
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 834 Session of
2001

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

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
DECEMBER 12, 2001

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.~~ AND FOR UNLAWFUL CONTACT OR <—
5 COMMUNICATION WITH MINOR.

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

8 Section 1. ~~Section 6312(c) and (d)~~ SECTIONS 6312(C) AND (D) <—
9 AND 6318 of Title 18 of the Pennsylvania Consolidated Statutes
10 are amended to read:

11 § 6312. Sexual abuse of children.

12 * * *

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

15 (1) Any person who knowingly sells, distributes,
16 delivers, disseminates, transfers, displays or exhibits to
17 others, or who possesses for the purpose of sale,

1 distribution, delivery, dissemination, transfer, display or
2 exhibition to others, any book, magazine, pamphlet, slide,
3 photograph, film, videotape, computer depiction or other
4 material depicting a child under the age of 18 years engaging
5 in a prohibited sexual act or in the simulation of such act
6 [is guilty of a felony of the third degree] commits an
7 offense.

8 (2) A first offense under this subsection is a felony of
9 the third degree and a second or subsequent offense under
10 this subsection is a felony of the second degree.

11 (d) Possession of child pornography.--

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

18 (2) A first offense under this subsection is a felony of
19 the third degree and a second or subsequent offense under
20 this subsection is a felony of the second degree.

21 * * *

22 ~~Section 2. Title 18 is amended by adding a section to read:~~ <—
23 ~~§ 6312.1. Unlawful use of a computer for solicitation of a~~
24 ~~minor.~~

25 ~~(a) Offense defined. A person WHETHER WITHIN OR WITHOUT~~ <—
26 ~~THIS COMMONWEALTH commits an offense if through the use of a~~
27 ~~computer, and with the intent of promoting or facilitating the~~
28 ~~commission of any of the offenses enumerated under subsection~~
29 ~~(b), he:~~

30 ~~(1) commands, encourages or requests a minor to engage~~

~~in specific conduct which would constitute an offenses~~ <—

~~OFFENSE; or~~ <—

~~(2) commands, encourages or requests a person to procure
a minor to engage in specific conduct which would constitute
an offense.~~

~~(b) Enumerated offenses. The following offenses shall apply
to subsection (a):~~

~~Section 3121 (relating to rape).~~ <—

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

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

~~Section 3124.1 (relating to sexual assault).~~

~~Section 3125 (relating to aggravated indecent assault).~~

~~Section 3126 (relating to indecent assault).~~

~~ANY OF THE OFFENSES ENUMERATED IN CHAPTER 31 (RELATING TO
SEXUAL OFFENSES).~~ <—

~~SECTION 4302 (RELATING TO INCEST).~~

~~SECTION 5902(B) (RELATING TO PROSTITUTION AND RELATED
OFFENSES).~~

~~SECTION 5903 (RELATING TO OBSCENE AND OTHER SEXUAL
MATERIALS AND PERFORMANCES).~~

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

~~Section 6320 (relating to sexual exploitation of
children).~~

~~(c) Grading. A violation of subsection (a) is:~~

~~(1) an offense of the same grade and degree as the most
serious underlying offense under subsection (b); or~~

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

~~(d) Concurrent jurisdiction to prosecute. The Attorney
General shall have concurrent prosecutorial jurisdiction with~~

~~the district attorney for violations under this section and any crime arising out of the activity prohibited by this section. No person charged with a violation of this section by the Attorney General shall have standing to challenge the authority of the Attorney General to prosecute the case, and if any such challenge is made, the challenge shall be dismissed and no relief shall be available in the courts of this Commonwealth to the person making the challenge.~~

~~(c) Definitions. As used in this section, the following words and phrases shall have the meanings given to them in this subsection:~~

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

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

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

~~"MINOR." AN INDIVIDUAL UNDER 18 YEARS OF AGE.~~

§ 6318. UNLAWFUL CONTACT OR COMMUNICATION WITH MINOR.

(A) OFFENSE DEFINED.--A PERSON [WHETHER WITHIN OR WITHOUT THIS COMMONWEALTH] COMMITS AN OFFENSE IF HE, [KNOWING THAT HE IS CONTACTING OR COMMUNICATING WITH A MINOR WITHIN THIS COMMONWEALTH,] INTENTIONALLY CONTACTS [OR COMMUNICATES WITH THAT MINOR FOR THE PURPOSE OF ENGAGING IN] A MINOR OR SOMEONE HE BELIEVES IS PROBABLY A MINOR, OR SOMEONE WHO HOLDS HIMSELF OUT

1 TO BE A MINOR AND EITHER THE PERSON INITIATING THE CONTACT OR
2 THE PERSON BEING CONTACTED IS WITHIN THIS COMMONWEALTH TO ENGAGE
3 IN AN ACTIVITY PROHIBITED UNDER ANY OF THE FOLLOWING:

4 (1) ANY OF THE OFFENSES ENUMERATED IN CHAPTER 31
5 (RELATING TO SEXUAL OFFENSES).

6 (2) OPEN LEWDNESS AS DEFINED IN SECTION 5901 (RELATING
7 TO OPEN LEWDNESS).

8 (3) PROSTITUTION AS DEFINED IN SECTION 5902 (RELATING TO
9 PROSTITUTION AND RELATED OFFENSES).

10 (4) OBSCENE AND OTHER SEXUAL MATERIALS AND PERFORMANCES
11 AS DEFINED IN SECTION 5903 (RELATING TO OBSCENE AND OTHER
12 SEXUAL MATERIALS AND PERFORMANCES).

13 (5) SEXUAL ABUSE OF CHILDREN AS DEFINED IN SECTION 6312
14 (RELATING TO SEXUAL ABUSE OF CHILDREN).

15 (6) SEXUAL EXPLOITATION OF CHILDREN AS DEFINED IN
16 SECTION 6320 (RELATING TO SEXUAL EXPLOITATION OF CHILDREN).

17 (B) GRADING.--A VIOLATION OF SUBSECTION (A) IS:

18 (1) AN OFFENSE OF THE SAME GRADE AND DEGREE AS THE MOST
19 SERIOUS UNDERLYING OFFENSE IN SUBSECTION (A) FOR WHICH THE
20 DEFENDANT CONTACTED OR COMMUNICATED WITH THE MINOR; OR

21 (2) A MISDEMEANOR OF THE FIRST DEGREE;
22 WHICHEVER IS GREATER.

23 (B.1) CONCURRENT JURISDICTION TO PROSECUTE.--THE ATTORNEY
24 GENERAL SHALL HAVE CONCURRENT PROSECUTORIAL JURISDICTION WITH
25 THE DISTRICT ATTORNEY FOR VIOLATIONS UNDER THIS SECTION AND ANY
26 CRIME ARISING OUT OF THE ACTIVITY PROHIBITED BY THIS SECTION
27 WHEN THE PERSON CHARGED WITH A VIOLATION OF THIS SECTION
28 CONTACTS A MINOR THROUGH THE USE OF A COMPUTER, COMPUTER SYSTEM
29 OR COMPUTER NETWORK. NO PERSON CHARGED WITH A VIOLATION OF THIS
30 SECTION BY THE ATTORNEY GENERAL SHALL HAVE STANDING TO CHALLENGE

1 THE AUTHORITY OF THE ATTORNEY GENERAL TO PROSECUTE THE CASE,
2 AND, IF ANY SUCH CHALLENGE IS MADE, THE CHALLENGE SHALL BE
3 DISMISSED AND NO RELIEF SHALL BE AVAILABLE IN THE COURTS OF THIS
4 COMMONWEALTH TO THE PERSON MAKING THE CHALLENGE.

5 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
6 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
7 SUBSECTION:

8 "COMPUTER." AN ELECTRONIC, MAGNETIC, OPTICAL, HYDRAULIC,
9 ORGANIC OR OTHER HIGH-SPEED DATA PROCESSING DEVICE OR SYSTEM
10 WHICH PERFORMS LOGIC, ARITHMETIC OR MEMORY FUNCTIONS AND
11 INCLUDES ALL INPUT, OUTPUT, PROCESSING, STORAGE, SOFTWARE OR
12 COMMUNICATION FACILITIES WHICH ARE CONNECTED OR RELATED TO THE
13 DEVICE IN A COMPUTER SYSTEM OR COMPUTER NETWORK.

14 "COMPUTER NETWORK." THE INTERCONNECTION OF TWO OR MORE
15 COMPUTERS THROUGH THE USAGE OF SATELLITE, MICROWAVE, LINE OR
16 OTHER COMMUNICATION MEDIUM.

17 "COMPUTER SYSTEM." A SET OF RELATED, CONNECTED OR
18 UNCONNECTED COMPUTER EQUIPMENT, DEVICES AND SOFTWARE.

19 "CONTACTS [OR COMMUNICATES WITH]." DIRECT OR INDIRECT
20 CONTACT OR COMMUNICATION BY ANY MEANS, METHOD OR DEVICE,
21 INCLUDING CONTACT OR COMMUNICATION IN PERSON OR THROUGH AN AGENT
22 OR AGENCY, THROUGH ANY PRINT MEDIUM, THE MAILS, A COMMON CARRIER
23 OR COMMUNICATION COMMON CARRIER, ANY ELECTRONIC COMMUNICATION
24 SYSTEM AND ANY TELECOMMUNICATIONS, WIRE, COMPUTER OR RADIO
25 COMMUNICATIONS DEVICE OR SYSTEM.

26 "MINOR." AN INDIVIDUAL UNDER 18 YEARS OF AGE.

27 Section 3 2. This act shall take effect in 60 days.

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