

No. 2002-172

AN ACT

HB 2070

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for simple assault; providing for restoration of firearm rights for offenses under prior laws of this Commonwealth; further providing for unlawful contact with a minor; and providing for contingent compensation.

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

Section 1. Section 2701 of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 2701. Simple assault.

(a) Offense defined.—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:

(1) in a fight or scuffle entered into by mutual consent, in which case it is a misdemeanor of the third degree; or

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

Section 2. Title 18 is amended by adding a section to read:

§ 6105.1. *Restoration of firearm rights for offenses under prior laws of this Commonwealth.*

(a) *Restoration.*—*A person convicted of a disabling offense may make application to the court of common pleas in the county where the principal residence of the applicant is situated for restoration of firearms rights. The court shall grant restoration of firearms rights after a hearing in open court to determine whether the requirements of this section have been met unless:*

(1) *the applicant has been convicted of any other offense specified in section 6105(a) or (b) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms) or the applicant's conduct meets the criteria in section 6105(c)(1), (2), (3), (4), (5), (6) or (7);*

(2) the applicant has been convicted of any other crime punishable by imprisonment exceeding one year as defined in section 6102 (relating to definitions); or

(3) the applicant's character and reputation is such that the applicant would be likely to act in a manner dangerous to public safety.

(b) Notice and standing.—

(1) Notice of an application for restoration of firearms rights shall be provided to the Pennsylvania State Police, the district attorney of the county where the disabling offense occurred and the district attorney of the county where the application is filed. The district attorney of the county where the application is filed, the district attorney of the county where the disabling offense occurred and the Pennsylvania State Police may, at their option, be parties to the proceeding.

(2) Notwithstanding paragraph (1), the standing of the Pennsylvania State Police as a party to a proceeding under this section shall be limited to determinations of whether the offense meets the definition of the phrase "disabling offense" or whether the provisions of subsection (a)(1) and (2) have been satisfied.

(c) Copy of order to Pennsylvania State Police.—If the court grants restoration of firearms rights to an applicant, a copy of the order shall be sent by the prothonotary within ten days of the entry of the order to the district attorneys and the Pennsylvania State Police, Firearms Division, and shall include the name, date of birth and Social Security number of the applicant.

(d) Expungement and pardon.—A restoration of firearms rights under this section shall not result in the expungement of any criminal history record information nor will it constitute a gubernatorial pardon.

(e) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Disabling offense." A conviction for any offense which:

(1) resulted in a Federal firearms disability and is substantially similar to either an offense currently graded as a crime punishable by a term of imprisonment for not more than two years or conduct which no longer constitutes a violation of law; and

(2) was a violation of either of the following:

(i) the former act of May 1, 1929 (P.L.905, No.403), known as The Vehicle Code, or the former act of April 29, 1959 (P.L.58, No.32), known as The Vehicle Code; or

(ii) the former act of June 24, 1939 (P.L.872, No.375), known as the Penal Code.

The definition shall not include any offense which, if committed under contemporary standards, would constitute a misdemeanor of the second degree or greater under section 2701 (relating to simple assault) and was

committed by a current or former spouse, parent or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent or guardian or by a person similarly situated to a spouse, parent or guardian of the victim.

“Restoration of firearms rights.” Relieving any and all disabilities with respect to a person’s right to own, possess, use, control, sell, purchase, transfer, manufacture, receive, ship or transport firearms, including any disabilities imposed pursuant to this subchapter. The phrase shall also mean the restoration of the right to vote, to hold public office and to serve on a jury.

Section 3. Section 6318(a) and (b) of Title 18, amended November 20, 2002 (P.L.1104, No.134), are amended to read:

§ 6318. Unlawful contact with minor.

(a) **Offense defined.**—A person commits an offense if he [or she intentionally contacts a minor, and either the person initiating the contact or the minor being contacted is within this Commonwealth,] is ***intentionally in contact with a minor*** for the purpose of engaging in an activity prohibited under any of the following, ***and either the person initiating the contact or the person being contacted is within this Commonwealth:***

(1) Any of the offenses enumerated in Chapter 31 (relating to sexual offenses).

(2) Open lewdness as defined in section 5901 (relating to open lewdness).

(3) Prostitution as defined in section 5902 (relating to prostitution and related offenses).

(4) Obscene and other sexual materials and performances as defined in section 5903 (relating to obscene and other sexual materials and performances).

(5) Sexual abuse of children as defined in section 6312 (relating to sexual abuse of children).

(6) Sexual exploitation of children as defined in section 6320 (relating to sexual exploitation of children).

(b) **Grading.**—A violation of subsection (a) is:

(1) an offense of the same grade and degree as the most serious underlying offense in subsection (a) for which the defendant contacted **[or communicated with]** the minor; or

(2) a misdemeanor of the first degree;

whichever is greater.

* * *

Section 4. Title 18 is amended by adding a section to read:

§ 7515. ***Contingent compensation.***

(a) ***Offense defined.***—

(1) No person may compensate or incur an obligation to compensate any person to engage in lobbying for compensation contingent in whole or in part upon the passage, defeat, approval or veto of legislation.

(2) No person may engage or agree to engage in lobbying for compensation contingent in whole or in part upon the passage, defeat, approval or veto of legislation.

(b) Penalty.—Any person who violates this section commits a misdemeanor of the third degree.

(c) Definition.—As used in this section, the term “lobbying” means an effort to influence State legislative action for economic consideration.

Section 5. This act shall take effect as follows:

(1) The addition of 18 Pa.C.S. §§ 6105.1 and 7515 shall take effect immediately.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect in 60 days.

APPROVED—The 9th day of December, A.D. 2002.

MARK S. SCHWEIKER