

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1843 Session of 2023

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

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, DECEMBER 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 FOLLOWING A <--
13 MOTION FILED BY THE PROSECUTOR OR THE DEFENDANT AND A HEARING ON
14 THE MOTION and the court finds, by clear and convincing
15 evidence, that a victim of the child's criminal conduct had,
16 within one year prior to the child's commission of the offense,
17 engaged in, or forced or compelled the child to engage in,
18 prohibited sexual conduct, and the child's commission of the

1 offense was a direct result of the prohibited sexual conduct, or
2 the child acted under the influence of substantial emotional
3 distress during the commission of the offense, the court may:

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

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

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

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

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

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

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

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

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

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

27 (1) Any of the offenses enumerated in Chapter 30, if the
28 activity involved sexual servitude, as defined in section
29 3001 (relating to definitions).

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

1 (3) Section 3122.1 (relating to statutory sexual
2 assault).

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

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

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

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

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

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

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

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