

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 601 Session of 2011

INTRODUCED BY MURPHY, DeLUCA, FABRIZIO, HORNAMAN, KNOWLES,  
KORTZ, MICOZZIE, MOUL, MURT, PYLE, SANTARSIERO, SCHRODER,  
K. SMITH AND VULAKOVICH, FEBRUARY 10, 2011

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 10, 2011

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, further providing for  
3 sentences for offenses against infant persons.

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

6 Section 1. Section 9718 of Title 42 of the Pennsylvania  
7 Consolidated Statutes is amended to read:

8 § 9718. Sentences for offenses against infant persons.

9 (a) Mandatory sentence.--

10 (1) A person convicted of the following offenses when  
11 the victim is under [16] 13 years of age shall be sentenced  
12 to a mandatory term of imprisonment as follows:

13 18 Pa.C.S. § 2702(a)(1) and (4) (relating to aggravated  
14 assault) - not less than two years.

15 18 Pa.C.S. § 3121(a)(1), (2), (3), (4) and (5) (relating  
16 to rape) - not less than ten years.

17 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual  
18 intercourse) - not less than ten years.

1 18 Pa.C.S. § 3125(a) (1) through (6) (relating to  
2 aggravated indecent assault) - not less than five years.

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

6 18 Pa.C.S. § 2502(c) (relating to murder) - not less than  
7 ten years, only as to murder in the third degree.

8 18 Pa.C.S. § 2503 (relating to voluntary manslaughter) -  
9 not less than ten years.

10 18 Pa.C.S. § 2506 (relating to drug delivery resulting in  
11 death) - not less than five years.

12 18 Pa.C.S. § 2702(a) (1) - not less than five years.

13 (3) A person convicted of the following offenses shall  
14 be sentenced to a mandatory term of imprisonment as follows:

15 18 Pa.C.S. § 3121(c) and (d) - not less than ten years.

16 18 Pa.C.S. § 3125(a) (7) - not less than five years.

17 18 Pa.C.S. § 3125(b) - not less than ten years.

18 (b) Eligibility for parole.--Parole shall not be granted  
19 until the minimum term of imprisonment has been served.

20 (c) Proof at sentencing.--The provisions of this section  
21 shall not be an element of the crime, and notice of the  
22 provisions of this section to the defendant shall not be  
23 required prior to conviction, but reasonable notice of the  
24 Commonwealth's intention to proceed under this section shall be  
25 provided after conviction and before sentencing. The  
26 applicability of this section shall be determined at sentencing.  
27 The court shall consider any evidence presented at trial and  
28 shall afford the Commonwealth and the defendant an opportunity  
29 to present any necessary additional evidence and shall  
30 determine, by a preponderance of the evidence, if this section

1 is applicable.

2 (d) Authority of court in sentencing.--There shall be no  
3 authority in any court to impose on an offender to which this  
4 section is applicable any lesser sentence than provided for in  
5 subsection (a) or to place the offender on probation or to  
6 suspend sentence. Nothing in this section shall prevent the  
7 sentencing court from imposing a sentence greater than that  
8 provided in this section. Sentencing guidelines promulgated by  
9 the Pennsylvania Commission on Sentencing shall not supersede  
10 the mandatory sentences provided in this section.

11 (e) Appeal by Commonwealth.--If a sentencing court refuses  
12 to apply this section where applicable, the Commonwealth shall  
13 have the right to appellate review of the action of the  
14 sentencing court. The appellate court shall vacate the sentence  
15 and remand the case to the sentencing court for imposition of a  
16 sentence in accordance with this section if it finds that the  
17 sentence was imposed in violation of this section.

18 Section 2. Section 2506(b) of Title 18 is repealed insofar  
19 as it is inconsistent with this act.

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