

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 924 Session of  
2011

INTRODUCED BY STEPHENS, CLYMER, CUTLER, GEIST, GINGRICH, GROVE,  
KILLION, KNOWLES, MALONEY, MURT, SONNEY, VEREB, WATSON,  
FLECK, O'NEILL, OBERLANDER, HARHART, MOUL, MILNE, FARRY,  
SHAPIRO, CALTAGIRONE AND TOOHL, MARCH 3, 2011

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
MAY 3, 2011

## AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for the offense of  
3 institutional sexual assault.

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

6 Section 1. Section 3124.2 of Title 18 of the Pennsylvania  
7 Consolidated Statutes is amended to read:

8 § 3124.2. Institutional sexual assault.

9 (a) General rule.--Except as provided in sections 3121  
10 (relating to rape), 3122.1 (relating to statutory sexual  
11 assault), 3123 (relating to involuntary deviate sexual  
12 intercourse), 3124.1 (relating to sexual assault) and 3125  
13 (relating to aggravated indecent assault), a person who is an  
14 employee or agent of the Department of Corrections or a county  
15 correctional authority, youth development center, youth forestry  
16 camp, State or county juvenile detention facility, other  
17 licensed residential facility serving children and youth, or

1 mental health or mental retardation facility or institution  
2 commits a felony of the third degree when that person engages in  
3 sexual intercourse, deviate sexual intercourse or indecent  
4 contact with an inmate, detainee, patient or resident.

5 (a.1) Schools.--

6 (1) Except as provided in sections 3121, 3122.1, 3123,  
7 3124.1 and 3125, a person who is a volunteer or an employee  
8 of a school OR ANY OTHER PERSON WHO HAS DIRECT CONTACT WITH A ←  
9 STUDENT AT A SCHOOL commits a felony of the third degree when  
10 he engages in sexual intercourse, deviate sexual intercourse  
11 or indecent contact with a student of the school.

12 (2) As used in this subsection, the following terms  
13 shall have the meanings given to them in this paragraph:

14 (i) "Employee." The term means and includes a ←  
15 professional employee as defined herein, a substitute  
16 teacher, a janitor, a cafeteria worker, a bus driver, a  
17 teacher aide, an independent contractor as defined  
18 herein, a coach, an athletic trainer, any coach hired as  
19 an independent contractor by the PIAA or any athletic  
20 trainer hired as an independent contractor by the PIAA.  
21 The term does not include a student employed at the  
22 school.

23 (ii) "Independent contractor." The term means any  
24 person or any employee of that person who has a contract  
25 with a school for the purpose of performing a service for  
26 the school. The term does not include any independent  
27 contractor or any employee of an independent contractor  
28 who has no direct contact with children.

29 (iii) "Professional employee." As defined in  
30 section 1101(1) of the act of March 10, 1949 (P.L.30,

No.14), known as the Public School Code of 1949.

(I) "DIRECT CONTACT." CARE, SUPERVISION, GUIDANCE  
OR CONTROL.

(II) "EMPLOYEE."

(A) INCLUDES:

(I) A TEACHER, A SUPERVISOR, A SUPERVISING  
PRINCIPAL, A PRINCIPAL, AN ASSISTANT PRINCIPAL, A  
VICE-PRINCIPAL, A DIRECTOR OF VOCATIONAL  
EDUCATION, A DENTAL HYGIENIST, A VISITING  
TEACHER, A HOME AND SCHOOL VISITOR, A SCHOOL  
COUNSELOR, A CHILD NUTRITION PROGRAM SPECIALIST,  
A SCHOOL LIBRARIAN, A SCHOOL SECRETARY THE  
SELECTION OF WHOM IS ON THE BASIS OF MERIT AS  
DETERMINED BY ELIGIBILITY LISTS, A SCHOOL NURSE,  
A SUBSTITUTE TEACHER, A JANITOR, A CAFETERIA  
WORKER, A BUS DRIVER, A TEACHER AIDE AND ANY  
OTHER EMPLOYEE WHO HAS DIRECT CONTACT WITH SCHOOL  
STUDENTS.

(II) AN INDEPENDENT CONTRACTOR WHO HAS A  
CONTRACT WITH A SCHOOL FOR THE PURPOSE OF  
PERFORMING A SERVICE FOR THE SCHOOL, A COACH, AN  
ATHLETIC TRAINER, A COACH HIRED AS AN INDEPENDENT  
CONTRACTOR BY THE PENNSYLVANIA INTERSCHOLASTIC  
ATHLETIC ASSOCIATION OR AN ATHLETIC TRAINER HIRED  
AS AN INDEPENDENT CONTRACTOR BY THE PENNSYLVANIA  
INTERSCHOLASTIC ATHLETIC ASSOCIATION.

(B) THE TERM DOES NOT INCLUDE:

(I) A STUDENT EMPLOYED AT THE SCHOOL.

(II) AN INDEPENDENT CONTRACTOR OR ANY  
EMPLOYEE OF AN INDEPENDENT CONTRACTOR WHO HAS NO

DIRECT CONTACT WITH SCHOOL STUDENTS.

~~(iv)~~ (III) "School." A public or private school,  
intermediate unit or area vocational-technical school.

~~(v)~~ (IV) "Volunteer." The term does not include a  
school student.

(a.2) Child-care.--Except as provided in sections 3121,  
3122.1, 3123, 3124.1 and 3125, a person who is a volunteer or an  
employee of a center for children commits a felony of the third  
degree when he engages in sexual intercourse, deviate sexual  
intercourse or indecent contact with a child who is receiving  
services at the center.

(b) [Definition.--As used in this section, the term "agent"  
means a person who is assigned to work in a State or county  
correctional or juvenile detention facility, a youth development  
center, youth forestry camp, other licensed residential facility  
serving children and youth, or mental health or mental  
retardation facility or institution who is employed by any State  
or county agency or any person employed by an entity providing  
contract services to the agency.] Definitions.--As used in this  
section, the following words and phrases shall have the meanings  
given to them in this subsection unless the context clearly  
indicates otherwise:

"Agent." A person who is assigned to work in a State or  
county correctional or juvenile detention facility, a youth  
development center, youth forestry camp, other licensed  
residential facility serving children and youth or mental health  
or mental retardation facility or institution, who is employed  
by any State or county agency or any person employed by an  
entity providing contract services to the agency.

"Center for children." Includes a child day-care center,

1 group and family day-care home, boarding home for children, a  
2 center providing early intervention and drug and alcohol  
3 services for children or other facility which provides child-  
4 care services which are subject to approval, licensure,  
5 registration or certification by the Department of Public  
6 Welfare or a county social services agency or which are provided  
7 pursuant to a contract with the department or a county social  
8 services agency. The term does not include a youth development  
9 center, youth forestry camp, State or county juvenile detention  
10 facility and other licensed residential facility serving  
11 children and youth.

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