

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2655 Session of 2020

INTRODUCED BY OBERLANDER, DALEY, ROZZI, HANBIDGE, GREGORY,  
DONATUCCI, RYAN, ROTHMAN, KINSEY, McNEILL, MILLARD, THOMAS,  
WILLIAMS, BERNSTINE, T. DAVIS, DAY, HILL-EVANS, YOUNGBLOOD  
AND DeLUCA, JULY 8, 2020

REFERRED TO COMMITTEE ON JUDICIARY, JULY 8, 2020

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, in sexual offenses, further providing for the  
4 offense of institutional sexual assault; and, in registration  
5 of sexual offenders, further providing for the offense of  
6 sexual offenses and tier system.

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

9 Section 1. Section 3124.2(a), (a.1) and (b) of Title 18 of  
10 the Pennsylvania Consolidated Statutes are amended and the  
11 section is amended by adding subsections to read:

12 § 3124.2. Institutional sexual assault.

13 (a) General rule.--Except as provided under subsection (a.1)  
14 and in sections 3121 (relating to rape), 3122.1 (relating to  
15 statutory sexual assault), 3123 (relating to involuntary deviate  
16 sexual intercourse), 3124.1 (relating to sexual assault) and  
17 3125 (relating to aggravated indecent assault), a person who is  
18 an employee or agent of the Department of Corrections or a  
19 county correctional authority, youth development center, youth

1 forestry camp, State or county juvenile detention facility,  
2 other licensed residential facility serving children and youth,  
3 or mental health or mental retardation facility or institution  
4 commits a felony of the third degree when that person engages in  
5 sexual intercourse, deviate sexual intercourse or indecent  
6 contact with an inmate, detainee, another person being  
7 supervised by that person under probation or parole supervision,  
8 patient or resident.

9 (a.1) Institutional sexual assault of a minor.--A person who  
10 is an employee or agent of the Department of Corrections or a  
11 county correctional authority, youth development center, youth  
12 forestry camp, State or county juvenile detention facility,  
13 other licensed residential facility serving children and youth  
14 or mental health or mental retardation facility or institution  
15 commits a felony of the third degree when that person engages in  
16 sexual intercourse, deviate sexual intercourse or indecent  
17 contact with an inmate, detainee, another person being  
18 supervised by that person under probation or parole supervision,  
19 patient or resident who is under 18 years of age.

20 \* \* \*

21 (a.4) Peace officers.--

22 (1) Except as provided under sections 3121, 3122.1,  
23 3123, 3124.1 and 3125, a person who is a peace officer or  
24 employee of an agency employing a peace officer in his  
25 official capacity commits a felony of the third degree when  
26 that person engages in sexual intercourse, deviate sexual  
27 intercourse or indecent contact with another person who is  
28 under detention of the person or a confidential informant of  
29 the person.

30 (2) A person who is a peace officer commits a felony of

1 the third degree when that person engages in sexual  
2 intercourse, deviate sexual intercourse or indecent contact  
3 with another person who is:

4 (i) under 18 years of age; and

5 (ii) under detention of the person or a confidential  
6 informant of the person.

7 (a.5) Consent not a defense.--Consent is not a defense to a  
8 violation of subsection (a), (a.1), (a.3) or (a.4).

9 (b) Definitions.--As used in this section, the following  
10 words and phrases shall have the meanings given to them in this  
11 subsection unless the context clearly indicates otherwise:

12 "Agent." A person who is assigned to work in a State or  
13 county correctional or juvenile detention facility, a youth  
14 development center, youth forestry camp, other licensed  
15 residential facility serving children and youth or mental health  
16 or mental retardation facility or institution, who is employed  
17 by any State or county agency or any person employed by an  
18 entity providing contract services to the agency.

19 "Center for children." Includes a child day-care center,  
20 group and family day-care home, boarding home for children, a  
21 center providing early intervention and drug and alcohol  
22 services for children or other facility which provides child-  
23 care services which are subject to approval, licensure,  
24 registration or certification by the Department of Public  
25 Welfare or a county social services agency or which are provided  
26 pursuant to a contract with the department or a county social  
27 services agency. The term does not include a youth development  
28 center, youth forestry camp, State or county juvenile detention  
29 facility and other licensed residential facility serving  
30 children and youth.

1 "Confidential informant." An individual who associates with  
2 other individuals who are engaged in criminal activity for the  
3 purpose of furnishing information to or acting as an agent for a  
4 law enforcement agency.

5 "Detention." Detention for any law enforcement purpose,  
6 including "official detention" as defined in section 5121  
7 (relating to escape), transportation while in custody, temporary  
8 detention for investigating purposes, a custodial interrogation  
9 or interview and a traffic stop or checkpoint.

10 Section 2. Section 9799.14(b) (5) and (d) (6) of Title 42 are  
11 amended to read:

12 § 9799.14. Sexual offenses and tier system.

13 \* \* \*

14 (b) Tier I sexual offenses.--The following offenses shall be  
15 classified as Tier I sexual offenses:

16 \* \* \*

17 (5) 18 Pa.C.S. § 3124.2(a) and (a.4)(1) (relating to  
18 institutional sexual assault).

19 \* \* \*

20 (d) Tier III sexual offenses.--The following offenses shall  
21 be classified as Tier III sexual offenses:

22 \* \* \*

23 (6) 18 Pa.C.S. § 3124.2(a.1) and (a.4)(2).

24 \* \* \*

25 Section 3. This act shall take effect in 60 days.