



The Judiciary Review

Report from the Senate Judiciary Committee (D)

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December 2002

Sine Die Produces Enactment of Enhanced Sentences for Child Rapists, Religious Freedom Protection Act, Revisions to Juvenile Act and Abandoned Baby Legislation

■ House Bill 976

Printer's No. 4725

The bill increases the maximum sentence for rape or involuntary deviate sexual intercourse of a child under 13 to forty years and up to life in prison for rape or involuntary deviate sexual intercourse with serious bodily injury of a child under 13 years of age. It raises aggravated indecent assault to a felony first degree where a child under 13 years old is the victim.

The legislation provides limited exceptions to the mandatory reporting of injuries that involve only bodily injury when the victim has been informed of the duty to report, the victim withholds consent to report and receives a referral to an appropriate victim service agency. However, the doctor-patient privilege remains in effect.

The bill authorizes the use of regional digital collection equipment by the Pennsylvania State Police to receive information from telecommunications companies that assist with wiretap investigations.

Current status: Act 162—2002

■ Senate Bill 1402

Printer's No. 2429

The bill provides for the use of electronic signatures, making it unlawful to make, complete, authenticate or execute any writing so that it purports to be the act of another who did not authorize the act. Increases

the maximum sentences for rape or involuntary deviate sexual intercourse of a child under 13—See H.B. 976.

Current Status: Act 226—2002

■ Senate Bill 1452

Printer's No. 2439

Judicial positions added to Bucks, Mercer, Indiana, Northampton, Monroe, Delaware, McKean, Centre and Montgomery Counties.

Provides for an appeal based on a defect in the adoption of an ordinance, resolution, map, or similar act of a political subdivision.

Authorizes the inspection of all files and records of a juvenile proceeding resulting in delinquency by officials of the Department of Corrections or Board of Probation and Parole for limited purposes. These officials shall not have access to names of confidential sources of information contained in social reports, unless granted that access by the court.

Amends various sections of the Juvenile Act to comply with the federal Adoption and Safe Families Act.

- Details how a child may be taken into custody.
- Before removing the child from the home, court required to determine that allowing the child to remain at home would be contrary to the child's welfare.
- Informal hearing must be held

within 72 hours of a child's placement in detention or shelter care.

- Provides for due process rights at dependency or delinquency hearing.

In permanency hearings involving a dependent child, the court must determine whether reasonable efforts have been made to finalize the permanency plan in effect including determinations based on the child's safety, protection, physical welfare, mental welfare, and moral welfare, if and when the child will be placed with a parent, guardian, custodian; placed for adoption; placed with a legal custodian; placed with a fit and willing relative; or placed in another living arrangement intended to be permanent.

Provides for warrantless searches by juvenile probation officers. Provides for immunity for state parole officers and for county probation officers when acting within the scope of their official duties and assisting state or local police after obtaining authorization.

Last, in landlord and tenant actions only damages that result from the physical damage to a property may be garnished/or attached.

Current Status: Act 215—2002

■ House Bill 235

Printer's No. 4677

The bill provides a cause of action for the unauthorized use of a natural person's name or likeness for commercial or advertising purposes.

Current Status: Act 154—2002

■ **House Bill 2445**
Printer's No. 4722

The legislation makes it a misdemeanor of the first degree to kill, maim or disfigure an assistance dog. Additionally, a person convicted of this section is required to make reparation for veterinary costs in treating the assistance dog and, if necessary, pay the costs of obtaining and training a replacement dog.

The bill provides mandatory sentencing guidelines for trafficking the controlled substance, known as Ecstasy.

Current Status: Act 183—2002

■ **Senate Bill 1515**
Printer's No. 2399

The bill amends the Crimes Code to divide the offenses of harassment and stalking into two separate sections.

Current Status: Act 218—2002

■ **Senate Bill 413**
Printer's No. 2385

Establishes the Substance Abuse Education and Demand Reduction Fund, comprised of assessments paid by offenders convicted of offenses under the Controlled Substance, Drug, Device and Cosmetic Act and Driving Under the Influence statute, unless the court finds that undue hardship would result, a mandatory cost of \$100, which shall be in addition to any other costs that are statutorily imposed, shall automatically be assessed on any individual for driving under the influence. An additional assessment of \$200 shall be assessed where the amount of alcohol is equal to or greater than .15%.

Current Status: Act 198—2002

■ **Senate Bill 654**
Printer's No. 2386

The bill creates an exception to prosecution for the endangerment of the welfare of a child through abandonment when a newborn child

is left at a designated "safe haven."

The bill requires hospitals to take a newborn into protective custody when a parent expresses an intent for that to occur; provides for immediate medical assistance reimbursement for the newborn; requires notice to the county children and youth agency and police by the hospital; and requires the Department of Public Welfare and the county children and youth agencies to develop programs to prevent infant abandonment.

Current Status: Act 201—2002

■ **Senate Bill 1421**
Printer's No. 2382

The legislation provides the Religious Freedom Protection Act. Under this enactment, no government agency of the Commonwealth or any political subdivision may enact or enforce any law or ordinance that substantially burdens any person's free exercise of religion unless it furthers a compelling state interest and is the least restrictive means available. This applies to any law or ordinance adopted before or after the enactment of the RFPA.

This act will **not** apply to

- A prisoner or inmate
- Licensing and registration to operate a motor vehicle,
- Licensure of physicians and nurses,
- Acts dealing with health and safety of individuals in the licensed facilities of the Department of Public Welfare,
- Operation of health care facilities which are required to provide notice to patients of its policies,
- The Pennsylvania Construction Code,
- Laws requiring one to report cases of abuse, and
- Any offense under the Crimes Code or the Controlled Substance, Drug, and Device and Cosmetic Act that is graded as a felony or misdemeanor.

Current Status: Act 214—2002

■ **Senate Bill 2456**
Printer's No. 3493

This bill increases reimbursements paid to counties for deputy sheriff training and education.

Current Status: Act 184—2002



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