

## 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 REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, NOVEMBER 19, 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

1 deadly weapon;

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

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

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

12 \* \* \*

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

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

19 § 2702. Aggravated assault.

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

22 \* \* \*

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

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

1 enumerated in subsection (c) while acting in the scope of his  
2 employment[.];

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

6 (9) attempts to cause or intentionally, knowingly or  
7 recklessly causes serious bodily injury to a child less than  
8 13 years of age, by a person 18 years of age or older.

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

13 \* \* \*

14 Section 3. Title 18 is amended by adding sections to read:  
15 § 4906.1. False reports of child abuse.

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

21 A PERSON COMMITS A MISDEMEANOR OF THE SECOND DEGREE IF THE <--  
22 PERSON INTENTIONALLY OR KNOWINGLY MAKES A FALSE REPORT OF CHILD  
23 ABUSE UNDER 23 PA.C.S. CH. 63 (RELATING TO CHILD PROTECTIVE  
24 SERVICES) OR INTENTIONALLY OR KNOWINGLY INDUCES A CHILD TO MAKE  
25 A FALSE CLAIM OF CHILD ABUSE UNDER 23 PA.C.S. CH. 63.

26 ~~§ 4958. Intimidation or retaliation in child abuse cases.~~ <--  
27 § 4958. INTIMIDATION, RETALIATION OR OBSTRUCTION IN CHILD ABUSE <--  
28 CASES.

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

30 (1) The person has knowledge or intends that the

1 person's conduct under paragraph (2) will obstruct, impede,  
2 impair, prevent or interfere with the making of a child abuse  
3 report or the conducting of an investigation into suspected  
4 child abuse under 23 Pa.C.S. Ch. 63 (relating to child  
5 protective services) or prosecuting a child abuse case.

6 (2) The person intimidates or attempts to intimidate any  
7 reporter, victim or witness to engage in any of the following  
8 actions:

9 (i) Refrain from making a report of suspected child  
10 abuse or not cause a report of suspected child abuse to  
11 be made.

12 (ii) Refrain from providing or withholding  
13 information, documentation, testimony or evidence to any  
14 person regarding a child abuse investigation or  
15 proceeding.

16 (iii) Give false or misleading information,  
17 documentation, testimony or evidence to any person  
18 regarding a child abuse investigation or proceeding.

19 (iv) Elude, evade or ignore any request or legal  
20 process summoning the reporter, victim or witness to  
21 appear to testify or supply evidence regarding a child  
22 abuse investigation or proceeding.

23 (v) Fail to appear at or participate in a child  
24 abuse proceeding or meeting involving a child abuse  
25 investigation to which the reporter, victim or witness  
26 has been legally summoned.

27 (b) Retaliation.--A person commits an offense if the person  
28 harms another person by any unlawful act or engages in a course  
29 of conduct or repeatedly commits acts which threaten another  
30 person in retaliation for anything that the other person has

1 lawfully done in the capacity of a reporter, witness or victim  
2 of child abuse.

3 (B.1) OBSTRUCTION.--IN ADDITION TO ANY OTHER PENALTY <--  
4 PROVIDED BY LAW, A PERSON COMMITS AN OFFENSE IF, WITH INTENT TO  
5 PREVENT A PUBLIC SERVANT FROM INVESTIGATING OR PROSECUTING A  
6 REPORT OF CHILD ABUSE UNDER 23 PA.C.S. CH. 63, THE PERSON BY ANY  
7 SCHEME OR DEVICE OR IN ANY OTHER MANNER OBSTRUCTS, INTERFERES  
8 WITH, IMPAIRS, IMPEDES OR PERVERTS THE INVESTIGATION OR  
9 PROSECUTION OF CHILD ABUSE.

10 (c) Grading.--

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

13 (i) The actor employs force, violence or deception  
14 or threatens to employ force, violence or deception upon  
15 the reporter, witness or victim or, with reckless intent  
16 or knowledge, upon any other person.

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

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

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

25 (v) The actor has suffered a prior conviction for a  
26 violation of this section or has been convicted under a  
27 Federal statute or statute of any other state of an act  
28 which would be a violation of this section if committed  
29 in this Commonwealth.

30 (2) An offense not otherwise addressed in paragraph (1)

1 is a misdemeanor of the second degree.

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

5 "Child abuse." As defined in 23 Pa.C.S. § 6303(b.1)  
6 (relating to definitions).

7 "MANDATED REPORTER." AS DEFINED 23 PA.C.S. § 6303(B) (B.1). <--

8 "PUBLIC SERVANT." AS DEFINED IN 18 PA.C.S. § 4501 (RELATING  
9 TO DEFINITIONS).

10 "REPORTER." A PERSON, INCLUDING A MANDATED REPORTER, HAVING  
11 REASONABLE CAUSE TO SUSPECT THAT A CHILD UNDER 18 YEARS OF AGE  
12 IS A VICTIM OF CHILD ABUSE.

13 Section 4. This act shall take effect ~~as follows:~~ <--

14 ~~(1) The amendments of sections 2701 and 2702 and this~~  
15 ~~section shall take effect immediately.~~

16 ~~(2) The remainder of this act shall take effect January~~  
17 ~~1, 2014.~~ JANUARY 1, 2014, OR IMMEDIATELY, WHICHEVER IS LATER. <--