

No. 2000-113

AN ACT

SB 844

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for criminal victim aid good Samaritan civil immunity; and further providing for sentences for second and subsequent offenses, for registration, for registration procedures and applicability, for assessments and for verification of residence.

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

Section 1. Title 42 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 8331.3. Criminal victim aid good Samaritan civil immunity.

Any person who provides or obtains or attempts to provide or obtain assistance for a victim of a crime involving death, serious physical injury, robbery, burglary, kidnapping, rape, statutory sexual assault, involuntary deviate sexual intercourse, sexual assault, aggravated indecent assault or indecent assault at the scene of the criminal act or attempted criminal act shall not be liable for any civil damages as a result of any acts or omissions in providing or obtaining or attempting to provide or obtain assistance, except any acts or omissions intentionally designed to harm or any acts or omissions that constitute gross negligence or willful, wanton or reckless conduct.

Section 2. Sections 9714(a), (b) and (c), 9795.1(a), 9795.2(d), 9795.4(c) and 9796(e) of Title 42 are amended to read:

§ 9714. Sentences for second and subsequent offenses.

(a) Mandatory sentence.—

(1) Any person who is convicted in any court of this Commonwealth of a crime of violence shall, if at the time of the commission of the current offense the person had previously been convicted of a crime of violence [and has not rebutted the presumption of high risk dangerous offender as provided in subsection (c)], be sentenced to a minimum sentence of at least ten years of total confinement, notwithstanding any other provision of this title or other statute to the contrary. [If at the time of the commission of the current offense the person has previously been convicted of a crime of violence and has rebutted the presumption of high risk dangerous offender as provided in subsection (c), the person shall be sentenced to a minimum sentence of at least five years of total confinement, notwithstanding any other provision of this title or other statute to the contrary.] Upon a second conviction for a crime of violence, the court shall give the person oral and written notice of the penalties under this section for a third conviction for a crime of violence. Failure to

provide such notice shall not render the offender ineligible to be sentenced under paragraph (2).

(2) Where the person had at the time of the commission of the current offense previously been convicted of two or more such crimes of violence arising from separate criminal transactions, the person shall be sentenced to a minimum sentence of at least 25 years of total confinement, notwithstanding any other provision of this title or other statute to the contrary. Proof that the offender received notice of or otherwise knew or should have known of the penalties under this paragraph shall not be required. Upon conviction for a third or subsequent crime of violence the court may, if it determines that 25 years of total confinement is insufficient to protect the public safety, sentence the offender to life imprisonment without parole.

* * *

[(b) Presumption of high risk dangerous offender.—For the purposes of subsection (a), an offender shall be presumed to be a high risk dangerous offender and shall be deemed to have prior convictions for crimes of violence if both of the following conditions hold:

(1) The offender was previously convicted of a crime of violence. The previous conviction need not be for the same crime as the instant offense for this section to be applicable.

(2) The previous conviction occurred within seven years of the date of the commission of the instant offense, except that any time during which the offender was incarcerated in any penitentiary, prison or other place of detention or on probation or parole shall not be considered in computing the relevant seven-year period. Convictions for other offenses arising from the same criminal transaction as the instant offense shall not be considered previous convictions for the purpose of this section. For purposes of this section previous conviction shall include any conviction, whether or not judgment of sentence has been imposed or litigation is pending concerning that conviction.

(c) High risk dangerous offender.—

(1) In addition to any other provision of this section, a court shall hold a hearing for an offender presumed to be a high risk dangerous offender pursuant to the provisions of subsection (b). The court shall schedule a hearing and receive such evidence from the offender as may be relevant to whether the presumption shall apply. If the offender presents evidence in opposition to the presumption, the attorney for the Commonwealth may present evidence in support of the presumption.

(2) In determining whether the offender is a high risk dangerous offender, the court shall consider, but not be limited to, such factors as:

(i) Age of the offender.

- (ii) Age of the victim.
- (iii) Use of illegal drugs or alcohol by the offender.
- (iv) Offender's prior criminal record.
- (v) Whether the offense involved multiple victims.
- (vi) Offender's failure to complete a prior sentence.
- (vii) Any mental illness or mental disability of the offender.
- (viii) If the offense included attempted or actual sexual contact with the victim and was part of a demonstrated pattern of abuse.
- (ix) If the offense included a display of unusual cruelty by the offender during the commission of the crime.
- (x) The nature and circumstances of the current offense.
- (xi) The use of a deadly weapon as defined in 18 Pa.C.S. § 2301 (relating to definitions) during the commission of the current offense.
- (xii) The impact of the current offense on the victim and the extent of injury caused to the victim as a result of the current offense.

(3) In determining whether the offender is a high risk dangerous offender, the court may order a psychiatric or psychological examination of the offender.

(4) If the court determines that the offender is a high risk dangerous offender, the court shall state on the sentencing order that the offender has been determined to be a high risk dangerous offender and that the ten-year mandatory minimum sentence under this section shall apply.

(5) If the court determines that the offender has rebutted by clear and convincing evidence the presumption that he is a high risk dangerous offender, the court shall state on the sentencing order that the defendant has not been determined to be a high risk dangerous offender and that the ten-year mandatory minimum sentence under this section shall not apply.]

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§ 9795.1. Registration.

(a) Ten-year registration.—The following individuals shall be required to register with the Pennsylvania State Police for a period of ten years:

(1) Individuals convicted of any of the following offenses:

18 Pa.C.S. § 2901 (relating to kidnapping) where the victim is a minor.

18 Pa.C.S. § 3126 (relating to indecent assault) where the offense is a misdemeanor of the first degree.

18 Pa.C.S. § 4302 (relating to incest) where the victim is 12 years of age or older but under 18 years of age.

18 Pa.C.S. § 5902(b) (relating to prostitution and related offenses) where the actor promotes the prostitution of a minor.

18 Pa.C.S. § 5903(a)(3), (4), (5) or (6) (relating to obscene and other sexual materials and performances) where the victim is a minor.

18 Pa.C.S. § 6312 (relating to sexual abuse of children).

18 Pa.C.S. § 6318 (relating to unlawful contact or communication with minor).

18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(2) Individuals convicted of an attempt to commit any of the offenses under paragraph (1) or subsection (b)(2).

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§ 9795.2. Registration procedures and applicability.

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(d) Penalty.—

(1) An individual subject to registration under section 9795.1(a) who fails to register with the Pennsylvania State Police as required in this section commits a felony of the third degree.

(2) An individual subject to registration under section 9795.1(b)(1) [or], (2) or (3) who fails to register with the Pennsylvania State Police as required in this section commits a felony of the first degree and shall be sentenced to a mandatory minimum sentence of probation for the remainder of the individual's lifetime and may be sentenced to a period of incarceration of up to the individual's lifetime.

§ 9795.4. Assessments.

* * *

(c) Release of information.—All State, county and local agencies, offices or entities in this Commonwealth shall cooperate by providing copies of records and information as requested by the board in connection with the court-ordered assessment *and the assessment requested by the Pennsylvania Board of Probation and Parole.*

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§ 9796. Verification of residence.

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(e) Penalty.—

(1) Any individual subject to registration under section 9795.1(a) who fails to verify his residence or be photographed as required in this section commits a felony of the third degree.

(2) Any individual subject to registration under section 9795.1(b)(1) [or], (2) or (3) who fails to verify his residence or to be photographed as required in this section commits a felony of the first degree and shall be sentenced to a mandatory minimum sentence of probation for the remainder of the individual's lifetime and may be sentenced to a period of incarceration of up to the individual's lifetime.

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

APPROVED—The 20th day of December, A.D. 2000.

THOMAS J. RIDGE