

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1264 Session of 2011

INTRODUCED BY PARKER, HARPER, BISHOP, B. BOYLE, K. BOYLE, BRADFORD, BRENNAN, BRIGGS, R. BROWN, V. BROWN, BROWNLEE, CALTAGIRONE, CARROLL, CLYMER, D. COSTA, CREIGHTON, DAVIS, DAVIDSON, DePASQUALE, FLECK, FREEMAN, GINGRICH, GRELL, HARHART, HENNESSEY, HESS, HORNAMAN, JOSEPHS, KIRKLAND, KORTZ, KULA, LONGIETTI, MAHER, McGEEHAN, MICOZZIE, MIRABITO, MUNDY, MYERS, M. O'BRIEN, PAYTON, PICKETT, QUINN, REICHLEY, ROEBUCK, ROSS, SABATINA, SANTARSIERO, SHAPIRO, STURLA, VEREB, VULAKOVICH, WAGNER, WATSON, WHEATLEY, WILLIAMS AND YOUNGBLOOD, APRIL 1, 2011

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 1, 2011

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for expert
3 testimony in certain criminal proceedings.

4 The General Assembly finds and declares as follows:

5 (1) Research indicates that victims of sex crimes behave
6 in many different ways, but because of the prevalence and
7 persistence of myths and misunderstandings regarding sex
8 crimes, jurors often perceive common victim behaviors as
9 counterintuitive and mistakenly believe that they are
10 compelling evidence of a victim's lack of credibility.

11 (2) One of the misconceptions of jurors is that a sexual
12 assault victim would ordinarily be expected to make a prompt
13 complaint to law enforcement authorities. As such, jurors
14 often incorrectly draw an adverse inference against the

1 credibility of a sexual assault victim.

2 (3) Jurors bring their biases into the jury room and the
3 process of jury selection often fails to reveal jurors'
4 mistaken beliefs about crimes of sexual violence and victim
5 responses to sex crimes.

6 (4) To overcome these myths and misunderstandings
7 related to victim behavior, many courts have recognized that
8 expert testimony is necessary to provide jurors with the
9 proper context in which to evaluate a victim's behaviors.

10 (5) Counselors, psychiatrists, psychologists, victim
11 advocates, social workers and others who work with sexual
12 assault victims possess specialized knowledge about common
13 victim behaviors and victim responses to trauma and that
14 expertise is beyond the experience and knowledge of the
15 average juror.

16 (6) Without an accurate context in which to evaluate
17 victim behaviors, it is common for jurors to fail to
18 recognize a victim's behavior as a common response to trauma.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 Section 1. Title 42 of the Pennsylvania Consolidated
22 Statutes is amended by adding a section to read:

23 § 5920. Expert testimony in certain criminal proceedings.

24 (a) Scope.--This section applies to all of the following:

25 (1) A criminal proceeding for an offense for which
26 registration is required under section 9795.1 (relating to
27 registration).

28 (2) A criminal proceeding for an offense under 18
29 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

30 (b) Rule.--In an action subject to this section, a witness

1 may be qualified by the court as an expert if the witness has
2 specialized knowledge beyond that possessed by the average
3 layperson based on the witness' knowledge, skill, experience,
4 training or education that will assist the trier of fact in
5 understanding the dynamics of sexual violence, victim responses
6 to sexual violence and the impact of sexual violence on victims
7 during and after being assaulted. If qualified as an expert, the
8 witness may testify to facts and opinions regarding specific
9 types of victim response and victim behaviors. The witness'
10 opinion regarding the credibility of any other witness,
11 including the victim, shall not be admissible.

12 Section 2. The addition of 42 Pa.C.S. § 5920 shall apply to
13 actions initiated on or after the effective date of this
14 section.

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