
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 2

Special Session No. 1 of
1995

INTRODUCED BY GREENLEAF, DELP, FISHER, O'PAKE, JUBELIRER,
LOEPER, MELLOW, WENGER, BODACK, HART, SHUMAKER, CORMAN,
BRIGHTBILL, FUMO, LEMMOND, HECKLER, MADIGAN, STEWART,
LAVALLE, ANDREZESKI, PETERSON, ARMSTRONG, BAKER, PUNT,
ROBBINS, MOWERY, HELFRICK, TOMLINSON, ULIANA, GERLACH, BELAN,
MUSTO, PORTERFIELD, STAPLETON, STOUT, DAWIDA, WAGNER,
KASUNIC, SCHWARTZ, TARTAGLIONE AND AFFLERBACH,
JANUARY 24, 1995

SENATE AMENDMENTS TO HOUSE AMENDMENTS, MARCH 15, 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, for incest, for statutory ~~rape~~ SEXUAL ASSAULT, for <—
6 prostitution and related offenses and for award of custody;
7 further defining "abuse"; further providing for sexual abuse
8 of children, for information relating to prospective child-
9 care personnel and for sentences for offenses against infant
10 persons and for intermediate punishment.

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

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

15 § 3101. Definitions.

16 Subject to additional definitions contained in subsequent
17 provisions of this chapter which are applicable to specific
18 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:

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

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

"Forcible compulsion." Compulsion by use of physical, intellectual, moral, emotional or psychological force, either express or implied. The term includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after sexual intercourse.

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

"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 person.

"Sexual intercourse." In addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required.

§ 3102. Mistake as to age.

[Whenever] Except as otherwise provided, whenever in this chapter the criminality of conduct depends on a child being below the age of 14 years, it is no defense that the [actor] defendant did not know the age of the child[,] or reasonably

1 believed the child to be the age of 14 years or older. When
2 criminality depends on the child's being below a critical age
3 [other] older than 14 years, it is a defense for the [actor]
4 defendant to prove by a preponderance of the evidence that he or
5 she reasonably believed the child to be above the critical age.

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

7 Section 3. Sections 3105, 3106 and 3121 of Title 18 are
8 amended to read:

9 § 3105. Prompt complaint.

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

16 § 3106. Testimony of complainants.

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

27 § 3121. ~~{Rape} Aggravated sexual assault.~~ <—

28 A ~~{person} defendant~~ commits a felony of the first degree <—
29 when he or she engages in sexual intercourse ~~or deviate sexual~~ <—
30 intercourse with [another person not his spouse] a complainant:

1 (1) [by] By forcible compulsion[;].

2 (2) [by] By threat of forcible compulsion that would
3 prevent resistance by a person of reasonable resolution[;].

4 (3) [who] Who is unconscious or where the defendant <—
5 PERSON knows that the complainant is unaware that the sexual <—
6 intercourse or deviate sexual intercourse is occurring.[; or <—

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

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

12 (4) Where the defendant PERSON has substantially <—
13 impaired the complainant's power to appraise or control his
14 or her conduct by administering or employing, without the
15 knowledge of the complainant, drugs, intoxicants or other
16 means for the purpose of preventing resistance.

17 (5) Who suffers from a mental disability which renders
18 the complainant incapable of consent.

19 (6) Who is less than 13 years of age.

20 ~~(7) The defendant engages in deviate sexual intercourse~~ <—
21 ~~with the complainant when the complainant is under 16 years~~
22 ~~of age and the defendant is four or more years older than the~~
23 ~~complainant and the complainant and defendant are not married~~
24 ~~to each other.~~

25 Section 4. Section 3122 of Title 18 is repealed.

26 Section 5. Title 18 is amended by adding a section to read:

27 § 3122.1. Statutory sexual assault.

28 Except as provided in section 3121 (relating to aggravated
29 sexual assault), a defendant PERSON commits a felony of the <—
30 second degree when the defendant THAT PERSON engages in sexual <—

1 intercourse with a complainant under the age of 16 years and the <—
2 defendant THAT PERSON is four or more years older than the <—
3 complainant AND THE COMPLAINANT AND THE PERSON ARE NOT MARRIED <—
4 TO EACH OTHER.

5 SECTION 6. SECTION 3123 OF TITLE 18 IS AMENDED TO READ: <—

6 § 3123. INVOLUNTARY DEVIATE SEXUAL INTERCOURSE.

7 (A) OFFENSE DEFINED.--A PERSON COMMITS A FELONY OF THE FIRST
8 DEGREE WHEN HE OR SHE ENGAGES IN DEVIATE SEXUAL INTERCOURSE WITH
9 [ANOTHER PERSON] A COMPLAINANT:

10 (1) BY FORCIBLE COMPULSION;

11 (2) BY THREAT OF FORCIBLE COMPULSION THAT WOULD PREVENT
12 RESISTANCE BY A PERSON OF REASONABLE RESOLUTION;

13 (3) WHO IS UNCONSCIOUS OR WHERE THE PERSON KNOWS THAT
14 THE COMPLAINANT IS UNAWARE THAT THE SEXUAL INTERCOURSE IS
15 OCCURRING;

16 [(4) WHO IS SO MENTALLY DERANGED OR DEFICIENT THAT SUCH
17 PERSON IS INCAPABLE OF CONSENT; OR

18 (5) WHO IS LESS THAN 16 YEARS OF AGE.]

19 (4) WHERE THE PERSON HAS SUBSTANTIALLY IMPAIRED THE
20 COMPLAINANT'S POWER TO APPRAISE OR CONTROL HIS OR HER CONDUCT
21 BY ADMINISTERING OR EMPLOYING, WITHOUT THE KNOWLEDGE OF THE
22 COMPLAINANT, DRUGS, INTOXICANTS OR OTHER MEANS FOR THE
23 PURPOSE OF PREVENTING RESISTANCE;

24 (5) WHO SUFFERS FROM A MENTAL DISABILITY WHICH RENDERS
25 HIM OR HER INCAPABLE OF CONSENT;

26 (6) WHO IS LESS THAN 13 YEARS OF AGE; OR

27 (7) WHO IS LESS THAN 16 YEARS OF AGE AND THE PERSON IS
28 FOUR OR MORE YEARS OLDER THAN THE COMPLAINANT AND THE
29 COMPLAINANT AND PERSON ARE NOT MARRIED TO EACH OTHER.

30 (B) DEFINITION.--AS USED IN THIS SECTION, THE TERM "FORCIBLE

1 COMPULSION" INCLUDES, BUT IS NOT LIMITED TO, COMPULSION
2 RESULTING IN ANOTHER PERSON'S DEATH, WHETHER THE DEATH OCCURRED
3 BEFORE, DURING OR AFTER THE SEXUAL INTERCOURSE.

4 Section ~~6~~ 7. Sections ~~3123~~ and SECTION 3124 of Title 18 are <—
5 IS repealed. <—

6 Section ~~7~~ 8. Title 18 is amended by adding a section to <—
7 read:

8 § 3124.1. Sexual assault.

9 Except as provided in section 3121 (relating to ~~aggravated~~ <—
10 ~~sexual assault~~) RAPE) OR 3123 (RELATING TO INVOLUNTARY DEVIATE <—
11 SEXUAL INTERCOURSE), a ~~defendant~~ PERSON commits a felony of the <—
12 second degree when ~~the defendant~~ THAT PERSON engages in sexual <—
13 intercourse or deviate sexual intercourse with a complainant
14 without the complainant's consent.

15 Section ~~8~~ 9. Sections 3125, 3126 and 3127 of Title 18 are <—
16 amended to read:

17 § 3125. Aggravated indecent assault.

18 Except as provided in sections 3121 (relating to ~~rape~~), <—
19 [3122 (relating to statutory rape) and 3123 (relating to <—
20 involuntary deviate sexual intercourse), a person commits a
21 felony of the second degree when he] ~~aggravated sexual assault~~), <—
22 3122.1 (relating to statutory sexual assault), 3123 (RELATING TO <—
23 INVOLUNTARY DEVIATE SEXUAL INTERCOURSE) and 3124.1 (relating to
24 sexual assault) a ~~defendant~~ PERSON who engages in penetration, <—
25 however slight, of the genitals or anus of [another] a
26 complainant with a part of the [actor's] ~~defendant's~~ PERSON'S <—
27 body ~~or foreign object~~ for any purpose other than good faith <—
28 medical, hygienic or law enforcement procedures ~~commits~~
29 aggravated indecent assault, a felony of the second degree, if:

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

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

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

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

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

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

16 (1) the ~~defendant~~ PERSON does so without the <—
17 complainant's consent;

18 (2) the ~~defendant~~ PERSON does so by forcible compulsion; <—

19 (3) the ~~defendant~~ PERSON does so by threat of forcible <—
20 compulsion that would prevent resistance by a person of
21 reasonable resolution;

22 (4) the complainant is unconscious or the ~~defendant~~ <—
23 PERSON knows that the complainant is unaware that the <—
24 penetration is occurring;

25 (5) the ~~defendant~~ PERSON has substantially impaired the <—
26 complainant's power to appraise or control his or her conduct
27 by administering or employing, without the knowledge of the
28 complainant, drugs, intoxicants or other means for the
29 purpose of preventing resistance;

30 (6) the complainant suffers from a mental disability

1 which renders him or her incapable of consent;

2 (7) the complainant is less than 13 years of age; or

3 (8) the complainant is less than 16 years of age and the
4 ~~defendant~~ PERSON is four or more years older than the <—

5 complainant and the complainant and ~~defendant~~ THE PERSON are <—
6 not married to each other.

7 § 3126. Indecent assault.

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

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

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

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

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

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

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

28 (1) the ~~defendant~~ PERSON does so without the <—
29 complainant's consent;

30 (2) the ~~defendant~~ PERSON does so by forcible compulsion; <—

1 (3) the ~~defendant~~ PERSON does so by threat of forcible <—
2 compulsion that would prevent resistance by a person of
3 reasonable resolution;

4 (4) the complainant is unconscious or the ~~defendant~~ <—
5 PERSON knows that the complainant is unaware that the <—
6 indecent contact is occurring;

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

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

14 (7) the complainant is less than 13 years of age; or

15 (8) the complainant is less than 16 years of age and the
16 ~~defendant~~ PERSON is four or more years older than the <—
17 complainant and the complainant and ~~defendant~~ THE PERSON are <—
18 not married to each other.

19 (b) Grading.--Indecent assault under subsection (a)[(6)] (7)
20 is a misdemeanor of the first degree. Otherwise, indecent
21 assault is a misdemeanor of the second degree.

22 § 3127. Indecent exposure.

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

1 (b) Grading.--If the ~~defendant~~ PERSON knows or should have <—
2 known that any of the persons present are less than 16 years of
3 age, indecent exposure under subsection (a) is a misdemeanor of
4 the first degree. Otherwise, indecent exposure under subsection
5 (a) is a misdemeanor of the second degree.

6 Section ~~9~~ 10. Section 3128 of Title 18 is repealed. <—

7 Section ~~10~~ 11. Sections 4302, 4303, 5902(e) and 6312 of <—
8 Title 18 are amended to read:

9 § 4302. Incest.

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

18 § 4303. Concealing death of child [born out of wedlock].

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

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

1 § 5902. Prostitution and related offenses.

2 * * *

3 (e) Patronizing prostitutes.--

4 (1) A ~~{person}~~ defendant commits a [summary offense if <—
5 he] misdemeanor of the third degree if that ~~defendant~~ PERSON <—
6 hires a prostitute or any other person [who is 16 years of
7 age or older] to engage in sexual activity with him[,] or her
8 or if [he] ~~the defendant~~ THAT PERSON enters or remains in a <—
9 house of prostitution for the purpose of engaging in sexual
10 activity. [A person commits a misdemeanor of the third degree
11 if the person hires a prostitute or any other person who is
12 under 16 years of age, whether or not the person is aware of
13 the age of the child.]

14 (2) A ~~defendant~~ PERSON commits a misdemeanor of the <—
15 third degree if, after being sentenced under paragraph (1),
16 he or she hires a prostitute or any other person to engage in
17 sexual activity with him or her or if ~~the defendant~~ THAT <—
18 PERSON enters or remains in a house of prostitution for the
19 purpose of engaging in sexual activity. Upon conviction under
20 this paragraph, a defendant shall be sentenced to pay a fine
21 ~~or~~ OF not less than \$300 nor more than \$2,500, plus court <—
22 costs, and to community service of not less than 75 hours. A
23 court imposing a sentence under this paragraph shall publish
24 the sentencing order in a newspaper of general circulation in
25 the judicial district in which the court sits. As used in
26 this paragraph, court costs include the cost of publishing
27 the sentencing order.

28 * * *

29 § 6312. Sexual abuse of children.

30 (a) Definition.--As used in this section, "prohibited sexual

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

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

19 (c) Dissemination of photographs, videotapes, computer
20 depictions and films.--Any person who knowingly sells,
21 distributes, delivers, disseminates, transfers, displays or
22 exhibits to others, or who possesses for the purpose of sale,
23 distribution, delivery, dissemination, transfer, display or
24 exhibition to others, any book, magazine, pamphlet, slide,
25 photograph, film, videotape, computer depiction or other
26 material depicting a child under the age of [17] 18 years
27 engaging in a prohibited sexual act or in the simulation of such
28 act is guilty of a felony of the third degree.

29 (d) Possession of child pornography.--Any ~~{person} defendant~~ <—
30 who knowingly possesses or controls any book, magazine,

pamphlet, slide, photograph, film, videotape, computer depiction
or other material depicting a child under the age of [17] 18
years engaging in a prohibited sexual act or in the simulation
of such act is guilty of a felony of the third degree.

(e) Evidence of age.--In the event a person involved in a
prohibited sexual act is alleged to be a child under the age of
[17] 18 years, competent expert testimony shall be sufficient to
establish the age of said person.

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

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

Section ~~11~~ 12. Section 5303(b) of Title 23 is amended to
read:

§ 5303. Award of custody, partial custody or visitation.

* * *

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

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

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

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

1 (4) 18 Pa.C.S. § 3121 (relating to ~~rape~~ aggravated <—
2 sexual assault);

3 ~~(5) [18 Pa.C.S. § 3122 (relating to statutory rape)] 18~~ <—
4 ~~Pa.C.S. § 3122.1 (relating to statutory sexual assault);~~

5 (5) 18 PA.C.S. § 3122 (RELATING TO STATUTORY RAPE); <—

6 (5.1) 18 PA.C.S. § 3122.1 (RELATING TO STATUTORY SEXUAL
7 ASSAULT);

8 ~~†~~(6) 18 Pa.C.S. § 3123 (relating to involuntary deviate <—
9 sexual intercourse);~~†~~ <—

10 ~~(6)~~ (7) 18 Pa.C.S. § 3124.1 (relating to sexual <—
11 assault);

12 ~~(7)~~ (8) 18 Pa.C.S. § 3125 (relating to aggravated <—
13 indecent assault);

14 [(7)] ~~(8)~~ (9) 18 Pa.C.S. § 3126 (relating to indecent <—
15 assault);

16 ~~(9)~~ (10) 18 Pa.C.S. § 3127 (relating to indecent <—
17 exposure);

18 [(8)] ~~(10)~~ (11) 18 Pa.C.S. § 4302 (relating to incest); <—

19 [(9)] ~~(11)~~ (12) 18 Pa.C.S. § 4304 (relating to <—
20 endangering welfare of children);

21 [(10)] ~~(12)~~ (13) 18 Pa.C.S. § 5902(b) (relating to <—
22 prostitution and related offenses); or

23 [(11)] ~~(13)~~ (14) 18 Pa.C.S. § 6312 (relating to sexual <—
24 abuse of children).

25 * * *

26 Section ~~12~~ 13. The definition of "abuse" in section 6102 of <—
27 Title 23, amended October 6, 1994 (P.L.574, No.85), is amended
28 to read:

29 § 6102. Definitions.

30 (a) General rule.--The following words and phrases when used

1 in this chapter shall have the meanings given to them in this
2 section unless the context clearly indicates otherwise:

3 "Abuse." The occurrence of one or more of the following acts
4 between family or household members, sexual or intimate partners
5 or persons who share biological parenthood:

6 (1) Attempting to cause or intentionally, knowingly or
7 recklessly causing bodily injury, serious bodily injury,
8 ~~rape, [spousal sexual assault or] involuntary deviate sexual~~ <—
9 ~~intercourse]~~ ~~aggravated sexual assault, sexual assault,~~ <—
10 statutory sexual assault, aggravated indecent assault,
11 indecent assault or incest with or without a deadly weapon.

12 (2) Placing another in reasonable fear of imminent
13 serious bodily injury.

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

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

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

27 * * *

28 Section ~~13~~ 14. The definition of "sexual abuse or <—
29 exploitation" in section 6303 of Title 23, amended December 16,
30 1994 (P.L.1292, No.151), is amended to read:

1 § 6303. Definitions.

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

5 * * *

6 "Sexual abuse or exploitation." The employment, use,
7 persuasion, inducement, enticement or coercion of any child to
8 engage in or assist any other person to engage in any sexually
9 explicit conduct, or any simulation of any sexually explicit
10 conduct, for the purpose of producing any visual depiction,
11 including photographing, videotaping, computer depicting or
12 filming, of any sexually explicit conduct, or ~~the rape,~~ sexual <—
13 assault, involuntary deviate sexual intercourse, aggravated
14 indecent assault, molestation, incest, indecent exposure,
15 prostitution, statutory sexual assault, or other forms of sexual
16 exploitation of children.

17 * * *

18 Section ~~14~~ 15. Section 6344(c) of Title 23, amended December <—
19 16, 1994 (P.L.1292, No.151), is amended to read:

20 § 6344. Information relating to prospective child-care
21 personnel.

22 * * *

23 (c) Grounds for denying employment.--In no case shall an
24 administrator hire an applicant where the department has
25 verified that the applicant is named in the central register as
26 the perpetrator of a founded report of child abuse committed
27 within the five-year period immediately preceding verification
28 pursuant to this section. In no case shall an administrator hire
29 an applicant if the applicant's criminal history record
30 information indicates the applicant has been convicted of one or

1 more of the following offenses under Title 18 (relating to
2 crimes and offenses):

3 Chapter 25 (relating to criminal homicide).

4 Section 2702 (relating to aggravated assault).

5 Section 2709 (relating to harassment and stalking).

6 Section 2901 (relating to kidnapping).

7 Section 2902 (relating to unlawful restraint).

8 Section 3121 (relating to ~~rape~~ ~~aggravated sexual~~ <—
9 ~~assault~~). <—

10 ~~Section 3122~~ (relating to statutory rape). <—

11 SECTION 3122.1 (RELATING TO STATUTORY SEXUAL ASSAULT). <—

12 Section 3123 (relating to involuntary deviate sexual
13 intercourse). <—

14 ~~Section 3122.1 (relating to statutory sexual assault).~~

15 Section 3124.1 (relating to sexual assault).

16 Section 3125 (relating to aggravated indecent assault).

17 Section 3126 (relating to indecent assault).

18 Section 3127 (relating to indecent exposure).

19 Section 4302 (relating to incest).

20 Section 4303 (relating to concealing death of child [born
21 out of wedlock]).

22 Section 4304 (relating to endangering welfare of
23 children).

24 Section 4305 (relating to dealing in infant children).

25 A felony offense under section 5902(b) (relating to
26 prostitution and related offenses).

27 Section 5903(c) or (d) (relating to obscene and other
28 sexual materials and performances).

29 Section 6301 (relating to corruption of minors).

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

1 * * *

2 Section ~~15~~ 16. Section 5552(b) of Title 42 is amended to <—
3 read:

4 § 5552. Other offenses.

5 * * *

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

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

11 Section 911 (relating to corrupt organizations).

12 Section 2706 (relating to terroristic threats).

13 Section 2901 (relating to kidnapping).

14 Section 3121 (relating to ~~rape~~ ~~aggravated sexual~~ <—
15 ~~assault~~). assault).

16 SECTION 3122.1 (RELATING TO STATUTORY SEXUAL <—
17 ASSAULT).

18 ~~Section 3123 (relating to involuntary deviate sexual~~ <—
19 intercourse). ~~}~~ <—

20 ~~Section 3122.1 (relating to statutory sexual~~
21 ~~assault)~~.

22 Section 3124.1 (relating to sexual assault).

23 Section 3125 (relating to aggravated indecent
24 assault).

25 Section 3301 (relating to arson and related
26 offenses).

27 Section 3502 (relating to burglary).

28 Section 3701 (relating to robbery).

29 Section 3921 (relating to theft by unlawful taking or
30 disposition) through section 3931 (relating to theft of

unpublished dramas and musical compositions).

Section 4101 (relating to forgery).

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

Section 4109 (relating to rigging publicly exhibited contest).

Section 4302 (relating to incest).

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

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

Section 4952 (relating to intimidation of witnesses or victims).

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

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

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

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

Section 6312 (relating to sexual abuse of children).

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

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

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

3 * * *

4 Section ~~16~~ 17. Sections ~~9712(a), 9713(a), 9714(a), 9717(a),~~ <—
5 ~~9718, 9719(a)~~ and 9729(c) of Title 42 are amended to read: <—
6 ~~§ 9712. Sentences for offenses committed with firearms.~~ <—

7 ~~(a) Mandatory sentence. Any person who is convicted in any~~
8 ~~court of this Commonwealth of murder of the third degree,~~
9 ~~voluntary manslaughter, rape, involuntary deviate sexual~~
10 ~~intercourse, robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i),~~
11 ~~(ii) or (iii) (relating to robbery), aggravated assault as~~
12 ~~defined in 18 Pa.C.S. § 2702(a)(1) (relating to aggravated~~
13 ~~assault) or kidnapping, or who is convicted of attempt to commit~~
14 ~~any of these crimes, shall, if the person visibly possessed a~~
15 ~~firearm during the commission of the offense, be sentenced to a~~
16 ~~minimum sentence of at least five years of total confinement~~
17 ~~notwithstanding any other provision of this title or other~~
18 ~~statute to the contrary.~~

19 * * *

20 ~~§ 9713. Sentences for offenses committed on public~~
21 ~~transportation.~~

22 ~~(a) Mandatory sentence. Any person who is convicted in any~~
23 ~~court of this Commonwealth of murder of the third degree,~~
24 ~~voluntary manslaughter, rape, involuntary deviate sexual~~
25 ~~intercourse, robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i),~~
26 ~~(ii) or (iii) (relating to robbery), arson as defined in 18~~
27 ~~Pa.C.S. § 3301(a) (relating to arson and related offenses),~~
28 ~~kidnapping or aggravated assault as defined in 18 Pa.C.S. §~~
29 ~~2702(a)(1) (relating to aggravated assault), or who is convicted~~
30 ~~of attempt to commit any of these crimes, shall be sentenced to~~

~~a minimum sentence of at least five years of total confinement if the crime occurs in or near public transportation as defined in subsection (b), notwithstanding any other provision of this title or other statute to the contrary.~~

~~* * *~~

~~§ 9714. Sentences for second and subsequent offenses.~~

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

~~* * *~~

~~§ 9717. Sentences for offenses against elderly persons.~~

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

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

~~18 Pa.C.S. § 3121 (relating to rape not less than five~~

years.

~~{18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse) — not less than five years.}~~

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

~~* * *~~

§ 9718. Sentences for offenses against infant persons.

(a) Mandatory sentence.--

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

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

18 Pa.C.S. § 3121(a)(1), (2), (3), (4), (5) and (6) (relating to {rape} ~~aggravated sexual assault~~) - not less than five years.

~~{18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse) - not less than five years.}~~

(2) A person convicted of the following offenses when the victim is less than 13 years of age shall be sentenced to a mandatory term or imprisonment as follows:

18 Pa.C.S. § 2702(a)(1) (relating to aggravated assault) - not less than five years.

18 Pa.C.S. § 3125(1) through (6) (relating to aggravated indecent assault) - not less than two and one-half years.

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

1 ~~§ 9719. Sentences for offenses committed while impersonating a~~ <—
2 ~~law enforcement officer.~~

3 ~~(a) Mandatory sentence. A person convicted of murder of the~~
4 ~~third degree, voluntary manslaughter, rape, involuntary deviate~~
5 ~~sexual intercourse, aggravated assault as defined in 18 Pa.C.S.~~
6 ~~§ 2702(a)(1) (relating to aggravated assault), robbery as~~
7 ~~defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating~~
8 ~~to robbery) or kidnapping or who is convicted of attempt to~~
9 ~~commit any of these crimes shall, if the person was~~
10 ~~impersonating a law enforcement officer during the commission of~~
11 ~~the offense, be sentenced to a minimum sentence of at least~~
12 ~~three years of total confinement notwithstanding any other~~
13 ~~provision of this title or other statute to the contrary.~~

14 * * *

15 § 9729. Intermediate punishment.

16 * * *

17 (c) Ineligibility.--

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

20 18 Pa.C.S. § 2502 (relating to murder).

21 18 Pa.C.S. § 2503 (relating to voluntary
22 manslaughter).

23 18 Pa.C.S. § 2702 (relating to aggravated assault).

24 18 Pa.C.S. § 2703 (relating to assault by prisoner).

25 18 Pa.C.S. § 2704 (relating to assault by life
26 prisoner).

27 18 Pa.C.S. § 2901 (relating to kidnapping).

28 18 Pa.C.S. § 3121 (relating to ~~rape~~ aggravated <—
29 sexual assault).

30 [18 Pa.C.S. § 3122 (relating to statutory rape).] <—

1 18 Pa.C.S. § 3122.1 (RELATING TO STATUTORY SEXUAL <—
2 ASSAULT).

3 18 Pa.C.S. § 3123 (relating to involuntary deviate
4 sexual intercourse).‡ <—

5 ~~18 Pa.C.S. § 3122.1 (relating to statutory sexual~~ <—
6 ~~assault).~~

7 18 Pa.C.S. § 3124.1 (relating to sexual assault).

8 18 Pa.C.S. § 3125 (relating to aggravated indecent
9 assault).

10 18 Pa.C.S. § 3126 (relating to indecent assault).

11 18 Pa.C.S. § 3301 (relating to arson and related
12 offenses).

13 18 Pa.C.S. § 3701 (relating to robbery).

14 18 Pa.C.S. § 3923 (relating to theft by extortion).

15 18 Pa.C.S. § 4302 (relating to incest).

16 18 Pa.C.S. § 5121 (relating to escape).

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

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

26 Section ~~17~~ 18. The amendment or addition of 18 Pa.C.S. §§ <—
27 3101, 3102, 3105, 3106, 3121, 3122.1, 3123, 3124.1, 3125, 3126, <—
28 3127, 4302, 4303, 5902(e) and 6312 shall apply to offenses
29 committed on or after the effective date of this act.

30 Section ~~18~~ 19. This act shall take effect in 60 days. <—