

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1026 Session of  
2005

INTRODUCED BY GREENLEAF, COSTA, RAFFERTY, LEMMOND, BOSCOLA,  
BROWNE, FONTANA, C. WILLIAMS, REGOLA, STACK AND PILEGGI,  
NOVEMBER 22, 2005

REFERRED TO JUDICIARY, NOVEMBER 22, 2005

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, providing for offense of failure to  
3 report serious violent or sexual crimes against children.

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

6 Section 1. Title 18 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a section to read:

8 § 5106.1. Failure to report serious violent or sexual crimes  
9 against children.

10 (a) Offense defined.--A person enumerated in subsection (c)  
11 commits an offense if the person willfully fails to report  
12 within 72 hours by telephone or in writing to a criminal law  
13 enforcement authority when the person knows or has reasonable  
14 cause to suspect that a serious violent or sexual crime against  
15 children as defined in subsection (d) has been committed against  
16 a child under the care, supervision, guidance or training of the  
17 person or an agency, institution, organization or other entity  
18 with which the person is affiliated, whether the suspected crime

1 occurred within this Commonwealth or not.

2 (b) Privileges.--The privilege for communications between  
3 any professional person required to report and the patient or  
4 client of that person shall not apply to situations involving  
5 serious violent or sexual crimes against children unless:

6 (1) the confidential communication is made by the  
7 perpetrator of a serious violent or sexual crime against  
8 children to an ordained member of the clergy which is  
9 protected by 42 Pa.C.S. § 5943 (relating to confidential  
10 communications to clergymen); or

11 (2) the confidential communication is made by the victim  
12 of a serious violent or sexual crime against children to a  
13 sexual assault counselor, as defined by 42 Pa.C.S. § 5945.1  
14 (relating to confidential communications with sexual assault  
15 counselors).

16 (c) Mandatory reporters.--

17 (1) Persons engaged in professions with a significantly  
18 greater likelihood of discovering serious violent or sexual  
19 crimes against children due to medical, professional or other  
20 training or experience are mandatory reporters under this  
21 section. Such mandatory reporters include, but are not  
22 limited to, any licensed physician, osteopath, medical  
23 examiner, coroner, funeral director, dentist, optometrist,  
24 chiropractor, podiatrist, intern, registered nurse, licensed  
25 practical nurse, hospital personnel engaged in the admission,  
26 examination care or treatment of persons, Christian Science  
27 practitioner, member of the clergy, school administrator,  
28 school teacher, school counselor, school nurse, social  
29 service worker, day-care center worker, or any other child-  
30 care or foster-care worker, mental health professional, peace

1 officer or law enforcement official.

2 (2) Persons who voluntarily provide care, supervision,  
3 guidance or training to children through athletic,  
4 recreational or social organizations are also mandatory  
5 reporters under this section.

6 (d) Serious violent or sexual crimes against children.--For  
7 purposes of this section, the phrase "crime against children"  
8 means an offense committed against a minor under 18 years of age  
9 that causes or attempts to cause serious bodily injury or is  
10 defined by one of the following provisions of this title:

11 Section 1102(c) (relating to attempt, solicitation and  
12 conspiracy to commit murder or murder of an unborn child).

13 Section 2502 (relating to murder).

14 Section 2503 (relating to voluntary manslaughter).

15 Section 2702(a)(4) (relating to aggravated assault).

16 Section 2901 (relating to kidnapping).

17 Section 3121 (relating to rape).

18 Section 3122.1 (relating to statutory sexual assault).

19 Section 3123 (relating to involuntary deviate sexual  
20 intercourse).

21 Section 3124.1 (relating to sexual assault).

22 Section 3125 (relating to aggravated indecent assault).

23 Section 3126 (relating to indecent assault) where there  
24 appears to be a course of conduct of indecent assault by the  
25 perpetrator.

26 Section 4304 (relating to endangering welfare of  
27 children) where the offense constitutes sexual abuse or  
28 exploitation as set forth in 23 Pa.C.S. § 6303 (relating to  
29 definitions) and there appears to be a course of conduct of  
30 endangering welfare of children by the person.

1       Section 6301 (relating to corruption of minors) where the  
2       offense constitutes sexual abuse or exploitation as set forth  
3       in 23 Pa.C.S. § 6303 and there has been a course of conduct  
4       of corruption of minors by the person.

5       Section 6320 (relating to sexual exploitation of  
6       children).

7       (e) Grading.--

8       (1) A violation of this section by a professional  
9       mandated reporter as defined in subsection (c)(1) constitutes  
10      a misdemeanor of the second degree.

11      (2) A violation of this section by a volunteer mandated  
12      reporter as defined in subsection (c)(2) constitutes a  
13      summary offense.

14      (f) Retaliatory action prohibited.--No employee may  
15      discharge, threaten or otherwise discriminate or retaliate  
16      against an employee regarding the employer's compensation,  
17      terms, conditions, location, duties or privileges of employment  
18      because the employee has reported, reports or is about to report  
19      suspected crimes against children.

20      (g) Reciprocity between law enforcement and county services  
21      agencies.--If the alleged perpetrator of a crime enumerated in  
22      subsection (d) is the parent of a child or resides with the  
23      child, the criminal law enforcement authority shall immediately  
24      notify the county agency responsible for investigating child  
25      abuse as defined by 23 Pa.C.S. § 6303. Pursuant to 23 Pa.C.S. §  
26      6368(d) (relating to investigation of reports), reports received  
27      by a county agency that cannot be investigated in accordance  
28      with 23 Pa.C.S. Ch. 63 (relating to child protective services)  
29      shall immediately be forwarded to the appropriate criminal law  
30      enforcement authority.

1     (h) Immunity from liability.--A person enumerated in  
2     subsection (c) who files a report with the Department of Public  
3     Welfare in accordance with 23 Pa.C.S. § 6313 (relating to  
4     reporting procedure) shall have immunity from criminal liability  
5     that might otherwise result from a violation of this section.

6     (i) Child Protective Services Law.--The provisions of this  
7     section shall not be deemed to supersede or otherwise revoke any  
8     provisions of 23 Pa.C.S. Ch. 63.

9     (j) Establishment of a toll-free telephone number for  
10    reporting.--The Pennsylvania State Police shall establish a  
11    Statewide toll-free telephone number that all persons, whether  
12    mandated by this section or not, may use to report suspected  
13    crimes against children, regardless of the jurisdiction in which  
14    the suspected crime occurred.

15    (k) Regulations.--The Pennsylvania State Police shall adopt  
16    and promulgate regulations necessary to implement this section  
17    and shall make an annual recommendation to the General Assembly  
18    for appropriations to achieve such implementation.

19    (l) Definitions.--As used in this section, the following  
20    words and phrases shall have the meanings given to them in this  
21    subsection:

22    "Criminal law enforcement authority." Any State or local  
23    government agency or organization having jurisdiction over  
24    criminal law enforcement; or an officer, agent or supervisory  
25    employee of that agency or organization.

26    "Employee." A person who performs a service for wages or  
27    other remuneration under a contract of hire, written or oral,  
28    express or implied, for an employer.

29    "Employer." An agency or organization whose employees are  
30    enumerated in subsection (c) as mandatory reporters. The term

1 includes, but is not limited to, child-care facilities, school  
2 districts and religious organizations.

3       Section 2. The provisions of 18 Pa.C.S. § 5106.1 shall apply  
4 to any mandatory reporter who on or after the effective date of  
5 this act initially knows or has reasonable cause to suspect that  
6 a serious violent or sexual crime against a child has been  
7 committed.

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