

No. 1990-4

AN ACT

HB 1120

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for aggravated assault; providing for the offense of aggravated indecent assault; further defining the term “deviate sexual intercourse”; and further providing for indecent assault and for offenses against children.

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

Section 1. Section 2702 of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 2702. Aggravated assault.

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

(1) attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life;

(2) attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to a police officer [or], firefighter, *county adult probation or parole officer, county juvenile probation or parole officer or an agent of the Pennsylvania Board of Probation and Parole* in the performance of duty or to an employee of an agency, company or other entity engaged in public transportation, while in the performance of duty;

(3) attempts to cause or intentionally or knowingly causes bodily injury to a police officer [or], firefighter *or county adult probation or parole officer, county juvenile probation or parole officer or an agent of the Pennsylvania Board of Probation and Parole* in the performance of duty;

(4) attempts to cause or intentionally or knowingly causes bodily injury to another with a deadly weapon; or

(5) attempts to cause or intentionally or knowingly causes bodily injury to a teaching staff member, school board member, other employee or student of any elementary or secondary publicly-funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school while acting in the scope of his or her employment or because of his or her employment relationship to the school.

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

Section 2. Section 2908 of Title 18 is amended by adding a subsection to read:

§ 2908. Missing children.

* * *

(a.1) Unidentified deceased children.—Law enforcement agencies and coroners shall, with respect to unidentified deceased children, have the duty to make an entry into the Unidentified Deceased Person File through the Commonwealth Law Enforcement Assistance Network (CLEAN) in accordance with Pennsylvania State Police policy and procedures immediately upon observing or receiving any descriptive information on an unidentified deceased child.

* * *

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

§ 2909. *Concealment of whereabouts of a child.*

(a) Offense defined.—A person who removes a child from the child's known place of residence with the intent to conceal the child's whereabouts from the child's parent or guardian, unless concealment is authorized by court order or is a reasonable response to domestic violence or child abuse, commits a felony of the third degree. For purposes of this subsection, the term "removes" includes personally removing the child from the child's known place of residence, causing the child to be removed from the child's known place of residence, preventing the child from returning or being returned to the child's known place of residence and, when the child's parent or guardian has a reasonable expectation that the person will return the child, failing to return the child to the child's known place of residence.

(b) Application.—A person may be convicted under subsection (a) if either of the following apply:

(1) The acts that initiated the concealment occurred in this Commonwealth.

(2) The offender or the parent or guardian from whom the child is being concealed resides in this Commonwealth.

§ 2910. *Luring a child into a motor vehicle.*

A person who lures a child into a motor vehicle without the consent, express or implied, of the child's parent or guardian, unless the circumstances reasonably indicate that the child is in need of assistance, commits a misdemeanor of the first degree.

Section 4. Section 3101 of Title 18 is amended to read:

§ 3101. Definitions.

Subject to additional definitions contained in subsequent provisions of this chapter which are applicable to specific provisions of this chapter, the following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Deviate sexual intercourse." Sexual intercourse per os or per anus between human beings who are not husband and wife, except as provided in section 3128 (relating to spousal sexual assault), and any form of sexual intercourse with an animal. *The term also includes penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.*

“Foreign object.” *Includes any physical object not a part of the actor’s body.*

“Indecent contact.” Any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, in either person.

“Sexual intercourse.” In addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required.

Section 5. Title 18 is amended by adding a section to read:

§ 3125. Aggravated indecent assault.

Except as provided in sections 3121 (relating to rape), 3122 (relating to statutory rape) and 3123 (relating to involuntary deviate sexual intercourse), a person commits a felony of the second degree when he engages in penetration, however slight, of the genitals or anus of another with a part of the actor’s body for any purpose other than good faith medical, hygienic or law enforcement procedures if:

- (1) he does so without the consent of the other person;*
- (2) he knows that the other person suffers from a mental disease or defect which renders him or her incapable of appraising the nature of his or her conduct;*
- (3) he knows that the other person is unaware that the indecent contact is being committed;*
- (4) he has substantially impaired the other person’s power to appraise or control his or her conduct by administering or employing, without the knowledge of the other, drugs, intoxicants or other means for the purpose of preventing resistance;*
- (5) the other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over him; or*
- (6) he is over 18 years of age and the other person is under 14 years of age.*

Section 6. Sections 3126 and 5902(e) of Title 18 are amended to read:

§ 3126. Indecent assault.

(a) Offense defined.—A person who has indecent contact with another not his spouse, or causes such other to have indecent contact with him, is guilty of indecent assault[, a misdemeanor of the second degree,] if:

- (1) he does so without the consent of the other person;*
- (2) he knows that the other person suffers from a mental disease or defect which renders him or her incapable of appraising the nature of his or her conduct;*
- (3) he knows that the other person is unaware that a indecent contact is being committed;*
- (4) he has substantially impaired the other person’s power to appraise or control his or her conduct[,] by administering or employing without the knowledge of the other drugs, intoxicants or other means for the purpose of preventing resistance; [or]*

(5) the other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over him[.]; or

(6) *he is over 18 years of age and the other person is under 14 years of age.*

(b) *Grading.—Indecent assault under subsection (a)(6) is a misdemeanor of the first degree. Otherwise, indecent assault is a misdemeanor of the second degree.*

§ 5902. Prostitution and related offenses.

* * *

(e) Patronizing prostitutes.—A person commits a summary offense if he hires a prostitute *who is 16 years of age or older* to engage in sexual activity with him, or if he enters or remains in a house of prostitution for the purpose of engaging in sexual activity. *A person commits a misdemeanor of the third degree if the person hires a prostitute who is under 16 years of age, whether or not the person is aware of the age of the child.*

* * *

Section 7. This act shall take effect in 60 days.

APPROVED—The 2nd day of February, A. D. 1990.

ROBERT P. CASEY