

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 852 Session of  
2011

INTRODUCED BY TALLMAN, METCALFE, DENLINGER, GILLEN AND KNOWLES,  
FEBRUARY 28, 2011

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 28, 2011

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, providing for indecent assault during  
3 the course of body search.

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 § 3126.1. Indecent assault during the course of body search.

9 (a) Offense defined.--Except as provided in subsection (c),  
10 a person violates this section if he contacts another person's  
11 genitals or breasts in the course of conducting a body search. A  
12 Federal, State or municipal government employee shall not be  
13 immune from prosecution under this subsection, even if the  
14 violation occurred while acting within the scope of employment.

15 (b) Grading.--A person who violates subsection (a) commits a  
16 misdemeanor of the third degree.

17 (c) Exceptions.--A peace officer, county parole officer,  
18 county probation officer or corrections officer who contacts

1 another person's genitals or breasts while conducting a body  
2 search during the course of his duty is not guilty of the  
3 offense defined in subsection (a) if any of the following apply:

4 (1) the person to be searched is under arrest;

5 (2) a search warrant has been issued that specifies the  
6 reason for the search and clearly indicates what parts of the  
7 person's body are to be searched;

8 (3) probable cause exists for the peace officer to  
9 search the individual;

10 (4) the person to be searched is lawfully confined in a  
11 State or county correctional facility; or

12 (5) the person to be searched has been lawfully assigned  
13 to probation or parole and is searched in accordance with  
14 applicable laws.

15 (d) Definitions.--As used in this section, the following  
16 words and phrases shall have the meanings given to them in this  
17 subsection unless the context clearly indicates otherwise:

18 "Corrections officer." A person employed at a correctional  
19 facility to provide security or custodial service for inmates.

20 "Peace officer." A person who by virtue of his office or  
21 public employment is vested by law with a duty to maintain  
22 public order or to make arrests for offenses, whether that duty  
23 extends to all offenses or is limited to specific offenses. The  
24 term shall include a member of a park police department of a  
25 county of the third class.

26 Section 2. This act shall take effect in 60 days.