

No. 2013-118

AN ACT

SB 28

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in assault, further providing for the offense of simple assault and for the offense of aggravated assault; and, in falsification and intimidation, providing for the offense of false reports of child abuse and for the offense of intimidation or retaliation in child abuse cases.

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

Section 1. Section 2701(a) and (b)(2) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 2701. Simple assault.

(a) Offense defined.—[A] *Except as provided under section 2702 (relating to aggravated assault), a person is guilty of assault if he:*

- (1) attempts to cause or intentionally, knowingly or recklessly causes bodily injury to another;
- (2) negligently causes bodily injury to another with a deadly weapon;
- (3) attempts by physical menace to put another in fear of imminent serious bodily injury; or
- (4) conceals or attempts to conceal a hypodermic needle on his person and intentionally or knowingly penetrates a law enforcement officer or an officer or an employee of a correctional institution, county jail or prison, detention facility or mental hospital during the course of an arrest or any search of the person.

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

* * *

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

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

§ 2702. Aggravated assault.

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

* * *

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

- (7) uses tear or noxious gas as defined in section 2708(b) (relating to use of tear or noxious gas in labor disputes) or uses an electric or electronic incapacitation device against any officer, employee or other person enumerated in subsection (c) while acting in the scope of his employment[.];

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

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

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

* * *

Section 3. Title 18 is amended by adding sections to read:

§ 4906.1. False reports of child abuse.

A person commits a misdemeanor of the second degree if the person intentionally or knowingly makes a false report of child abuse under 23 Pa.C.S. Ch. 63 (relating to child protective services) or intentionally or knowingly induces a child to make a false claim of child abuse under 23 Pa.C.S. Ch. 63.

§ 4958. Intimidation, retaliation or obstruction in child abuse cases.

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

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

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

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

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

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

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

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

(b) Retaliation.—A person commits an offense if the person harms another person by any unlawful act or engages in a course of conduct or repeatedly commits acts which threaten another person in retaliation for anything that the other person has lawfully done in the capacity of a reporter, witness or victim of child abuse.

(b.1) Obstruction.—In addition to any other penalty provided by law, a person commits an offense if, with intent to prevent a public servant from investigating or prosecuting a report of child abuse under 23 Pa.C.S. Ch. 63, the person by any scheme or device or in any other manner obstructs,

interferes with, impairs, impedes or perverts the investigation or prosecution of child abuse.

(c) Grading.—

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

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

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

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

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

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

(2) An offense not otherwise addressed in paragraph (1) is a misdemeanor of the second degree.

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

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

"Mandated reporter." As defined in 23 Pa.C.S. § 6303(a).¹

"Public servant." As defined in section 4501 (relating to definitions).

"Reporter." A person, including a mandated reporter, having reasonable cause to suspect that a child under 18 years of age is a victim of child abuse.

Section 4. This act shall take effect January 1, 2014, or immediately, whichever is later.

APPROVED—The 18th day of December, A.D. 2013

TOM CORBETT

¹§ 6303(b)(b.1)." in enrolled bill and slip law.