

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, VULAKOVICH, CARROLL, MULLERY, DePASQUALE, ROCK,
DIGIROLAMO, DAVIS, HARKINS, STABACK, DALEY, YOUNGBLOOD,
D. COSTA AND BROWNLEE, FEBRUARY 10, 2011

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 25, 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.~~

1 ~~18 Pa.C.S. § 3123 (relating to involuntary deviate sexual~~
2 ~~intercourse) — not less than ten years.~~

3 ~~18 Pa.C.S. § 3125(a) (1) through (6) (relating to~~
4 ~~aggravated indecent assault) — not less than five years.~~

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

8 ~~18 Pa.C.S. § 2502(c) (relating to murder) — not less than~~
9 ~~ten years, only as to murder in the third degree.~~

10 ~~18 Pa.C.S. § 2503 (relating to voluntary manslaughter) —~~
11 ~~not less than ten years.~~

12 ~~18 Pa.C.S. § 2506 (relating to drug delivery resulting in~~
13 ~~death) — not less than five years.~~

14 ~~18 Pa.C.S. § 2702(a) (1) — not less than five years.~~

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

17 ~~18 Pa.C.S. § 3121(c) and (d) — not less than ten years.~~

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

19 ~~18 Pa.C.S. § 3125(b) — not less than ten years.~~

20 (A) MANDATORY SENTENCE.--

21 (1) A PERSON CONVICTED OF THE FOLLOWING OFFENSES WHEN
22 THE VICTIM IS [UNDER] LESS THAN 16 YEARS OF AGE SHALL BE
23 SENTENCED TO A MANDATORY TERM OF IMPRISONMENT AS FOLLOWS:

24 18 PA.C.S. § 2702(A) (1) AND (4) (RELATING TO AGGRAVATED
25 ASSAULT) - NOT LESS THAN TWO YEARS.

26 18 PA.C.S. § 3121(A) (1), (2), (3), (4) AND (5) (RELATING
27 TO RAPE) - NOT LESS THAN TEN YEARS.

28 18 PA.C.S. § 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL
29 INTERCOURSE) - NOT LESS THAN TEN YEARS.

30 18 PA.C.S. § 3125(A) (1) THROUGH (6) (RELATING TO



1 AGGRAVATED INDECENT ASSAULT) - NOT LESS THAN FIVE YEARS.

2 (2) A PERSON CONVICTED OF THE FOLLOWING OFFENSES WHEN
3 THE VICTIM IS LESS THAN 13 YEARS OF AGE SHALL BE SENTENCED TO
4 A MANDATORY TERM OF IMPRISONMENT AS FOLLOWS:

5 18 PA.C.S. 2502(C) (RELATING TO MURDER) - NOT LESS THAN
6 13 YEARS, ONLY AS TO MURDER IN THE THIRD DEGREE.

7 18 PA.C.S. § 2702(A) (1) - NOT LESS THAN FIVE YEARS.

8 (3) A PERSON CONVICTED OF THE FOLLOWING OFFENSES SHALL
9 BE SENTENCED TO A MANDATORY TERM OF IMPRISONMENT AS FOLLOWS:

10 18 PA.C.S. § 3121(C) AND (D) - NOT LESS THAN TEN YEARS.

11 18 PA.C.S. § 3125(A) (7) - NOT LESS THAN FIVE YEARS.

12 18 PA.C.S. § 3125(B) - NOT LESS THAN TEN YEARS.

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

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

27 (d) Authority of court in sentencing.--There shall be no
28 authority in any court to impose on an offender to which this
29 section is applicable any lesser sentence than provided for in
30 subsection (a) or to place the offender on probation or to

1 suspend sentence. Nothing in this section shall prevent the
2 sentencing court from imposing a sentence greater than that
3 provided in this section. Sentencing guidelines promulgated by
4 the Pennsylvania Commission on Sentencing shall not supersede
5 the mandatory sentences provided in this section.

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

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

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