
 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, YOUNGBLOOD, PETRI, FARRY, RAPP, DERMODY, MURT AND DELOZIER, APRIL 1, 2011

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED, MARCH 27, 2012

AN ACT

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

5 The General Assembly finds and declares as follows:

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

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

1 often incorrectly draw an adverse inference against the
2 credibility of a sexual assault victim.

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

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

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

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

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

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

24 § 5920. Expert testimony in certain criminal proceedings.

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

26 (1) A criminal proceeding for an offense for which
27 registration is required under section 9795.1 (relating to ←
28 registration) SUBCHAPTER H OF CHAPTER 97 (RELATING TO ←
29 REGISTRATION OF SEXUAL OFFENDERS).

30 (2) A criminal proceeding for an offense under 18

1 ~~Pa.C.S. § 3122.1 (relating to statutory sexual assault).~~ ←

2 ~~(b) Rule. In an action subject to this section, a witness~~

3 PA.C.S. CHAPTER 31 (RELATING TO SEXUAL OFFENSES). ←

4 (B) QUALIFICATIONS AND USE OF EXPERTS.--

5 (1) IN A CRIMINAL PROCEEDING SUBJECT TO THIS SECTION, A
6 WITNESS may be qualified by the court as an expert if the
7 witness has specialized knowledge beyond that possessed by
8 the average layperson based on the witness' WITNESS'S ←
9 knowledge, skill, experience, training or education that will
10 assist the trier of fact in understanding the dynamics of
11 sexual violence, victim responses to sexual violence and the
12 impact of sexual violence on victims during and after being
13 assaulted. If qualified as an expert, the ←

14 (2) IF QUALIFIED AS AN EXPERT, THE witness may testify ←
15 to facts and opinions regarding specific types of victim
16 response RESPONSES and victim behaviors. The witness' ←

17 (3) THE WITNESS'S opinion regarding the credibility of ←
18 any other witness, including the victim, shall not be
19 admissible.

20 (4) A WITNESS QUALIFIED BY THE COURT AS AN EXPERT UNDER ←
21 THIS SECTION MAY BE CALLED BY THE ATTORNEY FOR THE
22 COMMONWEALTH OR THE DEFENDANT TO PROVIDE THE EXPERT
23 TESTIMONY.

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

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