

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 256 Session of 2019

INTRODUCED BY METZGAR, READSHAW, SNYDER, KAUFFMAN, JAMES, BARRAR, McNEILL, IRVIN, OBERLANDER, SAYLOR, DeLUCA, TOPPER, ZIMMERMAN, REESE, STRUZZI, GOODMAN, GILLEN, BENNINGHOFF, MASSER AND KORTZ, JANUARY 29, 2019

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, JUNE 29, 2020

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in assault, further providing for the
3 offense of assault by prisoner; IN SEXUAL OFFENSES, FURTHER <--
4 PROVIDING FOR THE OFFENSE OF INSTITUTIONAL SEXUAL ASSAULT;
5 AND, IN REGISTRATION OF SEXUAL OFFENDERS, FURTHER PROVIDING
6 FOR SEXUAL OFFENSES AND TIER SYSTEM.

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

9 Section 1. Section 2703(a) of Title 18 of the Pennsylvania
10 Consolidated Statutes is amended to read:

11 § 2703. Assault by prisoner.

12 (a) Offense defined.--[A]

13 (1) Except as provided under section 2704 (relating to
14 assault by life prisoner), a person who is confined in or
15 committed to any local or county detention facility, jail or
16 prison or any State penal or correctional institution or
17 other State penal or correctional facility located in this
18 Commonwealth is guilty of a felony of the second degree if

1 he, while so confined or committed or while undergoing
2 transportation to or from such an institution or facility in
3 or to which he was confined or committed intentionally or
4 knowingly, commits an assault upon any of the following:

5 (i) Except as provided under subparagraph (ii),
6 another with a deadly weapon or instrument, or by any
7 means or force likely to produce serious bodily injury.

8 (ii) A detention facility or correctional facility
9 employee with a deadly weapon or instrument, or by any
10 means or force likely to produce bodily injury.

11 (2) A person is guilty of this offense if he
12 intentionally or knowingly causes another to come into
13 contact with blood, seminal fluid, saliva, urine or feces by
14 throwing, tossing, spitting or expelling such fluid or
15 material when, at the time of the offense, the person knew,
16 had reason to know, should have known or believed such fluid
17 or material to have been obtained from an individual,
18 including the person charged under this section, infected by
19 a communicable disease, including, but not limited to, human
20 immunodeficiency virus (HIV) or hepatitis B.

21 (3) EXCEPT AS PROVIDED UNDER SECTION 2704, A PERSON WHO <--
22 IS CONFINED IN OR COMMITTED TO ANY LOCAL OR COUNTY DETENTION
23 FACILITY, JAIL OR PRISON OR ANY STATE PENAL OR CORRECTIONAL
24 INSTITUTION OR OTHER STATE PENAL OR CORRECTIONAL FACILITY
25 LOCATED IN THIS COMMONWEALTH IS GUILTY OF A FELONY OF THE
26 FIRST DEGREE IF HE, WHILE SO CONFINED OR COMMITTED OR WHILE
27 UNDERGOING TRANSPORTATION TO OR FROM AN INSTITUTION OR
28 FACILITY IN OR TO WHICH HE WAS CONFINED OR COMMITTED
29 INTENTIONALLY OR KNOWINGLY, COMMITS AN ASSAULT UPON A
30 DETENTION FACILITY OR CORRECTIONAL FACILITY EMPLOYEE WITH A

1 DEADLY WEAPON OR INSTRUMENT, OR BY ANY MEANS OR FORCE LIKELY
2 TO PRODUCE SERIOUS BODILY INJURY.

3 * * *

4 SECTION 2. SECTION 3124.2(A), (A.1) AND (B) OF TITLE 18 ARE <--
5 AMENDED AND THE SECTION IS AMENDED BY ADDING SUBSECTIONS TO
6 READ:

7 § 3124.2. INSTITUTIONAL SEXUAL ASSAULT.

8 (A) GENERAL RULE.--EXCEPT AS PROVIDED UNDER SUBSECTION (A.1)
9 AND IN SECTIONS 3121 (RELATING TO RAPE), 3122.1 (RELATING TO
10 STATUTORY SEXUAL ASSAULT), 3123 (RELATING TO INVOLUNTARY DEVIATE
11 SEXUAL INTERCOURSE), 3124.1 (RELATING TO SEXUAL ASSAULT) AND
12 3125 (RELATING TO AGGRAVATED INDECENT ASSAULT), A PERSON WHO IS
13 AN EMPLOYEE OR AGENT OF THE DEPARTMENT OF CORRECTIONS OR A
14 COUNTY CORRECTIONAL AUTHORITY, YOUTH DEVELOPMENT CENTER, YOUTH
15 FORESTRY CAMP, STATE OR COUNTY JUVENILE DETENTION FACILITY,
16 OTHER LICENSED RESIDENTIAL FACILITY SERVING CHILDREN AND YOUTH,
17 OR MENTAL HEALTH OR MENTAL RETARDATION FACILITY OR INSTITUTION
18 COMMITS A FELONY OF THE THIRD DEGREE WHEN THAT PERSON ENGAGES IN
19 SEXUAL INTERCOURSE, DEVIATE SEXUAL INTERCOURSE OR INDECENT
20 CONTACT WITH AN INMATE, DETAINEE, ANOTHER PERSON BEING
21 SUPERVISED BY THAT PERSON UNDER PROBATION OR PAROLE SUPERVISION,
22 PATIENT OR RESIDENT.

23 (A.1) INSTITUTIONAL SEXUAL ASSAULT OF A MINOR.--A PERSON WHO
24 IS AN EMPLOYEE OR AGENT OF THE DEPARTMENT OF CORRECTIONS OR A
25 COUNTY CORRECTIONAL AUTHORITY, YOUTH DEVELOPMENT CENTER, YOUTH
26 FORESTRY CAMP, STATE OR COUNTY JUVENILE DETENTION FACILITY,
27 OTHER LICENSED RESIDENTIAL FACILITY SERVING CHILDREN AND YOUTH
28 OR MENTAL HEALTH OR MENTAL RETARDATION FACILITY OR INSTITUTION
29 COMMITS A FELONY OF THE THIRD DEGREE WHEN THAT PERSON ENGAGES IN
30 SEXUAL INTERCOURSE, DEVIATE SEXUAL INTERCOURSE OR INDECENT

1 CONTACT WITH AN INMATE, ANOTHER PERSON BEING SUPERVISED BY THAT
2 PERSON UNDER PROBATION OR PAROLE SUPERVISION, DETAINEE, PATIENT
3 OR RESIDENT WHO IS UNDER 18 YEARS OF AGE.

4 * * *

5 (A.4) PEACE OFFICERS.--

6 (1) EXCEPT AS PROVIDED UNDER SECTIONS 3121, 3122.1,
7 3123, 3124.1 AND 3125, A PERSON WHO IS A PEACE OFFICER OR
8 EMPLOYEE OF AN AGENCY EMPLOYING A PEACE OFFICER IN HIS
9 OFFICIAL CAPACITY COMMITS A FELONY OF THE THIRD DEGREE WHEN
10 THE PERSON ENGAGES IN SEXUAL INTERCOURSE, DEVIATE SEXUAL
11 INTERCOURSE OR INDECENT CONTACT WITH ANOTHER PERSON WHO IS
12 UNDER OFFICIAL DETENTION OR IN THE CUSTODY OF THE PERSON OR
13 IS A CONFIDENTIAL INFORMANT OF THE PERSON.

14 (2) A PERSON WHO IS A PEACE OFFICER COMMITS A FELONY OF
15 THE THIRD DEGREE WHEN THE PERSON ENGAGES IN SEXUAL
16 INTERCOURSE, DEVIATE SEXUAL INTERCOURSE OR INDECENT CONTACT
17 WITH A CHILD WHO IS UNDER OFFICIAL DETENTION OR IN THE
18 CUSTODY OF THE PERSON OR IS A CONFIDENTIAL INFORMANT OF THE
19 PERSON.

20 (A.5) CONSENT NOT A DEFENSE.--CONSENT IS NOT A DEFENSE TO A
21 VIOLATION OF SUBSECTION (A), (A.1), (A.2), (A.3) OR (A.4).

22 (B) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
23 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
24 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

25 "AGENT." A PERSON WHO IS ASSIGNED TO WORK IN A STATE OR
26 COUNTY CORRECTIONAL OR JUVENILE DETENTION FACILITY, A YOUTH
27 DEVELOPMENT CENTER, YOUTH FORESTRY CAMP, OTHER LICENSED
28 RESIDENTIAL FACILITY SERVING CHILDREN AND YOUTH OR MENTAL HEALTH
29 OR MENTAL RETARDATION FACILITY OR INSTITUTION, WHO IS EMPLOYED
30 BY ANY STATE OR COUNTY AGENCY OR ANY PERSON EMPLOYED BY AN

1 ENTITY PROVIDING CONTRACT SERVICES TO THE AGENCY.

2 "CENTER FOR CHILDREN." INCLUDES A CHILD DAY-CARE CENTER,
3 GROUP AND FAMILY DAY-CARE HOME, BOARDING HOME FOR CHILDREN, A
4 CENTER PROVIDING EARLY INTERVENTION AND DRUG AND ALCOHOL
5 SERVICES FOR CHILDREN OR OTHER FACILITY WHICH PROVIDES CHILD-
6 CARE SERVICES WHICH ARE SUBJECT TO APPROVAL, LICENSURE,
7 REGISTRATION OR CERTIFICATION BY THE DEPARTMENT OF PUBLIC
8 WELFARE OR A COUNTY SOCIAL SERVICES AGENCY OR WHICH ARE PROVIDED
9 PURSUANT TO A CONTRACT WITH THE DEPARTMENT OR A COUNTY SOCIAL
10 SERVICES AGENCY. THE TERM DOES NOT INCLUDE A YOUTH DEVELOPMENT
11 CENTER, YOUTH FORESTRY CAMP, STATE OR COUNTY JUVENILE DETENTION
12 FACILITY AND OTHER LICENSED RESIDENTIAL FACILITY SERVING
13 CHILDREN AND YOUTH.

14 "CHILD." AN INDIVIDUAL WHO IS LESS THAN 18 YEARS OF AGE.

15 "CONFIDENTIAL INFORMANT." AN INDIVIDUAL WHO ENGAGES IN THE
16 ACTIVITY OF ASSOCIATING WITH PERSONS ENGAGED IN CRIMINAL
17 ACTIVITY FOR THE PURPOSE OF FURNISHING INFORMATION TO OR ACTING
18 AS AN AGENT FOR A LAW ENFORCEMENT AGENCY.

19 "CUSTODY." THE TERM INCLUDES A TRAFFIC STOP, A CUSTODIAL
20 INTERROGATION OR AN INTERVIEW CONDUCTED IN CONNECTION WITH AN
21 INVESTIGATION.

22 "OFFICIAL DETENTION." AS THAT TERM IS DEFINED IN SECTION
23 5121 (RELATING TO ESCAPE).

24 SECTION 3. SECTION 9799.14(B) (5) AND (D) (6) OF TITLE 42 ARE
25 AMENDED TO READ:

26 § 9799.14. SEXUAL OFFENSES AND TIER SYSTEM.

27 * * *

28 (B) TIER I SEXUAL OFFENSES.--THE FOLLOWING OFFENSES SHALL BE
29 CLASSIFIED AS TIER I SEXUAL OFFENSES:

30 * * *

1 (5) 18 PA.C.S. § 3124.2 (A) AND (A.4) (1) (RELATING TO
2 INSTITUTIONAL SEXUAL ASSAULT).

3 * * *

4 (D) TIER III SEXUAL OFFENSES.--THE FOLLOWING OFFENSES SHALL
5 BE CLASSIFIED AS TIER III SEXUAL OFFENSES:

6 * * *

7 (6) 18 PA.C.S. § 3124.2 (A.1) AND (A.4) (2).

8 * * *

9 Section ~~2~~ 4. This act shall take effect in 60 days.

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