

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 249 Session of 2019

INTRODUCED BY SAPPEY, HILL-EVANS, DAVIDSON, ROTHMAN, KINSEY,
MURT, READSHAW, YOUNGBLOOD, T. DAVIS, ISAACSON, FREEMAN,
HOWARD, ULLMAN, NEILSON AND WARREN, JANUARY 29, 2019

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 29, 2019

AN ACT

1 Amending Titles 18 (Crimes and Offenses), 23 (Domestic
2 Relations) and 42 (Judiciary and Judicial Procedure) of the
3 Pennsylvania Consolidated Statutes, in assault, further
4 providing for the offense of stalking; in wiretapping and
5 electronic surveillance, further providing for definitions;
6 in child custody, further providing for consideration of
7 criminal conviction; in domestic and sexual violence victim
8 address confidentiality, further providing for penalties;
9 and, in sentencing, further providing for sentences for
10 second and subsequent offenses.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 2709.1(c)(2) of Title 18 of the
14 Pennsylvania Consolidated Statutes is amended to read:

15 § 2709.1. Stalking.

16 * * *

17 (c) Grading.--

18 * * *

19 (2) A second or subsequent offense under this section or
20 a first offense under subsection (a) if the person has been
21 previously convicted of a crime of violence involving the

1 same victim, family or household member, including, but not
2 limited to, a violation of section 2701 (relating to simple
3 assault), 2702 (relating to aggravated assault), 2705
4 (relating to recklessly endangering another person), 2718
5 (relating to strangulation), 2901 (relating to kidnapping),
6 3121 (relating to rape) or 3123 (relating to involuntary
7 deviate sexual intercourse), an order issued under section
8 4954 (relating to protective orders) or an order issued under
9 23 Pa.C.S. § 6108 (relating to relief) shall constitute a
10 felony of the third degree.

11 * * *

12 Section 2. The definition of "crime of violence" in section
13 5702 of Title 18 is amended to read:

14 § 5702. Definitions.

15 As used in this chapter, the following words and phrases
16 shall have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 * * *

19 "Crime of violence." Any of the following:

20 (1) Any of the following crimes:

21 (i) Murder in any degree as defined in section
22 2502(a), (b) or (c) (relating to murder).

23 (ii) Voluntary manslaughter as defined in section
24 2503 (relating to voluntary manslaughter), drug delivery
25 resulting in death as defined in section 2506(a)

26 (relating to drug delivery resulting in death),

27 aggravated assault as defined in section 2702(a)(1) or

28 (2) (relating to aggravated assault), strangulation as

29 defined in section 2718 (relating to strangulation),

30 kidnapping as defined in section 2901(a) or (a.1)

(relating to kidnapping), rape as defined in section 3121(a), (c) or (d) (relating to rape), involuntary deviate sexual intercourse as defined in section 3123(a), (b) or (c) (relating to involuntary deviate sexual intercourse), sexual assault as defined in section 3124.1 (relating to sexual assault), aggravated indecent assault as defined in section 3125(a) or (b) (relating to aggravated indecent assault), [incest as defined in section 4302(a) or (b) (relating to incest),] arson as defined in section 3301(a) (relating to arson and related offenses), burglary as defined in section 3502(a) (1) (relating to burglary), robbery as defined in section 3701(a) (1) (i), (ii) or (iii) (relating to robbery) [or], robbery of a motor vehicle as defined in section 3702(a) (relating to robbery of [a] motor vehicle) or incest as defined in section 4302(a) or (b) (relating to incest).

(iii) Intimidation of witness or victim as defined in section [4952(a) and (b)] 4952 (relating to intimidation of witnesses or victims).

(iv) Retaliation against witness, victim or party as defined in section [4953(a) and (b)] 4953 (relating to retaliation against witness, victim or party).

(v) Criminal attempt as defined in section 901(a) (relating to criminal attempt), criminal solicitation as defined in section 902(a) (relating to criminal solicitation) or criminal conspiracy as defined in section 903(a) (relating to criminal conspiracy) to commit any of the offenses specified in this definition.

(2) Any offense equivalent to an offense under paragraph (1) under the laws of this Commonwealth in effect at the time

of the commission of that offense or under the laws of
another jurisdiction.

* * *

Section 3. Section 5329(a) of Title 23, amended May 4, 2018
(P.L.112, No.21), is amended to read:

§ 5329. Consideration of criminal conviction.

(a) Offenses.--Where a party seeks any form of custody, the
court shall consider whether that party or member of that
party's household has been convicted of or has pleaded guilty or
no contest to any of the offenses in this section or an offense
in another jurisdiction substantially equivalent to any of the
offenses in this section. The court shall consider such conduct
and determine that the party does not pose a threat of harm to
the child before making any order of custody to that party when
considering the following offenses:

18 Pa.C.S. Ch. 25 (relating to criminal homicide).

18 Pa.C.S. § 2702 (relating to aggravated assault).

18 Pa.C.S. § 2706 (relating to terroristic threats).

18 Pa.C.S. § 2709.1 (relating to stalking).

18 Pa.C.S. § 2718 (relating to strangulation).

18 Pa.C.S. § 2901 (relating to kidnapping).

18 Pa.C.S. § 2902 (relating to unlawful restraint).

18 Pa.C.S. § 2903 (relating to false imprisonment).

18 Pa.C.S. § 2910 (relating to luring a child into a motor
vehicle or structure).

18 Pa.C.S. § 3121 (relating to rape).

18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
intercourse).

18 Pa.C.S. § 3124.1 (relating to sexual assault).

1 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
2 18 Pa.C.S. § 3126 (relating to indecent assault).
3 18 Pa.C.S. § 3127 (relating to indecent exposure).
4 18 Pa.C.S. § 3129 (relating to sexual intercourse with
5 animal).
6 18 Pa.C.S. § 3130 (relating to conduct relating to sex
7 offenders).
8 18 Pa.C.S. § 3301 (relating to arson and related offenses).
9 18 Pa.C.S. § 4302 (relating to incest).
10 18 Pa.C.S. § 4303 (relating to concealing death of child).
11 18 Pa.C.S. § 4304 (relating to endangering welfare of
12 children).
13 18 Pa.C.S. § 4305 (relating to dealing in infant children).
14 18 Pa.C.S. § 5902(b) (relating to prostitution and related
15 offenses).
16 18 Pa.C.S. § 5903(c) or (d) (relating to obscene and other
17 sexual materials and performances).
18 18 Pa.C.S. § 6301 (relating to corruption of minors).
19 18 Pa.C.S. § 6312 (relating to sexual abuse of children).
20 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
21 18 Pa.C.S. § 6320 (relating to sexual exploitation of
22 children).
23 Section 6114 (relating to contempt for violation of order or
24 agreement).
25 The former 75 Pa.C.S. § 3731 (relating to driving under
26 influence of alcohol or controlled substance).
27 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol
28 or utilizing drugs).
29 Section 13(a)(1) of the act of April 14, 1972 (P.L.233,
30 No.64), known as The Controlled Substance, Drug, Device and

Cosmetic Act, to the extent that it prohibits the manufacture,
sale or delivery, holding, offering for sale or possession of
any controlled substance or other drug or device.

* * *

Section 4. Section 6711(b)(2) of Title 23 is amended to
read:

§ 6711. Penalties.

* * *

(b) Access by fraud or misrepresentation.--

* * *

(2) A first offense under paragraph (1) shall be graded
as a felony of the third degree if it is committed by any
person who has previously been convicted of a crime of
violence involving the program participant under paragraph
(1) or the program participant's family or household member
as defined in section 6102 (relating to definitions),
including:

18 Pa.C.S. § 2701 (relating to simple assault);

18 Pa.C.S. § 2702 (relating to aggravated assault);

18 Pa.C.S. § 2705 (relating to recklessly endangering
another person);

18 Pa.C.S. § 2709 (relating to harassment);

18 Pa.C.S. § 2709.1 (relating to stalking);

18 Pa.C.S. § 2718 (relating to strangulation);

18 Pa.C.S. § 2901 (relating to kidnapping);

18 Pa.C.S. § 3121 (relating to rape);

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
intercourse);

18 Pa.C.S. § 4954 (relating to protective orders); or

[23 Pa.C.S. §] Section 6108 (relating to relief).

1 * * *

2 Section 5. Section 9714(g) of Title 42 is amended to read:

3 § 9714. Sentences for second and subsequent offenses.

4 * * *

5 (g) Definition.--As used in this section, the term "crime of
6 violence" means murder of the third degree, voluntary

7 manslaughter, drug delivery resulting in death as defined in 18

8 Pa.C.S. § 2506(a) (relating to drug delivery resulting in

9 death), manslaughter of a law enforcement officer as defined in

10 18 Pa.C.S. § 2507(c) or (d) (relating to criminal homicide of

11 law enforcement officer), murder of the third degree involving

12 an unborn child as defined in 18 Pa.C.S. § 2604(c) (relating to

13 murder of unborn child), aggravated assault of an unborn child

14 as defined in 18 Pa.C.S. § 2606 (relating to aggravated assault

15 of unborn child), aggravated assault as defined in 18 Pa.C.S. §

16 2702(a)(1) or (2) (relating to aggravated assault), assault of

17 law enforcement officer as defined in 18 Pa.C.S. § 2702.1

18 (relating to assault of law enforcement officer), use of weapons

19 of mass destruction as defined in 18 Pa.C.S. § 2716(b) (relating

20 to weapons of mass destruction), terrorism as defined in 18

21 Pa.C.S. § 2717(b)(2) (relating to terrorism), strangulation as

22 defined in 18 Pa.C.S. § 2718 (relating to strangulation),

23 trafficking of persons when the offense is graded as a felony of

24 the first degree as provided in 18 Pa.C.S. § [3002 (relating to

25 trafficking of persons)] 3011 (relating to trafficking in

26 individuals), rape, involuntary deviate sexual intercourse,

27 aggravated indecent assault, incest, sexual assault, arson

28 endangering persons or aggravated arson as defined in 18 Pa.C.S.

29 § 3301(a) or (a.1) (relating to arson and related offenses),

30 ecoterrorism as classified in 18 Pa.C.S. § 3311(b)(3) (relating

1 to ecoterrorism), kidnapping, burglary as defined in 18 Pa.C.S.
2 § 3502(a)(1) (relating to burglary), robbery as defined in 18
3 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery), or
4 robbery of a motor vehicle, [drug delivery resulting in death as
5 defined in 18 Pa.C.S. § 2506(a) (relating to drug delivery
6 resulting in death),] or criminal attempt, criminal conspiracy
7 or criminal solicitation to commit murder or any of the offenses
8 listed above, or an equivalent crime under the laws of this
9 Commonwealth in effect at the time of the commission of that
10 offense or an equivalent crime in another jurisdiction.

11 Section 6. This act shall take effect in 60 days.