

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1843 Session of
2023

INTRODUCED BY DONAHUE, KLUNK, MADDEN, GALLAGHER, HILL-EVANS,
SANCHEZ, HANBIDGE, HADDOCK, DELOZIER, ECKER, BOYD AND
CERRATO, NOVEMBER 13, 2023

REFERRED TO COMMITTEE ON JUDICIARY, NOVEMBER 13, 2023

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in depositions and
3 witnesses, providing for sentencing considerations for child
4 victim offenders.

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

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

9 § 5988.1. Sentencing considerations for child victim offenders.

10 (a) Court discretion.--Subject to subsection (b) and
11 notwithstanding any other provision of law, if a child is
12 convicted of an offense in a criminal proceeding and the court
13 finds, by clear and convincing evidence, that a victim of the
14 child's criminal conduct had, within one year prior to the
15 child's commission of the offense, engaged in, or forced or
16 compelled the child to engage in, prohibited sexual conduct, and
17 the child's commission of the offense was a direct result of the
18 prohibited sexual conduct, or the child acted under the

influence of substantial emotional distress during the
commission of the offense, the court may:

(1) depart from any applicable mandatory minimum
sentence or sentencing enhancement;

(2) impose a determination of guilt without further
penalty;

(3) transfer the child's case to the division or a judge
of the court assigned to conduct juvenile hearings; or

(4) reduce or waive the imposition of fines, court costs
or restitution.

(b) Exceptions.--Subsection (a) shall not apply to a child's
conviction for any offense:

(1) under 18 Pa.C.S. Ch. 30 (relating to human
trafficking) or 31 (relating to sexual offenses); or

(2) involving any victim who did not engage in, or force
or compel the child to engage in, prohibited sexual conduct.

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

"Emotional distress." A temporary or permanent state of
mental anguish caused or induced by the prohibited sexual
conduct.

"Prohibited sexual conduct." Any activity prohibited under
any of the following provisions under 18 Pa.C.S. (relating to
crimes and offenses):

(1) Any of the offenses enumerated in Chapter 30, if the
activity involved sexual servitude, as defined in section
3001 (relating to definitions).

(2) Section 3121(c) (relating to rape).

(3) Section 3122.1 (relating to statutory sexual

1 assault).

2 (4) Section 3123 (relating to involuntary deviate sexual
3 intercourse).

4 (5) Section 3124.1 (relating to sexual assault).

5 (6) Section 3124.3 (relating to sexual assault by sports
6 official, volunteer or employee of nonprofit association).

7 (7) Section 3125 (relating to aggravated indecent
8 assault).

9 (8) Section 3126 (relating to indecent assault).

10 (9) Section 5902(b), (b.1), (d) and (e) (relating to
11 prostitution and related offenses).

12 (10) Section 6312 (relating to sexual abuse of
13 children).

14 Section 2. This act shall take effect in 60 days.