

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 186 Session of 2023

INTRODUCED BY J. WARD, COLLETT, PHILLIPS-HILL, DUSH, SANTARSIERO, SCHWANK, BROWN, MASTRIANO, TARTAGLIONE, COMITTA, STEFANO, ROBINSON, SAVAL AND CAPPELLETTI, JANUARY 30, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JULY 2, 2024

AN ACT

1 Amending Titles 18 (Crimes and Offenses), 42 (JUDICIARY AND <--
2 JUDICIAL PROCEDURE) and 61 (Prisons and Parole) of the
3 Pennsylvania Consolidated Statutes, IN LIMITATION OF TIME, <--
4 FURTHER PROVIDING FOR INFANCY, INSANITY OR IMPRISONMENT; IN
5 MATTERS AFFECTING GOVERNMENT UNITS, FURTHER PROVIDING FOR
6 EXCEPTIONS TO SOVEREIGN IMMUNITY AND FOR EXCEPTIONS TO
7 GOVERNMENTAL IMMUNITY; MAKING A REPEAL; AND making editorial
8 changes to replace references to the term "child pornography"
9 with references to the term "child sexual abuse material."

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

12 Section 1. Sections 3051(k) and 6312(d) heading and
13 Subchapter C heading of Chapter 76 of Title 18 of the
14 Pennsylvania Consolidated Statutes are amended to read:

15 § 3051. Civil causes of action.

16 * * *

17 (k) Definitions.--The following words and phrases when used
18 in this section shall have the meanings given to them in this
19 subsection unless the context clearly indicates otherwise:

20 "Sex trade." An act, which if proven beyond a reasonable

1 doubt, could support a conviction for violation or attempted
2 violation of Chapter 59 (relating to public indecency) or
3 section 6312 (relating to sexual abuse of children).

4 "Victim of the sex trade." An individual who has:

5 (1) been the object of a solicitation for prostitution;

6 (2) been the object of a transaction in a sex act;

7 (3) been intended or compelled to engage in an act of
8 prostitution;

9 (4) been intended or compelled to engage in a sex act;

10 (5) been described or depicted in material that
11 advertises an intent or compulsion to engage in sex acts; or

12 (6) in the case of obscenity or child [pornography has]
13 sexual abuse material, appeared in or been described or
14 depicted in the offending conduct or material.

15 § 6312. Sexual abuse of children.

16 * * *

17 (d) Child [pornography] sexual abuse material.--* * *

18 SUBCHAPTER C

19 INTERNET CHILD [PORNOGRAPHY] Sexual Abuse Material

20 Section 2. The definition of "child pornography" in section
21 7621 of Title 18 is amended and the section is amended by adding
22 a definition to read:

23 § 7621. Definitions.

24 The following words and phrases when used in this subchapter
25 shall have the meanings given to them in this section unless the
26 context clearly indicates otherwise:

27 "Child pornography." [As described in section 6312 (relating
28 to sexual abuse of children).] The term shall have the same
29 meaning as child sexual abuse material.

30 "Child sexual abuse material." As described in section

1 6312(d) (relating to sexual abuse of children).

2 * * *

3 Section 3. Sections 7622 and 7626(2) of Title 18 are amended
4 to read:

5 § 7622. Duty of Internet service provider.

6 An Internet service provider shall remove or disable access
7 to child [pornography] sexual abuse material items residing on
8 or accessible through its service in a manner accessible to
9 persons located within this Commonwealth within five business
10 days of when the Internet service provider is notified by the
11 Attorney General pursuant to section 7628 (relating to
12 notification procedure) that child [pornography] sexual abuse
13 material items reside on or are accessible through its service.

14 § 7626. Application for order to remove or disable items.

15 An application for an order of authorization to remove or
16 disable items residing on or accessible through an Internet
17 service provider's service shall be made to the court of common
18 pleas having jurisdiction in writing upon the personal oath or
19 affirmation of the Attorney General or a district attorney of
20 the county wherein the items have been discovered and, if
21 available, shall contain all of the following information:

22 * * *

23 (2) A statement of the identity of the investigative or
24 law enforcement officer that has, in the official scope of
25 that officer's duties, discovered the child [pornography]
26 sexual abuse material items.

27 * * *

28 SECTION 3.1. SECTION 5533(B) OF TITLE 42 IS AMENDED AND THE <--
29 SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

30 § 5533. INFANCY, INSANITY OR IMPRISONMENT.

1 * * *

2 (B) INFANCY.--

3 (1) [(I)] IF AN INDIVIDUAL ENTITLED TO BRING A CIVIL
4 ACTION IS AN UNEMANCIPATED MINOR AT THE TIME THE CAUSE OF
5 ACTION ACCRUES, THE PERIOD OF MINORITY SHALL NOT BE
6 DEEMED A PORTION OF THE TIME PERIOD WITHIN WHICH THE
7 ACTION MUST BE COMMENCED. SUCH PERSON SHALL HAVE THE SAME
8 TIME FOR COMMENCING AN ACTION AFTER ATTAINING MAJORITY AS
9 IS ALLOWED TO OTHERS BY THE PROVISIONS OF THIS
10 SUBCHAPTER.

11 [(II) AS USED IN THIS PARAGRAPH, THE TERM "MINOR"
12 SHALL MEAN ANY INDIVIDUAL WHO HAS NOT YET ATTAINED 18
13 YEARS OF AGE.]

14 (2) (I) IF AN INDIVIDUAL ENTITLED TO BRING A CIVIL
15 ACTION ARISING FROM SEXUAL ABUSE IS UNDER 18 YEARS OF AGE
16 AT THE TIME THE CAUSE OF ACTION ACCRUES, THE INDIVIDUAL
17 SHALL HAVE A PERIOD OF 37 YEARS AFTER ATTAINING 18 YEARS
18 OF AGE IN WHICH TO COMMENCE AN ACTION FOR DAMAGES
19 REGARDLESS OF WHETHER THE INDIVIDUAL FILES A CRIMINAL
20 COMPLAINT REGARDING THE SEXUAL ABUSE.

21 (I.1) IF AN INDIVIDUAL ENTITLED TO BRING A CIVIL
22 ACTION ARISING FROM SEXUAL ABUSE IS AT LEAST 18 AND LESS
23 THAN 24 YEARS OF AGE AT THE TIME THE CAUSE OF ACTION
24 OCCURS, THE INDIVIDUAL SHALL HAVE UNTIL ATTAINING 30
25 YEARS OF AGE TO COMMENCE AN ACTION FOR DAMAGES REGARDLESS
26 OF WHETHER THE INDIVIDUAL FILES A CRIMINAL COMPLAINT
27 REGARDING THE SEXUAL ABUSE.

28 [(II) FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM
29 "SEXUAL ABUSE" SHALL INCLUDE, BUT NOT BE LIMITED TO, THE
30 FOLLOWING SEXUAL ACTIVITIES BETWEEN AN INDIVIDUAL WHO IS

1 23 YEARS OF AGE OR YOUNGER AND AN ADULT, PROVIDED THAT
2 THE INDIVIDUAL BRINGING THE CIVIL ACTION ENGAGED IN SUCH
3 ACTIVITIES AS A RESULT OF FORCIBLE COMPULSION OR BY
4 THREAT OF FORCIBLE COMPULSION WHICH WOULD PREVENT
5 RESISTANCE BY A PERSON OF REASONABLE RESOLUTION:

6 (A) SEXUAL INTERCOURSE, WHICH INCLUDES
7 PENETRATION, HOWEVER SLIGHT, OF ANY BODY PART OR
8 OBJECT INTO THE SEX ORGAN OF ANOTHER;

9 (B) DEVIATE SEXUAL INTERCOURSE, WHICH INCLUDES
10 SEXUAL INTERCOURSE PER OS OR PER ANUS; AND

11 (C) INDECENT CONTACT, WHICH INCLUDES ANY
12 TOUCHING OF THE SEXUAL OR OTHER INTIMATE PARTS OF THE
13 PERSON FOR THE PURPOSE OF AROUSING OR GRATIFYING
14 SEXUAL DESIRE IN EITHER PERSON.

15 (III) FOR PURPOSES OF THIS PARAGRAPH, "FORCIBLE
16 COMPULSION" SHALL HAVE THE MEANING GIVEN TO IT IN 18
17 PA.C.S. § 3101 (RELATING TO DEFINITIONS).]

18 (C) TEMPORARY WINDOW TO FILE CLAIMS.--NOTWITHSTANDING
19 SUBSECTION (B) OR ANY OTHER PROVISION OF LAW TO THE CONTRARY,
20 FOR AN INDIVIDUAL ENTITLED TO BRING A CIVIL ACTION ARISING FROM
21 SEXUAL ABUSE IF THE INDIVIDUAL WAS UNDER 18 YEARS OF AGE AT THE
22 TIME THE CAUSE OF ACTION ACCRUED, AND IF THE LIMITATION PERIOD
23 FOR THAT CAUSE OF ACTION HAS EXPIRED, THE CIVIL ACTION IS
24 REVIVED AND THE INDIVIDUAL SHALL HAVE AN ADDITIONAL PERIOD OF
25 TWO YEARS FROM THE EFFECTIVE DATE OF THIS SUBSECTION TO COMMENCE
26 AN ACTION.

27 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
28 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
29 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

30 "FORCIBLE COMPULSION." AS DEFINED IN 18 PA.C.S. § 3101

1 (RELATING TO DEFINITIONS).

2 "MINOR." AN INDIVIDUAL WHO HAS NOT YET ATTAINED 18 YEARS OF
3 AGE.

4 "SEXUAL ABUSE." THE TERM SHALL INCLUDE, BUT NOT BE LIMITED
5 TO, THE FOLLOWING SEXUAL ACTIVITIES BETWEEN AN INDIVIDUAL WHO IS
6 23 YEARS OF AGE OR YOUNGER AND AN ADULT, PROVIDED THAT THE
7 INDIVIDUAL BRINGING THE CIVIL ACTION ENGAGED IN SUCH ACTIVITIES
8 AS A RESULT OF FORCIBLE COMPULSION OR BY THREAT OF FORCIBLE
9 COMPULSION WHICH WOULD PREVENT RESISTANCE BY A PERSON OF
10 REASONABLE RESOLUTION:

11 (1) SEXUAL INTERCOURSE, WHICH INCLUDES PENETRATION,
12 HOWEVER SLIGHT, OF ANY BODY PART OR OBJECT INTO THE SEX ORGAN
13 OF ANOTHER;

14 (2) DEVIATE SEXUAL INTERCOURSE, WHICH INCLUDES SEXUAL
15 INTERCOURSE PER OS OR PER ANUS; AND

16 (3) INDECENT CONTACT, WHICH INCLUDES ANY TOUCHING OF THE
17 SEXUAL OR OTHER INTIMATE PARTS OF THE PERSON FOR THE PURPOSE
18 OF AROUSING OR GRATIFYING SEXUAL DESIRE IN EITHER PERSON.

19 SECTION 3.2. SECTIONS 8522 (B) (10) AND 8542 (B) (9) OF TITLE 42
20 ARE AMENDED TO READ:

21 § 8522. EXCEPTIONS TO SOVEREIGN IMMUNITY.

22 * * *

23 (B) ACTS WHICH MAY IMPOSE LIABILITY.--THE FOLLOWING ACTS BY
24 A COMMONWEALTH PARTY MAY RESULT IN THE IMPOSITION OF LIABILITY
25 ON THE COMMONWEALTH AND THE DEFENSE OF SOVEREIGN IMMUNITY SHALL
26 NOT BE RAISED TO CLAIMS FOR DAMAGES CAUSED BY:

27 * * *

28 (10) SEXUAL ABUSE.--THE FOLLOWING SHALL APPLY:

29 (I) CONDUCT WHICH CONSTITUTES AN OFFENSE ENUMERATED
30 UNDER SECTION 5551 (7) (RELATING TO NO LIMITATION

1 APPLICABLE) IF THE INJURIES TO THE PLAINTIFF WERE CAUSED
2 BY ACTIONS OR OMISSIONS OF THE COMMONWEALTH PARTY WHICH
3 CONSTITUTE NEGLIGENCE.

4 (II) THIS PARAGRAPH SHALL APPLY RETROACTIVELY TO A
5 CAUSE OF ACTION THAT AROSE PRIOR TO THE EFFECTIVE DATE OF
6 THIS SUBPARAGRAPH AND PROSPECTIVELY TO A CAUSE OF ACTION
7 THAT ARISES AFTER THE EFFECTIVE DATE OF THIS
8 SUBPARAGRAPH.

9 § 8542. EXCEPTIONS TO GOVERNMENTAL IMMUNITY.

10 * * *

11 (B) ACTS WHICH MAY IMPOSE LIABILITY.--THE FOLLOWING ACTS BY
12 A LOCAL AGENCY OR ANY OF ITS EMPLOYEES MAY RESULT IN THE
13 IMPOSITION OF LIABILITY ON A LOCAL AGENCY:

14 * * *

15 (9) SEXUAL ABUSE.--THE FOLLOWING SHALL APPLY:

16 (I) CONDUCT WHICH CONSTITUTES AN OFFENSE ENUMERATED
17 UNDER SECTION 5551(7) (RELATING TO NO LIMITATION
18 APPLICABLE) IF THE INJURIES TO THE PLAINTIFF WERE CAUSED
19 BY ACTIONS OR OMISSIONS OF THE LOCAL AGENCY WHICH
20 CONSTITUTE NEGLIGENCE.

21 (II) THIS PARAGRAPH SHALL APPLY RETROACTIVELY TO A
22 CAUSE OF ACTION THAT AROSE PRIOR TO THE EFFECTIVE DATE OF
23 THIS SUBPARAGRAPH AND PROSPECTIVELY TO A CAUSE OF ACTION
24 THAT ARISES AFTER THE EFFECTIVE DATE OF THIS
25 SUBPARAGRAPH.

26 * * *

27 Section 4. Paragraph (4) of the definition of "eligible
28 person" in section 4503 of Title 61 is amended to read:

29 § 4503. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 * * *

4 "Eligible person." A defendant or inmate convicted of a
5 criminal offense who will be committed to the custody of the
6 department and who meets all of the following eligibility
7 requirements:

8 * * *

9 (4) Has not been found guilty or previously convicted or
10 adjudicated delinquent for violating any of the following
11 provisions or an equivalent offense under the laws of the
12 United States or one of its territories or possessions,
13 another state, the District of Columbia, the Commonwealth of
14 Puerto Rico or a foreign nation or criminal attempt, criminal
15 solicitation or criminal conspiracy to commit any of these
16 offenses:

17 18 Pa.C.S. § 4302(a) (relating to incest).

18 18 Pa.C.S. § 5901 (relating to open lewdness).

19 18 Pa.C.S. Ch. 76 Subch. C (relating to Internet
20 child [pornography] sexual abuse material).

21 Received a criminal sentence pursuant to 42 Pa.C.S. §
22 9712.1 (relating to sentences for certain drug offenses
23 committed with firearms).

24 Any offense listed under 42 Pa.C.S. Ch. 97 Subch. H
25 (relating to registration of sexual offenders) or I
26 (relating to continued registration of sexual offenders).

27 Drug trafficking as defined in section 4103 (relating
28 to definitions).

29 * * *

30 Section 5. Paragraph (4) of the definition of "eligible

1 offender" in section 4601 of Title 61 is amended to read:

2 § 4601. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Eligible offender." A defendant or inmate convicted of a
7 criminal offense who will be committed to the custody of the
8 county and who meets all of the following eligibility
9 requirements:

10 * * *

11 (4) Has not been found guilty or previously convicted or
12 adjudicated delinquent for violating any of the following
13 provisions or an equivalent offense under the laws of the
14 United States or one of its territories or possessions,
15 another state, the District of Columbia, the Commonwealth of
16 Puerto Rico or a foreign nation:

17 18 Pa.C.S. § 4302(a) (relating to incest).

18 18 Pa.C.S. § 5901 (relating to open lewdness).

19 18 Pa.C.S. Ch. 76 Subch. C (relating to Internet
20 child [pornography] sexual abuse material).

21 Received a criminal sentence pursuant to 42 Pa.C.S. §
22 9712.1 (relating to sentences for certain drug offenses
23 committed with firearms).

24 Any offense for which registration is required under
25 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of
26 sexual offenders).

27 * * *

28 Section 6. Section 6137.1(a)(4) of Title 61 is amended to
29 read:

30 § 6137.1. Short sentence parole.

1 (a) General rule.--This section applies to persons committed
2 to the department with an aggregate minimum sentence of
3 confinement under 42 Pa.C.S. § 9756(b) (relating to sentence of
4 total confinement) of two years or less or a recidivism risk
5 reduction incentive minimum sentence under 42 Pa.C.S. §
6 9756(b.1) of two years or less, whichever is shorter. Regardless
7 of sentence imposed, this section does not apply to:

8 * * *

9 (4) persons committed for or with an aggregate sentence
10 containing a violation of any of the following provisions or
11 an equivalent offense under the laws of the United States or
12 one of its territories or possessions, another state, the
13 District of Columbia, the Commonwealth of Puerto Rico or a
14 foreign nation, including a criminal attempt, criminal
15 solicitation or criminal conspiracy to commit the offense:

16 18 Pa.C.S. § 4302(a) (relating to incest).

17 18 Pa.C.S. § 5901 (relating to open lewdness).

18 18 Pa.C.S. Ch. 76 Subch. C (relating to Internet
19 child [pornography] sexual abuse material).

20 A criminal sentence pursuant to 42 Pa.C.S. § 9712.1
21 (relating to sentences for certain drug offenses
22 committed with firearms).

23 An offense listed under 42 Pa.C.S. Ch. 97 Subch. H
24 (relating to registration of sexual offenders).

25 An offense listed under 42 Pa.C.S. Ch. 97 Subch. I
26 (relating to continued registration of sexual offenders).

27 * * *

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

<--

29 SECTION 7. THIS ACT SHALL APPLY AS FOLLOWS:

<--

30 (1) THE ADDITION OF 42 PA.C.S. § 5533(C) SHALL APPLY TO

1 REVIVE AN ACTION THAT WAS BARRED BY AN EXISTING STATUTE OF
2 LIMITATIONS ON THE EFFECTIVE DATE OF THIS SECTION.

3 (2) THE AMENDMENT OF 42 PA.C.S. §§ 8522(B)(10) AND 8542
4 (B)(9) SHALL APPLY RETROACTIVELY TO AN ACTION WHERE THE
5 LIMITATIONS PERIOD HAS NOT EXPIRED PRIOR TO THE EFFECTIVE
6 DATE OF THIS SECTION.

7 (3) THE AMENDMENT OF 42 PA.C.S. §§ 8522(B)(10) AND
8 8542(B)(9) SHALL APPLY TO AN ACTION SUBJECT TO 42 PA.C.S. §
9 5533(C) THAT WAS BARRED BY AN EXISTING STATUTE OF LIMITATIONS
10 ON THE EFFECTIVE DATE OF THIS SECTION.

11 SECTION 8. NOTHING IN THIS ACT SHALL PERMIT THE APPLICATION
12 OF THE ADDITION OF 42 PA.C.S. § 5533(C) TO AN ACTION:

13 (1) THAT IS SUBJECT TO A FINAL JUDGMENT WHICH, ON THE
14 EFFECTIVE DATE OF THIS SECTION, IS NOT SUBJECT TO APPEAL; OR

15 (2) THAT, ON THE EFFECTIVE DATE OF THIS SECTION, HAS
16 BEEN NONJUDICIALLY RESOLVED IN ITS ENTIRETY BY THE PARTIES,
17 IN A FORM WHICH IS ENFORCEABLE.

18 SECTION 9. THE PENNSYLVANIA SUPREME COURT SHALL HAVE
19 EXTRAORDINARY JURISDICTION TO HEAR A CHALLENGE TO OR TO RENDER A
20 DECLARATORY JUDGMENT CONCERNING THE CONSTITUTIONALITY OF THE
21 AMENDMENT OF 42 PA.C.S. §§ 5533(B), 8522(B)(10) AND 8542(B)(9)
22 AND THE ADDITION OF 42 PA.C.S. § 5533(C) AND (D). THE
23 PENNSYLVANIA SUPREME COURT MAY TAKE ACTION AS IT DEEMS
24 APPROPRIATE, CONSISTENT WITH THE PENNSYLVANIA SUPREME COURT
25 RETAINING JURISDICTION OVER THE MATTER, TO FIND FACTS OR TO
26 EXPEDITE A FINAL JUDGMENT IN CONNECTION WITH THE CHALLENGE OR
27 REQUEST FOR DECLARATORY RELIEF.

28 SECTION 10. THE AMENDMENT OR ADDITION OF THE PROVISIONS OF
29 42 PA.C.S. UNDER THIS ACT ARE NONSEVERABLE. IF ANY PROVISION OF
30 THE AMENDMENT OR ADDITION OF THE PROVISIONS OF 42 PA.C.S. UNDER

1 THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS
2 HELD INVALID, THE REMAINING PROVISIONS OR APPLICATIONS OF THE
3 AMENDMENT OR ADDITION OF 42 PA.C.S. UNDER THIS ACT ARE VOID.

4 SECTION 11. REPEALS ARE AS FOLLOWS:

5 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
6 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE AMENDMENT OF 42
7 PA.C.S. §§ 8522(B)(10) AND 8542(B)(9).

8 (2) SECTION 10(3)(II) OF THE ACT OF NOVEMBER 26, 2019
9 (P.L.641, NO.87), IS REPEALED INSOFAR AS THE SECTION APPLIES
10 TO 42 PA.C.S. §§ 8522(B)(10) AND 8542(B)(9).

11 SECTION 12. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

12 (1) THE FOLLOWING SHALL TAKE EFFECT IMMEDIATELY:

13 (I) THE AMENDMENT OR ADDITION OF 42 PA.C.S. §
14 5533(B), (C) AND (D).

15 (II) THE AMENDMENT OF 42 PA.C.S. §§ 8522(B)(10) AND
16 8542(B)(9).

17 (III) THIS SECTION.

18 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
19 DAYS.