

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 874 Session of 2001

INTRODUCED BY COSTA, MELLOW, MUSTO, BOSCOLA, LOGAN, ROBBINS, PUNT, RHOADES, WOZNIAK AND STACK, MAY 11, 2001

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, FEBRUARY 5, 2002

AN ACT

1 Amending ~~Title~~ TITLES 18 (CRIMES AND OFFENSES) AND 42 (Judiciary <—
2 and Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, further providing FOR RAPE, FOR INVOLUNTARY DEVIATE <—
4 SEXUAL INTERCOURSE AND FOR sentences for offenses against
5 infant persons.

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

8 ~~Section 1. Section 9718 of Title 42 of the Pennsylvania <—
9 Consolidated Statutes is amended to read:~~

10 SECTION 1. SECTIONS 3121 AND 3123 OF TITLE 18 OF THE <—
11 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED BY ADDING
12 SUBSECTIONS TO READ:

13 § 3121. RAPE.

14 * * *

15 (C) RAPE OF A CHILD.--NOTWITHSTANDING SECTION 1103(1)
16 (RELATING TO SENTENCE OF IMPRISONMENT FOR FELONY), A PERSON WHO
17 HAS BEEN CONVICTED OF AN OFFENSE UNDER THIS SECTION SHALL BE
18 SENTENCED TO A MAXIMUM TERM OF LIFE IMPRISONMENT UNDER 42
19 PA.C.S. § 9718 (RELATING TO SENTENCES FOR OFFENSES AGAINST

1 INFANT PERSONS) IF THE VICTIM IS UNDER 13 YEARS OF AGE AND THE
2 OFFENSE INCLUDES SERIOUS BODILY INJURY AS DEFINED IN SECTION
3 2301 (RELATING TO DEFINITIONS).

4 § 3123. INVOLUNTARY DEVIATE SEXUAL INTERCOURSE.

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6 (C) INVOLUNTARY DEVIATE SEXUAL INTERCOURSE WITH A CHILD.--
7 NOTWITHSTANDING SECTION 1103(1) (RELATING TO SENTENCE OF
8 IMPRISONMENT FOR FELONY), A PERSON WHO HAS BEEN CONVICTED OF AN
9 OFFENSE UNDER THIS SECTION SHALL BE SENTENCED TO A MAXIMUM TERM
10 OF LIFE IMPRISONMENT UNDER 42 PA.C.S. § 9718 (RELATING TO
11 SENTENCES FOR OFFENSES AGAINST INFANT PERSONS) IF THE VICTIM IS
12 UNDER 13 YEARS OF AGE AND THE OFFENSE INCLUDES SERIOUS BODILY
13 INJURY AS DEFINED IN SECTION 2301 (RELATING TO DEFINITIONS).

14 SECTION 2. SECTION 9718 OF TITLE 42 IS AMENDED TO READ:

15 § 9718. Sentences for offenses against infant persons.

16 (a) Mandatory sentence.--

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

20 18 Pa.C.S. § 2702(a)(1) and (4) (relating to aggravated
21 assault) - not less than two years.

22 18 Pa.C.S. § 3121(1), (2), (3), (4), (5) and (6)
23 (relating to rape) - not less than five years.

24 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
25 intercourse) - not less than five years.

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

29 18 Pa.C.S. § 2702(a)(1) (relating to aggravated assault)
30 - not less than five years.

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

3 ~~(a.1) Life imprisonment provision. Notwithstanding any~~ ←
4 ~~other provision of law to the contrary, a person convicted of~~
5 ~~the following offenses shall be sentenced to a term of life~~
6 ~~imprisonment when the victim is 13 years of age or younger and~~
7 ~~the offense includes serious bodily injury as defined in 18~~
8 ~~Pa.C.S. § 2301 (relating to definitions):~~

9 (A.1) LIFE IMPRISONMENT PROVISION.--WHEN THE VICTIM IS UNDER ←
10 13 YEARS OF AGE AND THE OFFENSE ENUMERATED IN THIS SUBSECTION
11 INCLUDES SERIOUS BODILY INJURY AS DEFINED IN 18 PA.C.S. § 2301
12 (RELATING TO DEFINITIONS) A PERSON CONVICTED OF SUCH OFFENSE
13 SHALL BE SENTENCED TO A PERIOD OF INCARCERATION UP TO THE
14 PERSON'S LIFETIME:

15 18 Pa.C.S. § 3121.

16 18 Pa.C.S. § 3123.

17 (b) Eligibility for parole.--~~{Parole} Except as provided in~~ ←
18 ~~subsection (a.1), parole~~ shall not be granted until the minimum
19 term of imprisonment has been served.

20 (c) Authority of court in sentencing.--There shall be no
21 authority in any court to impose on an offender to which this
22 section is applicable any lesser sentence than provided for in
23 ~~subsections (a) and (a.1)~~ SUBSECTION (A) or to place such ←
24 offender on probation or to suspend sentence. Nothing in this
25 section shall prevent the sentencing court from imposing a
26 sentence greater than that provided in this section. Sentencing
27 guidelines promulgated by the Pennsylvania Commission on
28 Sentencing shall not supersede the mandatory sentences provided
29 in this section.

30 (d) Appeal by Commonwealth.--If a sentencing court shall

1 refuse to apply this section where applicable, the Commonwealth
2 shall have the right to appellate review of the action of the
3 sentencing court. The appellate court shall vacate the sentence
4 and remand the case to the sentencing court for the imposition
5 of a sentence in accordance with this section if it finds that
6 the sentence was imposed in violation of this section.

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

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