

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1075 Session of 2020

INTRODUCED BY ARNOLD, MUTH, MARTIN, BARTOLOTTA, SANTARSIERO, YAW, MENSCH, SCAVELLO, STEFANO AND AUMENT, APRIL 13, 2020

SENATOR BAKER, JUDICIARY, AS AMENDED, SEPTEMBER 21, 2020

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in minors, further providing for the offense of
4 sexual abuse of children AND PROVIDING FOR CHILD SEXUAL ABUSE <--
5 PREVENTION TASK FORCE; and, in sentencing, further providing
6 for sentencing for offenses involving sexual abuse of
7 children.

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

10 Section 1. Section 6312(d.1) of Title 18 of the Pennsylvania
11 Consolidated Statutes is amended to read:

12 § 6312. Sexual abuse of children.

13 * * *

14 (d.1) Grading.--The offenses shall be graded as follows:

15 (1) Except as provided in paragraph (3), an offense
16 under subsection (b) is a felony of the second degree.

17 (2) (i) Except as provided in paragraph (3), a first
18 offense under subsection (c) or (d) is a felony of the
19 third degree.

20 (ii) A second or subsequent offense under subsection

1 (c) or (d) is a felony of the second degree.

2 (3) When a person commits an offense graded under
3 paragraph (1) or (2)(i) [~~and indecent contact with the child~~
4 ~~as defined in section 3101 (relating to definitions) is~~
5 ~~depicted~~], the grading of the offense shall be one grade
6 higher than the grade specified in paragraph (1) or (2)(i) [.]
7 if:

8 (i) indecent contact with the child as defined in
9 section 3101 (relating to definitions) is depicted; or

10 (ii) the child depicted is under ~~six~~ 10 years of age <--
11 or prepubescent.

12 * * *

13 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ: <--
14 § 6312.1. CHILD SEXUAL ABUSE PREVENTION TASK FORCE.

15 (A) ESTABLISHMENT.--THE CHILD SEXUAL ABUSE PREVENTION TASK
16 FORCE SHALL BE CREATED WITHIN THE DEPARTMENT OF HUMAN SERVICES.

17 (B) PURPOSE.--THE TASK FORCE SHALL PERFORM THE FOLLOWING:

18 (1) DEVELOP GUIDANCE, TOOLS AND SEXUAL ABUSE PREVENTION
19 AND INTERVENTION FRAMEWORKS FOR SUPPORTING PENNSYLVANIA CHILD
20 WELFARE SERVICES AND THE GENERAL ASSEMBLY IN EFFORTS TO
21 BETTER PROTECT THE CHILDREN AND YOUTH ENTRUSTED TO THE CARE
22 OF PENNSYLVANIA CHILD WELFARE SERVICES.

23 (2) CREATE LONG-RANGE PLANS AND STRATEGIES FOR STATEWIDE
24 COMMUNITY EDUCATION ABOUT CHILD SEXUAL ABUSE AND ITS
25 PREVENTION.

26 (C) COMPOSITION.--THE TASK FORCE SHALL CONSIST OF THE
27 FOLLOWING MEMBERS:

28 (1) ONE MEMBER OF THE PENNSYLVANIA SENATE, APPOINTED BY
29 THE PRESIDENT PRO TEMPORE OF THE SENATE.

30 (2) ONE MEMBER OF THE PUBLIC, APPOINTED BY THE PRESIDENT

1 PRO TEMPORE OF THE SENATE.

2 (3) ONE MEMBER OF THE PENNSYLVANIA HOUSE OF
3 REPRESENTATIVES, APPOINTED BY THE SPEAKER OF THE HOUSE OF
4 REPRESENTATIVES.

5 (4) ONE MEMBER OF THE PUBLIC, APPOINTED BY THE SPEAKER
6 OF THE HOUSE OF REPRESENTATIVES.

7 (5) ONE MEMBER OF THE PUBLIC WHO IS A SURVIVOR OF CHILD
8 SEXUAL ABUSE, APPOINTED BY THE GOVERNOR.

9 (6) THE SECRETARY OF EDUCATION, OR A DESIGNEE.

10 (7) THE SECRETARY OF HUMAN SERVICES, WHO SHALL SERVE AS
11 CHAIRPERSON OF THE TASK FORCE;

12 (8) THE SECRETARY OF HEALTH, OR A DESIGNEE.

13 (9) THE PRESIDENT OF THE PENNSYLVANIA DISTRICT
14 ATTORNEY'S ASSOCIATION, OR A DESIGNEE.

15 (10) TWO REPRESENTATIVES OF A CHILDREN'S ADVOCACY CENTER
16 THAT ASSISTS IN THE INVESTIGATION, PROSECUTION AND TREATMENT
17 OF CHILD SEXUAL AND PHYSICAL ABUSE CASES, APPOINTED BY THE
18 GOVERNOR.

19 (11) TWO MEDICAL PROFESSIONALS THAT SPECIALIZE IN THE
20 FIELD OF CHILD SEXUAL ABUSE, ONE OF WHOM SHALL BE APPOINTED
21 BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND ONE OF WHOM
22 SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF
23 REPRESENTATIVES.

24 (12) THE DIRECTOR OF THE PENNSYLVANIA COALITION AGAINST
25 RAPE, OR A DESIGNEE.

26 (13) THE DIRECTOR OF A RAPE CRISIS CENTER LOCATED IN
27 THIS COMMONWEALTH, OR A DESIGNEE.

28 (14) A REPRESENTATIVE OF AN ORGANIZATION REPRESENTING
29 LAW ENFORCEMENT, APPOINTED BY THE COMMISSIONER OF THE
30 PENNSYLVANIA STATE POLICE.

1 (15) THE VICTIM ADVOCATE FROM THE OFFICE OF VICTIM
2 ADVOCATE, OR A DESIGNEE.

3 (16) A MEMBER OF THE PENNSYLVANIA SEX OFFENDER
4 ASSESSMENT BOARD. IF POSSIBLE, THIS MEMBER SHALL ALSO BE A
5 MEMBER OF THE ASSOCIATION FOR THE TREATMENT OF SEXUAL
6 ABUSERS.

7 (17) THE ATTORNEY GENERAL OF PENNSYLVANIA, OR A
8 DESIGNEE.

9 (D) MEMBER REQUIREMENTS.--MEMBERS OF THE TASK FORCE MUST BE
10 INDIVIDUALS WHO ARE ACTIVELY INVOLVED IN THE FIELDS OF THE
11 PREVENTION OF CHILD ABUSE AND NEGLECT AND CHILD WELFARE. THE
12 APPOINTMENT OF MEMBERS MUST REFLECT THE GEOGRAPHIC DIVERSITY OF
13 THE COMMONWEALTH.

14 (E) VACANCIES.--THE FOLLOWING SHALL APPLY:

15 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), THE GOVERNOR
16 SHALL APPOINT A MEMBER FOR A MEMBERSHIP ON THE TASK FORCE
17 THAT REMAINS VACANT FOR 90 DAYS OR MORE.

18 (2) THE PRESIDENT PRO TEMPORE OF THE SENATE SHALL
19 APPOINT A MEMBER FOR A MEMBERSHIP APPOINTED UNDER SUBSECTION
20 (C) (5) OR (10) THAT REMAINS VACANT FOR 90 DAYS OR MORE.

21 (F) DESIGNEE.--A TASK FORCE MEMBER WHO INTENDS TO UTILIZE A
22 DESIGNEE SHALL NOTIFY THE CHAIRPERSON OF THE TASK FORCE IN
23 WRITING OF THE DESIGNEE.

24 (G) TERMS.--THE TERM OF A TASK FORCE MEMBER APPOINTED UNDER
25 SUBSECTION (C) (1), (2), (3), (4), (10), (11) OR (14) SHALL BE
26 THREE YEARS. A TASK FORCE MEMBER MAY BE REAPPOINTED FOR
27 ADDITIONAL TERMS. AN INDIVIDUAL APPOINTED TO FILL A VACANCY ON
28 THE TASK FORCE UNDER SUBSECTION (C) SHALL SERVE FOR THE
29 UNEXPIRED TERM OF THE MEMBERSHIP AND SHALL BE ELIGIBLE FOR
30 REAPPOINTMENT.

1 (H) MEETINGS AND EXPENSES.--THE FOLLOWING SHALL APPLY:

2 (1) THE TASK FORCE SHALL MEET AT LEAST FOUR TIMES
3 ANNUALLY, BUT MAY HOLD ADDITIONAL MEETINGS AS DETERMINED BY
4 THE CHAIRPERSON. THE CHAIRPERSON SHALL PROVIDE NOTICE OF AT
5 LEAST 14 DAYS IN ADVANCE FOR A REGULAR MEETING AND SHALL
6 PROVIDE NOTICE OF AT LEAST THREE DAYS IN ADVANCE OF A SPECIAL
7 MEETING.

8 (2) A RECORD OF MEETING ATTENDANCE SHALL BE MAINTAINED,
9 AND A MEMBER SHALL RECEIVE WRITTEN NOTICE IF THE MEMBER
10 MISSES TWO CONSECUTIVE MEETINGS. A MEMBER WHO MISSES THREE
11 CONSECUTIVE MEETINGS WITHOUT GOOD CAUSE ACCEPTABLE TO THE
12 CHAIRPERSON MAY BE REPLACED BY A MEMBER APPOINTED BY THE
13 GOVERNOR AT THE DISCRETION OF THE CHAIRPERSON.

14 (3) MINUTES OF THE MEETINGS SHALL BE PREPARED AND FILED
15 WITH THE TASK FORCE AND DISTRIBUTED TO EACH MEMBER. EACH
16 RECORD SHALL BE A MATTER OF PUBLIC RECORD.

17 (4) A MEMBER MAY NOT RECEIVE PER DIEM EXPENSES.

18 (5) THE DEPARTMENT SHALL PROVIDE APPROPRIATE STAFF
19 SUPPORT TO ENABLE THE TASK FORCE TO PROPERLY CARRY OUT THE
20 TASK FORCE'S DUTIES.

21 (I) POWERS.--THE TASK FORCE SHALL HAVE THE POWER TO ADVISE
22 AND CONSULT THE GENERAL ASSEMBLY AND COMMONWEALTH AGENCIES AND
23 MAY MAKE RECOMMENDATIONS IN ACCORDANCE WITH SUBSECTION (B). IN
24 MAKING THOSE RECOMMENDATIONS, THE TASK FORCE SHALL PERFORM THE
25 FOLLOWING:

26 (1) REVIEW EXISTING LAWS, REGULATIONS AND POLICIES
27 WITHIN THE CONTEXT OF CURRENT EMPIRICAL EVIDENCE EVALUATING
28 EFFECTIVE CHILD SEXUAL ABUSE.

29 (2) REVIEW CURRENT BEST-PRACTICES FOR PRIMARY, SECONDARY
30 AND TERTIARY CHILD SEXUAL ABUSE PREVENTION STRATEGIES.

1 (3) GATHER INFORMATION CONCERNING CHILD SEXUAL ABUSE
2 THROUGHOUT THIS COMMONWEALTH.

3 (4) RECEIVE REPORTS AND TESTIMONY FROM INDIVIDUALS,
4 COMMONWEALTH AND LOCAL AGENCIES, COMMUNITY-BASED
5 ORGANIZATIONS AND OTHER PUBLIC AND PRIVATE ORGANIZATIONS.

6 (5) DEVELOP GUIDELINES AND TOOLS FOR THE DEVELOPMENT OF
7 SEXUAL ABUSE PREVENTION AND INTERVENTION PLANS BY
8 ORGANIZATIONS SERVING CHILDREN AND YOUTH.

9 (6) RECOMMEND POLICIES AND PROCEDURES FOR IMPLEMENTATION
10 AND OVERSIGHT OF THE GUIDELINES.

11 (7) RECOMMEND STRATEGIES FOR INCENTIVIZING ORGANIZATIONS
12 TO DEVELOP AND IMPLEMENT SEXUAL ABUSE PREVENTION AND
13 INTERVENTION PLANS.

14 (8) DEVELOP A FIVE-YEAR PLAN FOR USING COMMUNITY
15 EDUCATION AND OTHER STRATEGIES TO INCREASE PUBLIC AWARENESS
16 ABOUT CHILD SEXUAL ABUSE, INCLUDING HOW TO RECOGNIZE SIGNS,
17 MINIMIZE RISK AND ACT ON SUSPICIONS OR DISCLOSURES OF SUCH
18 ABUSE.

19 (9) CREATE GOALS FOR EDUCATION POLICY THAT WOULD PREVENT
20 CHILD SEXUAL ABUSE.

21 (10) CREATE GOALS FOR OTHER AREAS OF COMMONWEALTH POLICY
22 THAT WOULD PREVENT CHILD SEXUAL ABUSE.

23 (J) ANNUAL REPORT.--SUBMIT AN ANNUAL REPORT TO THE GOVERNOR
24 AND THE GENERAL ASSEMBLY, WHICH SHALL INCLUDE, BUT NOT BE
25 LIMITED TO, THE TASK FORCE'S RECOMMENDATIONS UNDER THIS SECTION.
26 THE REPORT SHALL BE PUBLISHED ON THE DEPARTMENT'S PUBLICLY
27 ACCESSIBLE INTERNET WEBSITE.

28 (K) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
29 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
30 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

1 "CHAIRPERSON." THE CHAIRPERSON OF THE TASK FORCE.

2 "MEMBER." A MEMBER OF THE TASK FORCE.

3 "TASK FORCE." THE CHILD SEXUAL ABUSE PREVENTION TASK FORCE
4 ESTABLISHED UNDER SUBSECTION (A).

5 Section ~~2~~ 3. Section 9720.5 of Title 42 is amended to read: <--

6 § 9720.5. Sentencing for offenses involving sexual abuse of
7 children.

8 (a) General rule.--The Pennsylvania Commission on
9 Sentencing, in accordance with section 2154 (relating to
10 adoption of guidelines for sentencing), shall provide for a
11 sentence enhancement within its guidelines for an offense under
12 18 Pa.C.S. § 6312 (relating to sexual abuse of children),
13 specifying variations from the range of sentences applicable
14 based on such aggravating circumstances as the age of the child
15 or a determination of prepubescence, the number of images
16 possessed by the defendant, if the child depicted is known to
17 the defendant and the nature and character of the abuse depicted
18 in the images.

19 (b) Other circumstances.--When a person commits an offense
20 to which the grading provisions under 18 Pa.C.S. § 6312(d.1)(3)
21 apply, the Pennsylvania Commission on Sentencing shall, in
22 accordance with section 2154, provide for a sentence enhancement
23 within its guidelines if indecent contact with the child as
24 defined in 18 Pa.C.S. § 3101 (relating to definitions) is
25 depicted and the child depicted is under ~~six~~ 10 years of age or <--
26 prepubescent.

27 Section ~~3~~ 4. This act shall take effect in 60 days. <--