylvania Commission on Sentencing shall not supersede
27 the mandatory sentences provided in this section. Parole shall
28 not be granted until the minimum term of imprisonment has been
29 served.

30 (d) Appeal by Commonwealth.--If a sentencing court refuses

1 to apply this section where applicable, the Commonwealth shall
2 have the right to appellate review of the action of the
3 sentencing court. The appellate court shall vacate the sentence
4 and remand the case to the sentencing court for imposition of a
5 sentence in accordance with this section if it finds that the
6 sentence was imposed in violation of this section.

7 Section 3. This act shall take effect in 60 days.