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 THE GENERAL ASSEMBLY OF PENNSYLVANIA
 

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 HOUSE BILL
 

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 No. 1264 Session of  
2011
 

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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

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AMENDED ON THIRD CONSIDERATION, JUNE 4, 2012

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## 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 ←

10 EXPERIENCE WITH, OR SPECIALIZED TRAINING OR EDUCATION IN,  
11 CRIMINAL JUSTICE, BEHAVIORAL SCIENCES OR VICTIM SERVICES

12 ISSUES, RELATED TO SEXUAL VIOLENCE, that will assist the ←

13 trier of fact in understanding the dynamics of sexual

14 violence, victim responses to sexual violence and the impact

15 of sexual violence on victims during and after being

16 assaulted. If qualified as an expert, the ←

17 (2) IF QUALIFIED AS AN EXPERT, THE witness may testify ←  
18 to facts and opinions regarding specific types of victim

19 response RESPONSES and victim behaviors. The witness' ←

20 (3) THE WITNESS'S opinion regarding the credibility of ←  
21 any other witness, including the victim, shall not be

22 admissible.

23 (4) A WITNESS QUALIFIED BY THE COURT AS AN EXPERT UNDER ←  
24 THIS SECTION MAY BE CALLED BY THE ATTORNEY FOR THE

25 COMMONWEALTH OR THE DEFENDANT TO PROVIDE THE EXPERT

26 TESTIMONY.

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

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