

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL****No. 834** Session of  
2001

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INTRODUCED BY EARLL, LEMMOND, TOMLINSON, MELLOW, COSTA, ROBBINS,  
BELL, SCHWARTZ, TARTAGLIONE, TILGHMAN, ERICKSON, BODACK,  
WAUGH, ORIE, BOSCOLA, MUSTO, RHOADES AND STACK, MAY 2, 2001

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SENATOR GREENLEAF, JUDICIARY, AS AMENDED, MAY 8, 2001

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## AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for sexual abuse of  
3 children; and providing for unlawful use of a computer for  
4 solicitation of a minor.

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

7 Section 1. Section 6312(c) and (d) of Title 18 of the  
8 Pennsylvania Consolidated Statutes are amended to read:

9 § 6312. Sexual abuse of children.

10 \* \* \*

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

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

1 material depicting a child under the age of 18 years engaging  
2 in a prohibited sexual act or in the simulation of such act  
3 [is guilty of a felony of the third degree] commits an  
4 offense.

5 (2) A first offense under this subsection is a felony of  
6 the third degree and a second or subsequent offense under  
7 this subsection is a felony of the second degree.

8 (d) Possession of child pornography.--

9 (1) Any person who knowingly possesses or controls any  
10 book, magazine, pamphlet, slide, photograph, film, videotape,  
11 computer depiction or other material depicting a child under  
12 the age of 18 years engaging in a prohibited sexual act or in  
13 the simulation of such act [is guilty of a felony of the  
14 third degree] commits an offense.

15 (2) A first offense under this subsection is a felony of  
16 the third degree and a second or subsequent offense under  
17 this subsection is a felony of the second degree.

18 \* \* \*

19 Section 2. Title 18 is amended by adding a section to read:

20 § 6312.1. Unlawful use of a computer for solicitation of a  
21 minor.

22 ~~(a) Offense defined. A person commits an offense if through~~ <—  
23 ~~the use of a computer, with the intent of promoting or~~  
24 ~~facilitating its commission, he commands, encourages or requests~~  
25 ~~a minor to engage in specific conduct which would constitute a~~  
26 ~~crime or an attempt to commit a crime prohibited under the~~  
27 ~~following provisions of this title:~~

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

29 ~~Section 3123 (relating to involuntary deviate sexual~~  
30 ~~intercourse).~~

1     (A) OFFENSE DEFINED.--A PERSON COMMITS AN OFFENSE IF THROUGH <—  
2     THE USE OF A COMPUTER, AND WITH THE INTENT OF PROMOTING OR  
3     FACILITATING THE COMMISSION OF ANY OF THE OFFENSES ENUMERATED  
4     UNDER SUBSECTION (B), HE:

5         (1) COMMANDS, ENCOURAGES OR REQUESTS A MINOR TO ENGAGE  
6         IN SPECIFIC CONDUCT WHICH WOULD CONSTITUTE AN OFFENSES; OR

7         (2) COMMANDS, ENCOURAGES OR REQUESTS A PERSON TO PROCURE  
8         A MINOR TO ENGAGE IN SPECIFIC CONDUCT WHICH WOULD CONSTITUTE  
9         AN OFFENSE.

10     (B) ENUMERATED OFFENSES.--THE FOLLOWING OFFENSES SHALL APPLY  
11     TO SUBSECTION (A):

12         SECTION 3121 (RELATING TO RAPE).

13         SECTION 3122.1 (RELATING TO STATUTORY SEXUAL ASSAULT).

14         SECTION 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL  
15         INTERCOURSE).

16         Section 3124.1 (relating to sexual assault).

17         Section 3125 (relating to aggravated indecent assault).

18         Section 3126 (relating to indecent assault).

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

20         ~~Section 6318 (relating to unlawful contact or~~ <—  
21         ~~communication with minor).~~

22         Section 6320 (relating to sexual exploitation of  
23         children).

24     ~~(b) (C) Grading.--A violation of subsection (a) is:~~ <—

25         (1) an offense of the same grade and degree as the most  
26         serious underlying offense under subsection (a) (B); or <—

27         (2) a felony of the second degree, whichever is greater.

28     ~~(e) (D) Concurrent jurisdiction to prosecute.--The Attorney~~ <—  
29     General shall have concurrent prosecutorial jurisdiction with  
30     the district attorney for violations under this section and any

1 crime arising out of the activity prohibited by this section. No  
2 person charged with a violation of this section by the Attorney  
3 General shall have standing to challenge the authority of the  
4 Attorney General to prosecute the case, and if any such  
5 challenge is made, the challenge shall be dismissed and no  
6 relief shall be available in the courts of this Commonwealth to  
7 the person making the challenge.

8 ~~(d)~~ (E) Definitions.--As used in this section, the following <—  
9 words and phrases shall have the meanings given to them in this  
10 subsection:

11 "Computer." An electronic, magnetic, optical, hydraulic,  
12 organic or other high-speed data processing device or system  
13 which performs logic, arithmetic or memory functions and  
14 includes all input, output, processing, storage, software or  
15 communication facilities which are connected or related to the  
16 device in a system or network.

17 "Computer network." The interconnection of two or more  
18 computers through the usage of satellite, microwave, line or  
19 other communication medium.

20 "Computer system." A set of related, connected or  
21 unconnected computer equipment, devices and software.

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