

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 72

Session of
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INTRODUCED BY RUDY, THOMAS, STEELMAN, PHILLIPS, CLARK, BUXTON,
COWELL, PLATTS, TIGUE, CAWLEY, BATTISTO, STURLA, READSHAW,
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SCRIMENTI, SURRA, GORDNER, FAIRCHILD, HORSEY AND MUNDY,
JANUARY 19, 1995

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 19, 1995

AN ACT

1 Amending Titles 18 (Crimes and Offenses), 23 (Domestic
2 Relations) and 42 (Judiciary and Judicial Procedure) of the
3 Pennsylvania Consolidated Statutes, further providing for
4 sexual offenses and the consequences of committing sexual
5 offenses and for sentences for offenses against infant
6 persons; providing for the testimony of children; and
7 imposing penalties.

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

10 Section 1. Sections 3101 and 3102 of Title 18 of the
11 Pennsylvania Consolidated Statutes are amended to read:

12 § 3101. Definitions.

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

18 "Complainant." An alleged victim of a crime under this
19 chapter.

1 ["Deviate sexual intercourse." Sexual intercourse per os or
2 per anus between human beings who are not husband and wife,
3 except as provided in section 3128 (relating to spousal sexual
4 assault), and any form of sexual intercourse with an animal. The
5 term also includes penetration, however slight, of the genitals
6 or anus of another person with a foreign object for any purpose
7 other than good faith medical, hygienic or law enforcement
8 procedures.]

9 "Foreign object." Includes any physical object not a part of
10 the actor's body.

11 "Indecent contact." Any touching of the sexual or other
12 intimate parts of the person for the purpose of arousing or
13 gratifying sexual desire, in either person.

14 "Sexual intercourse." In addition to its ordinary meaning,
15 includes intercourse per os or per anus, with some penetration,
16 however slight, and any form of sexual intercourse with an
17 animal; emission is not required. The term also includes
18 penetration, however slight, of the genitals or anus of another
19 person with a foreign object for any purpose other than good
20 faith medical, hygienic or law enforcement procedures.

21 § 3102. Mistake as to age.

22 Whenever in this chapter the criminality of conduct depends
23 on a child being below the age of [14] 13 years, it is no
24 defense that the [actor] defendant did not know the age of the
25 child, or reasonably believed the child to be the age of [14] 13
26 years or older. When criminality depends on the child's being
27 below a critical age [other] older than [14] 13 years, it is a
28 defense for the [actor] defendant to prove by a preponderance of
29 the evidence that he or she reasonably believed the child to be
30 above the critical age.

1 Section 2. Section 3103 of Title 18 is repealed.

2 Section 3. Sections 3105 and 3106 of Title 18 are amended to
3 read:

4 § 3105. Prompt complaint.

5 Prompt reporting to public authority is not required in a
6 prosecution under this chapter: Provided, however, That nothing
7 in this section shall be construed to prohibit a defendant from
8 introducing evidence of the [alleged victim's] complainant's
9 failure to promptly report the crime if such evidence would be
10 admissible pursuant to the rules of evidence.

11 § 3106. Testimony of complainants.

12 The credibility of [an alleged victim] a complainant of an
13 offense under this chapter shall be determined by the same
14 standard as is the credibility of [an alleged victim] a
15 complainant of any other crime. The testimony of a [victim]
16 complainant need not be corroborated in prosecutions under this
17 chapter. [In any prosecution before a jury for an offense under
18 this chapter, no] No instructions shall be given cautioning the
19 jury to view the [alleged victim's] complainant's testimony in
20 any other way than that in which all victims' testimony is
21 viewed.

22 Section 4. Sections 3121 and 3122 of Title 18 are amended to
23 read:

24 [§ 3121. Rape.

25 A person commits a felony of the first degree when he engages
26 in sexual intercourse with another person not his spouse:

27 (1) by forcible compulsion;

28 (2) by threat of forcible compulsion that would prevent
29 resistance by a person of reasonable resolution;

30 (3) who is unconscious; or

1 (4) who is so mentally deranged or deficient that such
2 person is incapable of consent.

3 Whenever the term "rape" is used in this title or any other
4 title, it is deemed to include spousal sexual assault as further
5 defined in section 3128 (relating to spousal sexual assault).

6 § 3122. Statutory rape.

7 A person who is 18 years of age or older commits statutory
8 rape, a felony of the second degree, when he engages in sexual
9 intercourse with another person not his spouse who is less than
10 14 years of age.]

11 § 3121. Aggravated sexual assault.

12 A defendant commits a felony of the first degree when the
13 defendant engages in sexual intercourse with a complainant if:

14 (1) the defendant does so by forcible compulsion;

15 (2) the defendant does so by threat of forcible
16 compulsion that would prevent resistance by a person of
17 reasonable resolution;

18 (3) the complainant is unconscious or the defendant
19 knows that the complainant is unaware that the sexual
20 intercourse is occurring;

21 (4) the defendant has substantially impaired the
22 complainant's power to appraise or control his or her conduct
23 by administering or employing, without the knowledge of the
24 complainant, drugs, intoxicants or other means for the
25 purpose of preventing resistance;

26 (5) the complainant suffers from a mental disability
27 which renders him or her incapable of consent;

28 (6) the complainant is in custody of law or detained in
29 a hospital or other institution and the defendant has
30 supervisory or disciplinary authority over the complainant;

1 (7) the complainant is 12 years of age or younger; or
2 (8) the complainant is 15 years of age or younger and
3 the defendant is four or more years older than the
4 complainant. This paragraph shall not apply where the
5 defendant and the complainant are married.

6 Forcible compulsion includes, but is not limited to, compulsion
7 resulting in another person's death, whether the death occurred
8 before, during or after the sexual intercourse.

9 § 3122. Sexual assault.

10 A defendant commits a felony of the second degree when the
11 defendant engages in sexual intercourse with a complainant
12 without the complainant's consent.

13 Section 5. Sections 3123 and 3124 of Title 18 are repealed.

14 Section 6. Sections 3125, 3126 and 3127 of Title 18 are
15 amended to read:

16 § 3125. Aggravated indecent assault.

17 Except as provided in sections 3121 (relating to [rape), 3122
18 (relating to statutory rape) and 3123 (relating to involuntary
19 deviate sexual intercourse), a person commits a felony of the
20 second degree when he] aggravated sexual assault) and 3122
21 (relating to sexual assault), a defendant who engages in
22 penetration, however slight, of the genitals or anus of
23 [another] the complainant with a part of the [actor's]
24 defendant's body for any purpose other than good faith medical,
25 hygienic or law enforcement procedures commits aggravated
26 indecent assault, a felony of the second degree, if:

27 [(1) he does so without the consent of the other person;

28 (2) he knows that the other person suffers from a mental
29 disease or defect which renders him or her incapable of
30 appraising the nature of his or her conduct;

1 (3) he knows that the other person is unaware that the
2 indecent contact is being committed;

3 (4) he has substantially impaired the other person's
4 power to appraise or control his or her conduct by
5 administering or employing, without the knowledge of the
6 other, drugs, intoxicants or other means for the purpose of
7 preventing resistance;

8 (5) the other person is in custody of law or detained in
9 a hospital or other institution and the actor has supervisory
10 or disciplinary authority over him; or

11 (6) he is over 18 years of age and the other person is
12 under 14 years of age.]

13 (1) the defendant does so without the complainant's
14 consent;

15 (2) the defendant does so by forcible compulsion;

16 (3) the defendant does so by threat of forcible
17 compulsion that would prevent resistance by a person of
18 reasonable resolution;

19 (4) the complainant is unconscious or the defendant
20 knows that the complainant is unaware that the penetration is
21 occurring;

22 (5) the defendant has substantially impaired the
23 complainant's power to appraise or control his or her conduct
24 by administering or employing, without the knowledge of the
25 complainant, drugs, intoxicants or other means for the
26 purpose of preventing resistance;

27 (6) the complainant suffers from a mental disability
28 which renders him or her incapable of consent;

29 (7) the complainant is in custody of law or detained in
30 a hospital or other institution and the defendant has

1 supervisory or disciplinary authority over the complainant;
2 (8) the complainant is 12 years of age or younger; or
3 (9) the complainant is 15 years of age or younger and
4 the defendant is four or more years older than the
5 complainant.

6 § 3126. Indecent assault.

7 (a) Offense defined.--A [person] defendant who has indecent
8 contact with [another not his spouse] the complainant, or causes
9 [such other] the complainant to have indecent contact with [him]
10 the defendant, is guilty of indecent assault if:

11 [(1) he does so without the consent of the other person;

12 (2) he knows that the other person suffers from a mental
13 disease or defect which renders him or her incapable of
14 appraising the nature of his or her conduct;

15 (3) he knows that the other person is unaware that a
16 indecent contact is being committed;

17 (4) he has substantially impaired the other person's
18 power to appraise or control his or her conduct by
19 administering or employing without the knowledge of the other
20 drugs, intoxicants or other means for the purpose of
21 preventing resistance;

22 (5) the other person is in custody of law or detained in
23 a hospital or other institution and the actor has supervisory
24 or disciplinary authority over him; or

25 (6) he is over 18 years of age and the other person is
26 under 14 years of age.]

27 (1) the defendant does so without the complainant's
28 consent;

29 (2) the defendant does so by forcible compulsion;

30 (3) the defendant does so by threat of forcible

1 compulsion that would prevent resistance by a person of
2 reasonable resolution;

3 (4) the complainant is unconscious or the defendant
4 knows that the complainant is unaware that the indecent
5 contact is occurring;

6 (5) the defendant has substantially impaired the
7 complainant's power to appraise or control his or her conduct
8 by administering or employing, without the knowledge of the
9 complainant, drugs, intoxicants or other means for the
10 purpose of preventing resistance;

11 (6) the complainant suffers from a mental disability
12 which renders him or her incapable of consent;

13 (7) the complainant is in custody of law or detained in
14 a hospital or other institution and the defendant has
15 supervisory or disciplinary authority over the complainant;

16 (8) the complainant is 12 years of age or younger; or

17 (9) the complainant is 15 years of age or younger and
18 the defendant is four or more years older than the
19 complainant.

20 (b) Grading.--Indecent assault under subsection (a)[(6)](8)
21 is a misdemeanor of the first degree. Otherwise, indecent
22 assault is a misdemeanor of the second degree.

23 § 3127. Indecent exposure.

24 (a) Offense defined.--A [person] defendant commits [a
25 misdemeanor of the second degree] indecent exposure if[, for the
26 purpose of arousing or gratifying sexual desire of himself or of
27 any person other than his spouse, he] the defendant exposes his
28 or her genitals in any public place or in any place where there
29 are present other persons under circumstances in which he or she
30 knows [his] or should know that this conduct is likely to

1 [cause] offend, affront or alarm.

2 (b) Grading.--If the defendant knows or should have known
3 that any of the persons present are 15 years of age or younger,
4 indecent exposure under subsection (a) is a misdemeanor of the
5 first degree. Otherwise, indecent exposure under subsection (a)
6 is a misdemeanor of the second degree.

7 Section 7. Section 3128 of Title 18 is repealed.

8 Section 8. Sections 4302, 4303 and 6312 of Title 18 are
9 amended to read:

10 § 4302. Incest.

11 A [person] defendant is guilty of incest, a felony of the
12 second degree, if he or she knowingly marries or cohabits or has
13 sexual intercourse with an ancestor or descendant, a brother or
14 sister of the whole or half blood or an uncle, aunt, nephew or
15 niece of the whole blood. The relationships referred to in this
16 section include blood relationships without regard to
17 legitimacy, and relationship of parent and child by adoption or
18 as foster parent.

19 § 4303. Concealing death of child [born out of wedlock].

20 (a) Offense defined.--A [person] defendant is guilty of a
21 misdemeanor of the [third] first degree if he or she endeavors
22 privately, either alone or by the procurement of others, to
23 conceal the death of his or her child [born out of wedlock,] so
24 that it may not come to light, whether it was born dead or alive
25 or whether it was murdered or not.

26 (b) Procedure.--If the same indictment or information
27 charges any person with the murder of his or her child [born out
28 of wedlock], as well as with the offense of the concealment of
29 the death, the jury may acquit or convict him or her of both
30 offenses, or find him or her guilty of one and acquit him or her

1 of the other.

2 § 6312. Sexual abuse of children.

3 (a) Definition.--As used in this section, "prohibited sexual
4 act" means sexual intercourse[, anal intercourse, masturbation,
5 bestiality, sadism, masochism, fellatio, cunnilingus,] as
6 defined in section 3101 (relating to definitions), masturbation,
7 sadism, masochism, lewd exhibition of the genitals or nudity if
8 [such nudity] it is depicted for the purpose of sexual
9 stimulation or gratification of any person who might view such
10 depiction.

11 (b) Photographing, videotaping, depicting on computer or
12 filming sexual acts.--Any person who causes or knowingly permits
13 a child [under the age of] 17 years of age or younger to engage
14 in a prohibited sexual act or in the simulation of such act is
15 guilty of a felony of the second degree if such person knows,
16 has reason to know or intends that such act may be photographed,
17 videotaped, depicted on computer or filmed. Any person who
18 knowingly photographs, videotapes, depicts on computer or films
19 a child [under the age of] 17 years of age or younger engaging
20 in a prohibited sexual act or in the simulation of such an act
21 is guilty of a felony of the second degree.

22 (c) Dissemination of photographs, videotapes, computer
23 depictions and films.--Any person who knowingly sells,
24 distributes, delivers, disseminates, transfers, displays or
25 exhibits to others, or who possesses for the purpose of sale,
26 distribution, delivery, dissemination, transfer, display or
27 exhibition to others, any book, magazine, pamphlet, slide,
28 photograph, film, videotape or other material [depicting]
29 containing photographs, videotapes, computer depictions or films
30 of a child [under the age of] 17 years of age or younger

1 engaging in a prohibited sexual act or in the simulation of such
2 act is guilty of a felony of the third degree.

3 (d) Possession of child pornography.--Any person who
4 knowingly possesses or controls any book, magazine, pamphlet,
5 slide, photograph, film, videotape or other material [depicting]
6 containing photographs, videotapes, computer depictions or films
7 of a child [under the age of] 17 years of age or younger
8 engaging in a prohibited sexual act or in the simulation of such
9 act is guilty of a felony of the third degree.

10 (e) Evidence of age.--In the event a person involved in a
11 prohibited sexual act is alleged to be a child [under the age
12 of] 17 years of age or younger, competent expert testimony shall
13 be sufficient to establish the age of said person.

14 (e.1) Mistake as to age.--Under subsection (b) only, it is
15 no defense that the defendant did not know the age of the child.
16 Neither a misrepresentation of age by the child nor a bona fide
17 belief that the person is over the specified age shall be a
18 defense.

19 (f) Exceptions.--This section does not apply to any material
20 that is possessed, controlled, brought or caused to be brought
21 into this Commonwealth, or presented for a bona fide
22 educational, scientific, governmental or judicial purpose.

23 Section 9. Section 5303(b) of Title 23 is amended to read:
24 § 5303. Award of custody, partial custody or visitation.

25 * * *

26 (b) Consideration of criminal conviction.--If a parent has
27 been convicted of or has pleaded guilty or no contest to an
28 offense as set forth below, the court shall consider such
29 criminal conduct and shall determine that the parent does not
30 pose a threat of harm to the child before making an order of

1 custody, partial custody or visitation to that parent:

2 (1) 18 Pa.C.S. Ch. 25 (relating to criminal homicide);

3 (2) 18 Pa.C.S. § 2901 (relating to kidnapping);

4 (3) 18 Pa.C.S. § 2902 (relating to unlawful restraint);

5 (4) 18 Pa.C.S. § 3121 (relating to [rape] aggravated
6 sexual assault);

7 (5) 18 Pa.C.S. § 3122 (relating to [statutory rape]
8 sexual assault);

9 (6) 18 Pa.C.S. § [3123 (relating to involuntary deviate
10 sexual intercourse)] 3125 (relating to aggravated indecent
11 assault);

12 (7) 18 Pa.C.S. § 3126 (relating to indecent assault);

13 (8) 18 Pa.C.S. § 3127 (relating to indecent exposure);

14 [(8)] (9) 18 Pa.C.S. § 4302 (relating to incest);

15 [(9)] (10) 18 Pa.C.S. § 4304 (relating to endangering
16 welfare of children);

17 [(10)] (11) 18 Pa.C.S. § 5902(b) (relating to
18 prostitution and related offenses); or

19 [(11)] (12) 18 Pa.C.S. § 6312 (relating to sexual abuse
20 of children).

21 * * *

22 Section 10. The definition of "abuse" in section 6102 of
23 Title 23, amended October 6, 1994 (P.L.574, No.85), is amended
24 to read:

25 § 6102. Definitions.

26 (a) General rule.--The following words and phrases when used
27 in this chapter shall have the meanings given to them in this
28 section unless the context clearly indicates otherwise:

29 "Abuse." The occurrence of one or more of the following acts
30 between family or household members, sexual or intimate partners

1 or persons who share biological parenthood:

2 (1) Attempting to cause or intentionally, knowingly or
3 recklessly causing bodily injury, serious bodily injury,
4 [rape, spousal sexual assault or involuntary deviate sexual
5 intercourse] aggravated sexual assault, sexual assault,
6 aggravated indecent assault or incest with or without a
7 deadly weapon.

8 (2) Placing another in reasonable fear of imminent
9 serious bodily injury.

10 (3) The infliction of false imprisonment pursuant to 18
11 Pa.C.S. § 2903 (relating to false imprisonment).

12 (4) Physically or sexually abusing minor children,
13 including such terms as defined in Chapter 63 (relating to
14 child protective services).

15 (5) Knowingly engaging in a course of conduct or
16 repeatedly committing acts toward another person, including
17 following the person, without proper authority, under
18 circumstances which place the person in reasonable fear of
19 bodily injury. The definition of this paragraph applies only
20 to proceedings commenced under this title and is inapplicable
21 to any criminal prosecutions commenced under Title 18
22 (relating to crimes and offenses).

23 * * *

24 Section 11. The definition of "sexual abuse or exploitation"
25 in section 6303 of Title 23, amended December 16, 1994 (P.L. ,
26 No.151), is amended to read:

27 § 6303. Definitions.

28 The following words and phrases when used in this chapter
29 shall have the meanings given to them in this section unless the
30 context clearly indicates otherwise:

1 * * *

2 "Sexual abuse or exploitation." The employment, use,
3 persuasion, inducement, enticement or coercion of any child to
4 engage in or assist any other person to engage in any sexually
5 explicit conduct, or any simulation of any sexually explicit
6 conduct, for the purpose of producing any visual depiction of
7 any sexually explicit conduct, videotaping or computer depicting
8 or the [rape] sexual assault, aggravated sexual assault,
9 aggravated indecent assault, indecent assault, molestation,
10 incest, indecent exposure, prostitution or other form of sexual
11 exploitation of children.

12 * * *

13 Section 12. Section 6344(c) of Title 23, amended December
14 16, 1994 (P.L. , No.151), is amended to read:

15 § 6344. Information relating to prospective child-care
16 personnel.

17 * * *

18 (c) Grounds for denying employment.--In no case shall an
19 administrator hire an applicant where the department has
20 verified that the applicant is named in the central register as
21 the perpetrator of a founded report of child abuse committed
22 within the five-year period immediately preceding verification
23 pursuant to this section. In no case shall an administrator hire
24 an applicant if the applicant's criminal history record
25 information indicates the applicant has been convicted of one or
26 more of the following offenses under Title 18 (relating to
27 crimes and offenses):

28 Chapter 25 (relating to criminal homicide).

29 Section 2702 (relating to aggravated assault).

30 Section 2709 (relating to harassment and stalking).

1 Section 2901 (relating to kidnapping).
2 Section 2902 (relating to unlawful restraint).
3 [Section 3121 (relating to rape).
4 Section 3122 (relating to statutory rape).
5 Section 3123 (relating to involuntary deviate sexual
6 intercourse).]
7 Section 3121 (relating to aggravated sexual assault).
8 Section 3122 (relating to sexual assault).
9 Section 3125 (relating to aggravated indecent assault).
10 Section 3126 (relating to indecent assault).
11 Section 3127 (relating to indecent exposure).
12 Section 4302 (relating to incest).
13 Section 4303 (relating to concealing death of child [born
14 out of wedlock]).
15 Section 4304 (relating to endangering welfare of
16 children).
17 Section 4305 (relating to dealing in infant children).
18 A felony offense under section 5902(b) (relating to
19 prostitution and related offenses).
20 Section 5903(c) or (d) (relating to obscene and other
21 sexual materials and performances).
22 Section 6301 (relating to corruption of minors).
23 Section 6312 (relating to sexual abuse of children).

24 * * *

25 Section 13. Section 5552(b) of Title 42 is amended to read:
26 § 5552. Other offenses.

27 * * *

28 (b) Major offenses.--A prosecution for any of the following
29 offenses must be commenced within five years after it is
30 committed:

1 (1) Under the following provisions of Title 18 (relating
2 to crimes and offenses):

3 Section 911 (relating to corrupt organizations).

4 Section 2706 (relating to terroristic threats).

5 Section 2901 (relating to kidnapping).

6 Section 3121 (relating to [rape] aggravated sexual
7 assault).

8 Section [3123 (relating to involuntary deviate sexual
9 intercourse] 3122 (relating to sexual assault).

10 Section 3125 (relating to aggravated indecent
11 assault).

12 Section 3301 (relating to arson and related
13 offenses).

14 Section 3502 (relating to burglary).

15 Section 3701 (relating to robbery).

16 Section 3921 (relating to theft by unlawful taking or
17 disposition) through section 3931 (relating to theft of
18 unpublished dramas and musical compositions).

19 Section 4101 (relating to forgery).

20 Section 4108 (relating to commercial bribery and
21 breach of duty to act disinterestedly).

22 Section 4109 (relating to rigging publicly exhibited
23 contest).

24 Section 4302 (relating to incest).

25 Section 4701 (relating to bribery in official and
26 political matters) through section 4703 (relating to
27 retaliation for past official action).

28 Section 4902 (relating to perjury) through section
29 4912 (relating to impersonating a public servant).

30 Section 4952 (relating to intimidation of witnesses

1 or victims).

2 Section 4953 (relating to retaliation against witness
3 or victim).

4 Section 5101 (relating to obstructing administration
5 of law or other governmental function).

6 Section 5512 (relating to lotteries, etc.) through
7 section 5514 (relating to pool selling and bookmaking).

8 Section 5902(b) (relating to prostitution and related
9 offenses).

10 Section 6312 (relating to sexual abuse of children).

11 (2) Any offense punishable under section 13(f) of the
12 act of April 14, 1972 (P.L.233, No.64), known as ["The
13 Controlled Substance, Drug, Device and Cosmetic Act.["]

14 (3) Any conspiracy to commit any of the offenses set
15 forth in paragraphs (1) and (2) and any solicitation to
16 commit any of the offenses in paragraphs (1) and (2) if the
17 solicitation results in the completed offense.

18 (4) Under the act of June 13, 1967 (P.L.31, No.21),
19 known as the ["Public Welfare Code.["]

20 * * *

21 Section 14. Title 42 is amended by adding a section to read:

22 § 5989. Competency of victim or witness.

23 (a) General rule.--Every person who is an alleged victim of
24 or witness to a crime shall be presumed competent to testify in
25 any judicial proceeding regarding the alleged offense, except as
26 provided in subsection (b).

27 (b) Disqualification.--A person shall be disqualified to be
28 a witness if the court finds that the proposed witness is
29 incapable of:

30 (1) expressing himself or herself concerning the matter

1 so as to be understood by the judge and jury either directly
2 or through interpretation by a person with no direct interest
3 in the proceedings who can understand him or her;

4 (2) understanding the duty of a witness to tell the
5 truth; or

6 (3) remembering the event about which the witness is
7 called to testify.

8 (c) Oath not required.--A child under ten years of age, in
9 the court's discretion, need not take an oath or make an
10 affirmation or declaration but may be required only to promise
11 to tell the truth.

12 Section 15. Sections 9712(a), 9713(a), 9714(a), 9717(a),
13 9718, 9719(a) and 9729(c) of Title 42 are amended to read:

14 § 9712. Sentences for offenses committed with firearms.

15 (a) Mandatory sentence.--Any person who is convicted in any
16 court of this Commonwealth of murder of the third degree,
17 voluntary manslaughter, [rape, involuntary deviate sexual
18 intercourse] aggravated sexual assault, robbery as defined in 18
19 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery),
20 aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1)
21 (relating to aggravated assault) or kidnapping, or who is
22 convicted of attempt to commit any of these crimes, shall, if
23 the person visibly possessed a firearm during the commission of
24 the offense, be sentenced to a minimum sentence of at least five
25 years of total confinement notwithstanding any other provision
26 of this title or other statute to the contrary.

27 * * *

28 § 9713. Sentences for offenses committed on public
29 transportation.

30 (a) Mandatory sentence.--Any person who is convicted in any

1 court of this Commonwealth of murder of the third degree,
2 voluntary manslaughter, [rape, involuntary deviate sexual
3 intercourse] aggravated sexual assault, robbery as defined in 18
4 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery),
5 arson as defined in 18 Pa.C.S. § 3301(a) (relating to arson and
6 related offenses), kidnapping or aggravated assault as defined
7 in 18 Pa.C.S. § 2702(a)(1) (relating to aggravated assault), or
8 who is convicted of attempt to commit any of these crimes, shall
9 be sentenced to a minimum sentence of at least five years of
10 total confinement if the crime occurs in or near public
11 transportation as defined in subsection (b), notwithstanding any
12 other provision of this title or other statute to the contrary.

13 * * *

14 § 9714. Sentences for second and subsequent offenses.

15 (a) Mandatory sentence.--Any person who is convicted in any
16 court of this Commonwealth of murder of the third degree,
17 voluntary manslaughter, [rape, involuntary deviate sexual
18 intercourse] aggravated sexual assault, arson as defined in 18
19 Pa.C.S. § 3301(a) (relating to arson and related offenses),
20 kidnapping or robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i),
21 (ii) or (iii) (relating to robbery), or attempt to commit any of
22 these crimes, or who is convicted of aggravated assault in which
23 the offender intentionally, knowingly or recklessly causes
24 serious bodily injury to another under circumstances manifesting
25 extreme indifference to the value of human life, shall, if they
26 have previously been convicted of a crime of violence as
27 specified in subsection (b), be sentenced to a minimum sentence
28 of at least five years of total confinement notwithstanding any
29 other provision of this title or other statute to the contrary.

30 * * *

1 § 9717. Sentences for offenses against elderly persons.

2 (a) Mandatory sentence.--A person under 60 years of age
3 convicted of the following offenses when the victim is over 60
4 years of age and not a police officer shall be sentenced to a
5 mandatory term of imprisonment as follows:

6 18 Pa.C.S. § 2702(a)(1) and (4) (relating to aggravated
7 assault) - not less than two years.

8 18 Pa.C.S. § 3121 (relating to [rape] aggravated sexual
9 assault) - not less than five years.

10 [18 Pa.C.S. § 3123 (relating to involuntary deviate
11 sexual intercourse) - not less than five years.]

12 18 Pa.C.S. § 3922 (relating to theft by deception) - not
13 less than 12 months, but the imposition of the minimum
14 sentence shall be discretionary with the court where the
15 court finds justifiable cause and that finding is written in
16 the opinion.

17 * * *

18 § 9718. Sentences for offenses against infant persons.

19 (a) Mandatory sentence.--

20 (1) A person convicted of the following offenses when
21 the victim is under 16 years of age shall be sentenced to a
22 mandatory term of imprisonment as follows:

23 18 Pa.C.S. § 2702(a)(1) [and (4)] (relating to
24 aggravated assault) - not less than [two] five years.

25 18 Pa.C.S. § 3121(1), (2), (3), (4), (5), (6) and (7)
26 (relating to [rape] aggravated sexual assault) - not less
27 than five years.

28 [18 Pa.C.S. § 3123 (relating to involuntary deviate
29 sexual intercourse) - not less than five years.]

30 (2) A person convicted of the following offenses when

1 the victim is 12 years of age or younger shall be sentenced
2 to a mandatory term of imprisonment as follows:

3 18 Pa.C.S. § 3125 (relating to aggravated indecent
4 assault) - not less than two and one-half years.

5 (b) Eligibility for parole.--Parole shall not be granted
6 until the minimum term of imprisonment has been served.

7 § 9719. Sentences for offenses committed while impersonating a
8 law enforcement officer.

9 (a) Mandatory sentence.--A person convicted of murder of the
10 third degree, voluntary manslaughter, [rape, involuntary deviate
11 sexual intercourse] aggravated sexual assault, aggravated
12 assault as defined in 18 Pa.C.S. § 2702(a)(1) (relating to
13 aggravated assault), robbery as defined in 18 Pa.C.S. §
14 3701(a)(1)(i), (ii) or (iii) (relating to robbery) or kidnapping
15 or who is convicted of attempt to commit any of these crimes
16 shall, if the person was impersonating a law enforcement officer
17 during the commission of the offense, be sentenced to a minimum
18 sentence of at least three years of total confinement
19 notwithstanding any other provision of this title or other
20 statute to the contrary.

21 * * *

22 § 9729. Intermediate punishment.

23 * * *

24 (c) Ineligibility.--

25 (1) A person convicted of any of the following offenses
26 shall be ineligible for sentencing under this section:

27 18 Pa.C.S. § 2502 (relating to murder).

28 18 Pa.C.S. § 2503 (relating to voluntary
29 manslaughter).

30 18 Pa.C.S. § 2702 (relating to aggravated assault).

1 18 Pa.C.S. § 2703 (relating to assault by prisoner).

2 18 Pa.C.S. § 2704 (relating to assault by life
3 prisoner).

4 18 Pa.C.S. § 2901 (relating to kidnapping).

5 18 Pa.C.S. § 3121 (relating to [rape] aggravated
6 sexual assault).

7 18 Pa.C.S. § 3122 (relating to [statutory rape]
8 sexual assault).

9 [18 Pa.C.S. § 3123 (relating to involuntary deviate
10 sexual intercourse).]

11 18 Pa.C.S. § 3125 (relating to aggravated indecent
12 assault).

13 18 Pa.C.S. § 3126 (relating to indecent assault).

14 18 Pa.C.S. § 3301 (relating to arson and related
15 offenses).

16 18 Pa.C.S. § 3701 (relating to robbery).

17 18 Pa.C.S. § 3923 (relating to theft by extortion).

18 18 Pa.C.S. § 4302 (relating to incest).

19 18 Pa.C.S. § 5121 (relating to escape).

20 (2) An offense under this subsection also includes a
21 conviction under 18 Pa.C.S. § 3502 (relating to burglary)
22 where the grading of the offense was a felony of the first
23 degree under section 3502(c)(1).

24 (3) A person sentenced under 18 Pa.C.S. § 6314 (relating
25 to sentencing and penalties for trafficking drugs to minors)
26 or 7508 (relating to drug trafficking sentencing and
27 penalties) shall be ineligible for sentencing under this
28 section.

29 Section 16. This act shall apply as follows:

30 (1) The amendment or addition of 18 Pa.C.S. §§ 3101,

1 3102, 3105, 3106, 3121, 3122, 3125, 3126, 3127, 4302, 4303
2 and 6312 shall apply to offenses committed on or after the
3 effective date of this act.

4 (2) The addition of 42 Pa.C.S. § 5989 shall apply to
5 proceedings conducted on or after the effective date of this
6 act.

7 Section 17. This act shall take effect in 60 days.