

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 28

Session of 2013

INTRODUCED BY BROWNE, LEACH, SCARNATI, PILEGGI, VANCE, BAKER, WAUGH, TOMLINSON, WARD, WASHINGTON, FONTANA, YUDICHAK, ERICKSON, RAFFERTY, SCHWANK, TARTAGLIONE, TEPLITZ, FOLMER, SOLOBAY, KASUNIC, FARNESE, BOSCOLA, HUGHES, COSTA, WILLIAMS AND STACK, MARCH 15, 2013

AS AMENDED ON THIRD CONSIDERATION, OCTOBER 15, 2013

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in assault, further providing for the
3 offense of simple assault and for the offense of aggravated
4 assault; and, in falsification and intimidation, providing
5 for the offense of false reports of child abuse and for the
6 offense of intimidation or retaliation in child abuse cases.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 2701(a) and (b) (2) of Title 18 of the
10 Pennsylvania Consolidated Statutes are amended to read:

11 § 2701. Simple assault.

12 (a) Offense defined.--[A] Except as provided under section
13 2702 (relating to aggravated assault), a person is guilty of
14 assault if he:

15 (1) attempts to cause or intentionally, knowingly or
16 recklessly causes bodily injury to another;

17 (2) negligently causes bodily injury to another with a
18 deadly weapon;

1 (3) attempts by physical menace to put another in fear
2 of imminent serious bodily injury; or

3 (4) conceals or attempts to conceal a hypodermic needle
4 on his person and intentionally or knowingly penetrates a law
5 enforcement officer or an officer or an employee of a
6 correctional institution, county jail or prison, detention
7 facility or mental hospital during the course of an arrest or
8 any search of the person.

9 (b) Grading.--Simple assault is a misdemeanor of the second
10 degree unless committed:

11 * * *

12 (2) against a child under 12 years of age by [an adult
13 21] a person 18 years of age or older, in which case it is a
14 misdemeanor of the first degree.

15 Section 2. Section 2702(a)(6) and (7) and (b) of Title 18
16 are amended and subsection (a) is amended by adding paragraphs
17 to read:

18 § 2702. Aggravated assault.

19 (a) Offense defined.--A person is guilty of aggravated
20 assault if he:

21 * * *

22 (6) attempts by physical menace to put any of the
23 officers, agents, employees or other persons enumerated in
24 subsection (c), while in the performance of duty, in fear of
25 imminent serious bodily injury; [or]

26 (7) uses tear or noxious gas as defined in section
27 2708(b) (relating to use of tear or noxious gas in labor
28 disputes) or uses an electric or electronic incapacitation
29 device against any officer, employee or other person
30 enumerated in subsection (c) while acting in the scope of his

1 employment[.];

2 (8) attempts to cause or intentionally, knowingly or
3 recklessly causes bodily injury to a child less than six
4 years of age, by a person 18 years of age or older; or

5 (9) attempts to cause or intentionally, knowingly or
6 recklessly causes serious bodily injury to a child less than
7 13 years of age, by a person 18 years of age or older.

8 (b) Grading.--Aggravated assault under subsection (a) (1)
9 [and], (2) and (9) is a felony of the first degree. Aggravated
10 assault under subsection (a) (3), (4), (5), (6) [and (7)], (7)
11 and (8) is a felony of the second degree.

12 * * *

13 Section 3. Title 18 is amended by adding sections to read:

14 § 4906.1. False reports of child abuse.

15 Any person who intentionally makes a false report of
16 suspected child abuse against a person, school employee, private
17 residential rehabilitative institution employee, detention
18 facility employee or child-care services employee commits a
19 misdemeanor of the second degree.

20 § 4958. Intimidation or retaliation in child abuse cases.

21 (a) Intimidation.--A person commits an offense if:

22 (1) The person has knowledge or intends that the
23 person's conduct under paragraph (2) will obstruct, impede,
24 impair, prevent or interfere with the making of a child abuse
25 report or the conducting of an investigation into suspected
26 child abuse under 23 Pa.C.S. Ch. 63 (relating to child
27 protective services) or prosecuting a child abuse case.

28 (2) The person intimidates or attempts to intimidate any
29 reporter, victim or witness to engage in any of the following
30 actions:

1 (i) Refrain from making a report of suspected child
2 abuse or not cause a report of suspected child abuse to
3 be made.

4 (ii) Refrain from providing or withholding
5 information, documentation, testimony or evidence to any
6 person regarding a child abuse investigation or
7 proceeding.

8 (iii) Give false or misleading information,
9 documentation, testimony or evidence to any person
10 regarding a child abuse investigation or proceeding.

11 (iv) Elude, evade or ignore any request or legal
12 process summoning the reporter, victim or witness to
13 appear to testify or supply evidence regarding a child
14 abuse investigation or proceeding.

15 (v) Fail to appear at or participate in a child
16 abuse proceeding or meeting involving a child abuse
17 investigation to which the reporter, victim or witness
18 has been legally summoned.

19 (b) Retaliation.--A person commits an offense if the person
20 harms another person by any unlawful act or engages in a course
21 of conduct or repeatedly commits acts which threaten another
22 person in retaliation for anything that the other person has
23 lawfully done in the capacity of a reporter, witness or victim
24 of child abuse.

25 (c) Grading.--

26 (1) An offense under this section is a felony of the
27 second degree if:

28 (i) The actor employs force, violence or deception
29 or threatens to employ force, violence or deception upon
30 the reporter, witness or victim or, with reckless intent

1 or knowledge, upon any other person.

2 (ii) The actor offers pecuniary or other benefit to
3 the reporter, witness or victim.

4 (iii) The actor's conduct is in furtherance of a
5 conspiracy to intimidate or retaliate against the
6 reporter, witness or victim.

7 (iv) The actor accepts, agrees or solicits another
8 person to accept any pecuniary benefit to intimidate or
9 retaliate against the reporter, witness or victim.

10 (v) The actor has suffered a prior conviction for a
11 violation of this section or has been convicted under a
12 Federal statute or statute of any other state of an act
13 which would be a violation of this section if committed
14 in this Commonwealth.

15 (2) An offense not otherwise addressed in paragraph (1)
16 is a misdemeanor of the second degree.

17 (d) Definitions.--The following words and phrases when used
18 in this section shall have the meanings given to them in this
19 subsection unless the context clearly indicates otherwise:

20 "Child abuse." As defined in 23 Pa.C.S. § 6303(b)--- <--
21 6303(B.1) (relating to definitions). <--

22 Section 4. This act shall take effect ~~January 1, 2014, or~~ <--
23 ~~immediately, whichever is later.~~ AS FOLLOWS: <--

24 (1) THE AMENDMENTS OF SECTIONS 2701 AND 2702 AND THIS
25 SECTION SHALL TAKE EFFECT IMMEDIATELY.

26 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JANUARY
27 1, 2014.