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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 87 Session of  
2021

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INTRODUCED BY BAKER, ARNOLD, VOGEL, YAW, SCAVELLO, MARTIN,  
BARTOLOTTA AND PHILLIPS-HILL, JANUARY 22, 2021

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REFERRED TO JUDICIARY, JANUARY 22, 2021

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AN ACT

1 Amending Titles 18 (Crimes and Offenses), 23 (Domestic  
2 Relations) and 42 (Judiciary and Judicial Procedure) of the  
3 Pennsylvania Consolidated Statutes, in minors, further  
4 providing for the offense of sexual abuse of children; in  
5 child protective services, providing for task force on child  
6 pornography; and, in sentencing, further providing for  
7 sentencing for offenses involving sexual abuse of children.

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

10 Section 1. Section 6312(d.1) of Title 18 of the Pennsylvania  
11 Consolidated Statutes is amended to read:

12 § 6312. Sexual abuse of children.

13 \* \* \*

14 (d.1) Grading.--The offenses shall be graded as follows:

15 (1) Except as provided in paragraph (3), an offense  
16 under subsection (b) is a felony of the second degree.

17 (2) (i) Except as provided in paragraph (3), a first  
18 offense under subsection (c) or (d) is a felony of the  
19 third degree.

20 (ii) A second or subsequent offense under subsection

1 (c) or (d) is a felony of the second degree.

2 (3) When a person commits an offense graded under  
3 paragraph (1) or (2)(i) [and indecent contact with the child  
4 as defined in section 3101 (relating to definitions) is  
5 depicted], the grading of the offense shall be one grade  
6 higher than the grade specified in paragraph (1) or (2)(i) [.]  
7 if:

8 (i) indecent contact with the child as defined in  
9 section 3101 (relating to definitions) is depicted; or

10 (ii) the child depicted is under 10 years of age or  
11 prepubescent.

12 \* \* \*

13 Section 2. Title 23 is amended by adding a section to read:  
14 § 6388. Task Force on Child Pornography.

15 (a) Establishment.--The Task Force on Child Pornography is  
16 established.

17 (b) Purpose.--The purpose of the task force is to conduct a  
18 review to ascertain any inadequacies relating to the offense of  
19 child pornography in 18 Pa.C.S. § 6312 (relating to sexual abuse  
20 of children).

21 (c) Composition.--The task force shall consist of the  
22 following members, who shall be appointed within 25 days after  
23 the effective date of this section:

24 (1) The secretary or a designee.

25 (2) The Attorney General or a designee.

26 (3) The Commissioner of Pennsylvania State Police or a  
27 designee.

28 (4) The Chairman of the Pennsylvania Commission on Crime  
29 and Delinquency or a designee.

30 (5) The Executive Director of the Pennsylvania

1 Commission on Sentencing or a designee.

2 (6) Two members of the Senate, one appointed by the  
3 President pro tempore of the Senate and one appointed by the  
4 Minority Leader of the Senate.

5 (7) Two members of the House of Representatives, one  
6 appointed by the Speaker of the House of Representatives and  
7 one appointed by the Minority Leader of the House of  
8 Representatives.

9 (8) The Victim Advocate from the Office of Victim  
10 Advocate or a designee from that office.

11 (9) The President of the Pennsylvania District Attorneys  
12 Association or a designee.

13 (10) The Director of the Pennsylvania Coalition Against  
14 Rape or a designee.

15 (11) One member of the Pennsylvania Sexual Offenders  
16 Assessment Board. If possible, the member shall be a member  
17 of the Association for the Treatment of Sexual Abusers.

18 (12) One member of the Pennsylvania Internet Crimes  
19 Against Children (ICAC) Task Force.

20 (13) The director of a rape crisis center located in  
21 this Commonwealth or a designee, appointed by the Governor.

22 (14) One representative of a children's advocacy center  
23 that assists in the investigation, prosecution and treatment  
24 of child sexual and physical abuse cases, appointed by the  
25 Governor.

26 (15) Two medical professionals that specialize in the  
27 field of child sexual abuse, one of whom shall be appointed  
28 by the President pro tempore of the Senate and one of whom  
29 shall be appointed by the Speaker of the House of  
30 Representatives.

1           (16) One member of the public, appointed by the  
2 President pro tempore of the Senate.

3           (17) One member of the public, appointed by the Speaker  
4 of the House of Representatives.

5           (d) Chairperson.--The Governor shall select the chairperson  
6 of the task force.

7           (e) Member requirements.--

8           (1) The appointed members of the task force under  
9 subsection (c) (16) and (17) must be individuals who have  
10 experience in investigations or prosecutions of child  
11 pornography or sexual abuse of children, have experience in  
12 the treatment of victims of child pornography or sexual abuse  
13 of children, have experience in the prevention of child  
14 pornography or sexual abuse of children or are victims of  
15 child pornography or sexual abuse of children.

16           (2) The appointment of members must reflect the  
17 geographic diversity of this Commonwealth.

18           (f) Meetings and expenses.--The task force shall conduct its  
19 business as follows:

20           (1) The task force shall meet at least four times but  
21 may hold additional meetings as determined by the chairperson  
22 of the task force.

23           (2) The chairperson of the task force shall schedule a  
24 meeting upon written request of eight members of the task  
25 force.

26           (3) The first meeting of the task force shall be  
27 convened within 45 days of the effective date of this  
28 section.

29           (4) The task force shall hold public hearings as  
30 necessary to obtain the information required to conduct its

1 review.

2 (5) Action of the task force shall be authorized or  
3 ratified by majority vote of the members of the task force.

4 (6) The Pennsylvania Commission on Crime and Delinquency  
5 and the Joint State Government Commission shall cooperate to  
6 provide administrative or other assistance to the task force.

7 (7) The members of the task force shall not receive  
8 compensation but shall be reimbursed for reasonable and  
9 necessary expenses incurred in the service of the task force.

10 (g) Powers.--The task force shall have the following powers:

11 (1) To recommend any improvements relating to the  
12 investigation and prosecution of child pornography as defined  
13 in 18 Pa.C.S. § 6312.

14 (2) To recommend any necessary changes in State statutes  
15 and practices, policies and procedures relating to the  
16 recognition or prosecution of child pornography as defined in  
17 18 Pa.C.S. § 6312.

18 (h) Report.--

19 (1) Within one year of the first meeting of the task  
20 force, the task force shall submit a report with its  
21 recommendations to the following:

22 (i) The Governor.

23 (ii) The President pro tempore of the Senate.

24 (iii) The Speaker of the House of Representatives.

25 (iv) The chairperson and minority chairperson of the  
26 Judiciary Committee of the Senate.

27 (v) The chairperson and minority chairperson of the  
28 Judiciary Committee of the House of Representatives.

29 (2) The report under this subsection must be adopted at  
30 a public meeting of the task force.

1           (3) The report under this subsection shall be a public  
2 record under the act of February 14, 2008 (P.L.6, No.3),  
3 known as the Right-to-Know Law.

4           (i) Expiration.--The task force shall expire upon the  
5 submission of the report under subsection (h).

6           (j) Definition.--As used in this section, the term "task  
7 force" means the Task Force on Child Pornography established in  
8 this section.

9           Section 3. Section 9720.5 of Title 42 is amended to read:

10 § 9720.5. Sentencing for offenses involving sexual abuse of  
11 children.

12           (a) General rule.--The Pennsylvania Commission on  
13 Sentencing, in accordance with section 2154 (relating to  
14 adoption of guidelines for sentencing), shall provide for a  
15 sentence enhancement within its guidelines for an offense under  
16 18 Pa.C.S. § 6312 (relating to sexual abuse of children),  
17 specifying variations from the range of sentences applicable  
18 based on such aggravating circumstances as the age of the child  
19 or a determination of prepubescence, the number of images  
20 possessed by the defendant, if the child depicted is known to  
21 the defendant and the nature and character of the abuse depicted  
22 in the images.

23           (b) Other circumstances.--When a person commits an offense  
24 to which the grading provisions under 18 Pa.C.S. § 6312(d.1)(3)  
25 apply, the Pennsylvania Commission on Sentencing shall, in  
26 accordance with section 2154, provide for a sentence enhancement  
27 within its guidelines if indecent contact with the child as  
28 defined in 18 Pa.C.S. § 3101 (relating to definitions) is  
29 depicted and the child depicted is under 10 years of age or  
30 prepubescent.

1 Section 4. This act shall take effect in 60 days.