
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, STACK AND MURPHY,
MAY 2, 2001

SENATE AMENDMENTS TO HOUSE AMENDMENTS, OCTOBER 1, 2002

AN ACT

1 Amending ~~Title 18 (Crimes and Offenses)~~ TITLES 18 (CRIMES AND <—
2 OFFENSES) AND 42 (JUDICIARY AND JUDICIAL PROCEDURE) of the
3 Pennsylvania Consolidated Statutes, further providing for
4 sexual abuse of children and for unlawful contact or
5 communication with minor; AND MAKING EDITORIAL CHANGES. <—

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

8 Section 1. Sections 5708(1), 6312(c) and (d) and 6318 of <—
9 Title 18 of the Pennsylvania Consolidated Statutes are amended
10 to read:

11 § 5708. ORDER AUTHORIZING INTERCEPTION OF WIRE, ELECTRONIC OR <—
12 ORAL COMMUNICATIONS.

13 THE ATTORNEY GENERAL, OR, DURING THE ABSENCE OR INCAPACITY OF
14 THE ATTORNEY GENERAL, A DEPUTY ATTORNEY GENERAL DESIGNATED IN
15 WRITING BY THE ATTORNEY GENERAL, OR THE DISTRICT ATTORNEY OR,
16 DURING THE ABSENCE OR INCAPACITY OF THE DISTRICT ATTORNEY, AN
17 ASSISTANT DISTRICT ATTORNEY DESIGNATED IN WRITING BY THE

1 DISTRICT ATTORNEY OF THE COUNTY WHEREIN THE INTERCEPTION IS TO
2 BE MADE, MAY MAKE WRITTEN APPLICATION TO ANY SUPERIOR COURT
3 JUDGE FOR AN ORDER AUTHORIZING THE INTERCEPTION OF A WIRE,
4 ELECTRONIC OR ORAL COMMUNICATION BY THE INVESTIGATIVE OR LAW
5 ENFORCEMENT OFFICERS OR AGENCY HAVING RESPONSIBILITY FOR AN
6 INVESTIGATION INVOLVING SUSPECTED CRIMINAL ACTIVITIES WHEN SUCH
7 INTERCEPTION MAY PROVIDE EVIDENCE OF THE COMMISSION OF ANY OF
8 THE FOLLOWING OFFENSES, OR MAY PROVIDE EVIDENCE AIDING IN THE
9 APPREHENSION OF THE PERPETRATOR OR PERPETRATORS OF ANY OF THE
10 FOLLOWING OFFENSES:

11 (1) UNDER THIS TITLE:

12 SECTION 911 (RELATING TO CORRUPT ORGANIZATIONS)

13 SECTION 2501 (RELATING TO CRIMINAL HOMICIDE)

14 SECTION 2502 (RELATING TO MURDER)

15 SECTION 2503 (RELATING TO VOLUNTARY MANSLAUGHTER)

16 SECTION 2702 (RELATING TO AGGRAVATED ASSAULT)

17 SECTION 2706 (RELATING TO TERRORISTIC THREATS)

18 SECTION 2709(B) (RELATING TO HARASSMENT AND STALKING)

19 SECTION 2716 (RELATING TO WEAPONS OF MASS

20 DESTRUCTION)

21 SECTION 2901 (RELATING TO KIDNAPPING)

22 SECTION 3121 (RELATING TO RAPE)

23 SECTION 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL

24 INTERCOURSE)

25 SECTION 3124.1 (RELATING TO SEXUAL ASSAULT)

26 SECTION 3125 (RELATING TO AGGRAVATED INDECENT

27 ASSAULT)

28 SECTION 3301 (RELATING TO ARSON AND RELATED OFFENSES)

29 SECTION 3302 (RELATING TO CAUSING OR RISKING

30 CATASTROPHE)

1 SECTION 3502 (RELATING TO BURGLARY)
2 SECTION 3701 (RELATING TO ROBBERY)
3 SECTION 3921 (RELATING TO THEFT BY UNLAWFUL TAKING OR
4 DISPOSITION)
5 SECTION 3922 (RELATING TO THEFT BY DECEPTION)
6 SECTION 3923 (RELATING TO THEFT BY EXTORTION)
7 SECTION 4701 (RELATING TO BRIBERY IN OFFICIAL AND
8 POLITICAL MATTERS)
9 SECTION 4702 (RELATING TO THREATS AND OTHER IMPROPER
10 INFLUENCE IN OFFICIAL AND POLITICAL MATTERS)
11 SECTION 5512 (RELATING TO LOTTERIES, ETC.)
12 SECTION 5513 (RELATING TO GAMBLING DEVICES, GAMBLING,
13 ETC.)
14 SECTION 5514 (RELATING TO POOL SELLING AND
15 BOOKMAKING)
16 SECTION 5516 (RELATING TO FACSIMILE WEAPONS OF MASS
17 DESTRUCTION)
18 SECTION 6318 (RELATING TO UNLAWFUL CONTACT [OR
19 COMMUNICATION] WITH MINOR)

20 * * *

21 § 6312. Sexual abuse of children.

22 * * *

23 (c) Dissemination of photographs, videotapes, computer
24 depictions and films.--

25 (1) Any person who knowingly sells, distributes,
26 delivers, disseminates, transfers, displays or exhibits to
27 others, or who possesses for the purpose of sale,
28 distribution, delivery, dissemination, transfer, display or
29 exhibition to others, any book, magazine, pamphlet, slide,
30 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 § 6318. Unlawful contact [or communication] with minor. <—

20 (a) Offense defined.--A person [whether within or without
21 this Commonwealth] commits an offense if he OR SHE[, {KNOWING <—
22 THAT HE IS CONTACTING OR COMMUNICATING WITH A MINOR WITHIN THIS
23 COMMONWEALTH,] INTENTIONALLY CONTACTS [OR COMMUNICATES WITH
24 THAT] A minor [for the purpose of engaging in] a minor or <—
25 someone he believes is probably a minor, or someone who holds
26 himself out to be a minor,, and either the person initiating the
27 contact or the person MINOR being contacted is within this <—
28 Commonwealth to engage, FOR THE PURPOSE OF ENGAGING in an <—
29 activity prohibited under any of the following:

30 (1) Any of the offenses enumerated in Chapter 31

(relating to sexual offenses).

(2) Open lewdness as defined in section 5901 (relating to open lewdness).

(3) Prostitution as defined in section 5902 (relating to prostitution and related offenses).

(4) Obscene and other sexual materials and performances as defined in section 5903 (relating to obscene and other sexual materials and performances).

(5) Sexual abuse of children as defined in section 6312 (relating to sexual abuse of children).

(6) Sexual exploitation of children as defined in section 6320 (relating to sexual exploitation of children).

(b) Grading.--A violation of subsection (a) is:

(1) an offense of the same grade and degree as the most serious underlying offense in subsection (a) for which the defendant contacted or communicated with the minor; or

(2) a misdemeanor of the first degree; whichever is greater.

(b.1) 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 when the person charged with a violation of this section contacts a minor through the use of a computer, computer system or computer network. 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.

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

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

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

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

15 "Contacts [or communicates with]." Direct or indirect
16 contact or communication by any means, method or device,
17 including contact or communication in person or through an agent
18 or agency, through any print medium, the mails, a common carrier
19 or communication common carrier, any electronic communication
20 system and any telecommunications, wire, computer or radio
21 communications device or system.

22 "Minor." An individual under 18 years of age.

23 SECTION 2. THE DEFINITION OF "FELONY SEX OFFENSE" IN SECTION <—
24 4703 OF TITLE 42 IS AMENDED TO READ:

25 § 4703. DEFINITIONS.

26 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
27 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
28 CONTEXT CLEARLY INDICATES OTHERWISE:

29 * * *

30 "FELONY SEX OFFENSE." A FELONY OFFENSE OR AN ATTEMPT,

1 CONSPIRACY OR SOLICITATION TO COMMIT A FELONY OFFENSE UNDER ANY
2 OF THE FOLLOWING:

3 18 PA.C.S. CH. 31 (RELATING TO SEXUAL OFFENSES).

4 18 PA.C.S. § 4302 (RELATING TO INCEST).

5 18 PA.C.S. § 5902(C)(1)(I)(III) AND (IV) (RELATING TO
6 PROSTITUTION AND RELATED OFFENSES).

7 18 PA.C.S. § 5903(A) (RELATING TO OBSCENE AND OTHER
8 SEXUAL MATERIALS AND PERFORMANCES) WHERE THE OFFENSE
9 CONSTITUTES A FELONY.

10 18 PA.C.S. § 6312 (RELATING TO SEXUAL ABUSE OF CHILDREN).

11 18 PA.C.S. § 6318 (RELATING TO UNLAWFUL CONTACT [OR
12 COMMUNICATION] WITH MINOR) WHERE THE MOST SERIOUS UNDERLYING
13 OFFENSE FOR WHICH THE DEFENDANT CONTACTED [OR COMMUNICATED
14 WITH] THE MINOR IS GRADED AS A FELONY.

15 18 PA.C.S. § 6320 (RELATING TO SEXUAL EXPLOITATION OF
16 CHILDREN).

17 * * *

18 SECTION 3. SECTIONS 9718.1(A) AND 9795.1(A)(1) OF TITLE 42
19 ARE AMENDED TO READ:

20 § 9718.1. SEXUAL OFFENDER TREATMENT.

21 (A) GENERAL RULE.--A PERSON, INCLUDING AN OFFENDER
22 DESIGNATED AS A "SEXUALLY VIOLENT PREDATOR" AS DEFINED IN
23 SECTION 9792 (RELATING TO DEFINITIONS), SHALL ATTEND AND
24 PARTICIPATE IN A DEPARTMENT OF CORRECTIONS PROGRAM OF COUNSELING
25 OR THERAPY DESIGNED FOR INCARCERATED SEX OFFENDERS IF THE PERSON
26 IS INCARCERATED IN A STATE INSTITUTION FOR ANY OF THE FOLLOWING
27 PROVISIONS UNDER 18 PA.C.S. (RELATING TO CRIMES AND OFFENSES):

28 (1) ANY OF THE OFFENSES ENUMERATED IN CHAPTER 31
29 (RELATING TO SEXUAL OFFENSES) IF THE OFFENSE INVOLVED A MINOR
30 UNDER 18 YEARS OF AGE.

1 (2) SECTION 4304 (RELATING TO ENDANGERING WELFARE OF
2 CHILDREN) IF THE OFFENSE INVOLVED SEXUAL CONTACT WITH THE
3 VICTIM.

4 (3) SECTION 6301 (RELATING TO CORRUPTION OF MINORS) IF
5 THE OFFENSE INVOLVED SEXUAL CONTACT WITH THE VICTIM.

6 (4) OPEN LEWDNESS, AS DEFINED IN SECTION 5901 (RELATING
7 TO OPEN LEWDNESS), IF THE OFFENSE INVOLVED A MINOR UNDER 18
8 YEARS OF AGE.

9 (5) PROSTITUTION, AS DEFINED IN SECTION 5902 (RELATING
10 TO PROSTITUTION AND RELATED OFFENSES), IF THE OFFENSE
11 INVOLVED A MINOR UNDER 18 YEARS OF AGE.

12 (6) OBSCENE AND OTHER SEXUAL MATERIALS AND PERFORMANCES,
13 AS DEFINED IN SECTION 5903 (RELATING TO OBSCENE AND OTHER
14 SEXUAL MATERIALS AND PERFORMANCES), IF THE OFFENSE INVOLVED A
15 MINOR UNDER 18 YEARS OF AGE.

16 (7) SEXUAL ABUSE OF CHILDREN, AS DEFINED IN SECTION 6312
17 (RELATING TO SEXUAL ABUSE OF CHILDREN).

18 (8) SECTION 6318 (RELATING TO UNLAWFUL CONTACT [OR
19 COMMUNICATION] WITH MINOR).

20 (9) SECTION 6320 (RELATING TO SEXUAL EXPLOITATION OF
21 CHILDREN).

22 (10) SECTION 4302 (RELATING TO INCEST) IF THE OFFENSE
23 INVOLVED A MINOR UNDER 18 YEARS OF AGE.

24 (11) AN ATTEMPT OR SOLICITATION TO COMMIT ANY OF THE
25 OFFENSES LISTED IN THIS SUBSECTION.

26 * * *

27 § 9795.1. REGISTRATION.

28 (A) TEN-YEAR REGISTRATION.--THE FOLLOWING INDIVIDUALS SHALL
29 BE REQUIRED TO REGISTER WITH THE PENNSYLVANIA STATE POLICE FOR A
30 PERIOD OF TEN YEARS:

1 (1) INDIVIDUALS CONVICTED OF ANY OF THE FOLLOWING
2 OFFENSES:

3 18 PA.C.S. § 2901 (RELATING TO KIDNAPPING) WHERE THE
4 VICTIM IS A MINOR.

5 18 PA.C.S. § 3126 (RELATING TO INDECENT ASSAULT)
6 WHERE THE OFFENSE IS A MISDEMEANOR OF THE FIRST DEGREE.

7 18 PA.C.S. § 4302 (RELATING TO INCEST) WHERE THE
8 VICTIM IS 12 YEARS OF AGE OR OLDER BUT UNDER 18 YEARS OF
9 AGE.

10 18 PA.C.S. § 5902(B) (RELATING TO PROSTITUTION AND
11 RELATED OFFENSES) WHERE THE ACTOR PROMOTES THE
12 PROSTITUTION OF A MINOR.

13 18 PA.C.S. § 5903(A)(3), (4), (5) OR (6) (RELATING TO
14 OBSCENE AND OTHER SEXUAL MATERIALS AND PERFORMANCES)
15 WHERE THE VICTIM IS A MINOR.

16 18 PA.C.S. § 6312 (RELATING TO SEXUAL ABUSE OF
17 CHILDREN).

18 18 PA.C.S. § 6318 (RELATING TO UNLAWFUL CONTACT [OR
19 COMMUNICATION] WITH MINOR).

20 18 PA.C.S. § 6320 (RELATING TO SEXUAL EXPLOITATION OF
21 CHILDREN).

22 (2) INDIVIDUALS CONVICTED OF AN ATTEMPT TO COMMIT ANY OF
23 THE OFFENSES UNDER PARAGRAPH (1) OR SUBSECTION (B)(2).

24 * * *

25 Section ~~2~~ 4. This act shall take effect in 60 days.

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