

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1836 Session of
2021

INTRODUCED BY RYAN, PICKETT, HILL-EVANS, STAATS, BROOKS AND
JONES, SEPTEMBER 2, 2021

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 2, 2021

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 23 (Domestic
2 Relations) of the Pennsylvania Consolidated Statutes, in
3 offenses against the family, providing for the offense of
4 child torture; in firearms and other dangerous articles,
5 further providing for persons not to possess, use,
6 manufacture, control, sell or transfer firearms; and, in
7 child custody, further providing for consideration of
8 criminal conviction.

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

11 Section 1. Title 18 of the Pennsylvania Consolidated
12 Statutes is amended by adding a section to read:

13 § 4307. Child torture.

14 (a) Offense defined.--A person commits an offense if the
15 person intentionally, knowingly or recklessly tortures a child
16 who is within the custody or physical control of the person.

17 (b) Grading.--

18 (1) An offense under this section is a felony of the
19 third degree if the victim does not suffer bodily injury.

20 (2) An offense under this section is a felony of the
21 first degree if the victim suffers bodily injury.

1 (c) Counseling.--A court shall consider ordering a person
2 convicted of an offense under this section to undergo
3 counseling.

4 (d) Personal injury crime.--An offense under this section
5 shall constitute a personal injury crime under the act of
6 November 24, 1998 (P.L.882, No.111), known as the Crime Victims
7 Act.

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

11 "Child." An individual who is under 18 years of age.

12 "Emotional distress." As defined in section 2709.1(f)
13 (relating to stalking).

14 "Period of time." More than a single 48-hour period.

15 "Person." Any individual, including a parent or guardian of
16 a child.

17 "Sexual abuse or exploitation." As defined in 23 Pa.C.S. §
18 6303(a) (relating to definitions).

19 "Torture." A course of conduct against a child that includes
20 at least one of the following acts or substantially similar
21 acts:

22 (1) Breaking, severing or severely impairing a limb of
23 the child.

24 (2) Inflicting severe and prolonged pain from striking,
25 burning or cutting the child.

26 (3) Causing or allowing a grossly unreasonable period of
27 time where the child is deprived of food or water.

28 (4) Knowingly restraining the child so as to interfere
29 substantially with the child's liberty in a grossly
30 unreasonable manner that serves no legitimate parental

1 purpose.

2 (5) Forcing the child to remain in an area that is not
3 suitable for habitation, such as areas where urine or feces
4 are actively present.

5 (6) Subjecting the child to extreme temperatures without
6 adequate clothing.

7 (7) Forcing excessive and unnecessary time periods of
8 exercise or other physical acts as a form of punishment
9 against the child.

10 (8) Engaging in the sexual abuse or exploitation of the
11 child or allowing or participating in the sexual abuse or
12 exploitation of the child by another person.

13 (9) Repeatedly intimidating or humiliating the child for
14 the purpose of causing significant emotional distress.

15 (10) Terrorizing or threatening death or harm to the
16 child, a loved one of the child or a pet or loved object of
17 the child for the purpose of causing significant emotional
18 distress.

19 (11) Restricting basic and necessary bodily functions
20 needed for the personal hygiene of the child.

21 (12) Engaging in conduct that places the child at risk
22 of serious bodily injury.

23 Section 2. Section 6105(b) of Title 18 is amended to read:

24 § 6105. Persons not to possess, use, manufacture, control, sell
25 or transfer firearms.

26 * * *

27 (b) Enumerated offenses.--The following offenses shall apply
28 to subsection (a):

29 Section 908 (relating to prohibited offensive weapons).

30 Section 911 (relating to corrupt organizations).

1 Section 912 (relating to possession of weapon on school
2 property).

3 Section 2502 (relating to murder).

4 Section 2503 (relating to voluntary manslaughter).

5 Section 2504 (relating to involuntary manslaughter) if
6 the offense is based on the reckless use of a firearm.

7 Section 2702 (relating to aggravated assault).

8 Section 2703 (relating to assault by prisoner).

9 Section 2704 (relating to assault by life prisoner).

10 Section 2709.1 (relating to stalking).

11 Section 2716 (relating to weapons of mass destruction).

12 Section 2901 (relating to kidnapping).

13 Section 2902 (relating to unlawful restraint).

14 Section 2910 (relating to luring a child into a motor
15 vehicle or structure).

16 Section 3121 (relating to rape).

17 Section 3123 (relating to involuntary deviate sexual
18 intercourse).

19 Section 3125 (relating to aggravated indecent assault).

20 Section 3301 (relating to arson and related offenses).

21 Section 3302 (relating to causing or risking
22 catastrophe).

23 Section 3502 (relating to burglary).

24 Section 3503 (relating to criminal trespass) if the
25 offense is graded a felony of the second degree or higher.

26 Section 3701 (relating to robbery).

27 Section 3702 (relating to robbery of motor vehicle).

28 Section 3921 (relating to theft by unlawful taking or
29 disposition) upon conviction of the second felony offense.

30 Section 3923 (relating to theft by extortion) when the

1 offense is accompanied by threats of violence.

2 Section 3925 (relating to receiving stolen property) upon
3 conviction of the second felony offense.

4 Section 4307 (relating to child torture).

5 Section 4906 (relating to false reports to law
6 enforcement authorities) if the fictitious report involved
7 the theft of a firearm as provided in section 4906(c)(2).

8 Section 4912 (relating to impersonating a public servant)
9 if the person is impersonating a law enforcement officer.

10 Section 4952 (relating to intimidation of witnesses or
11 victims).

12 Section 4953 (relating to retaliation against witness,
13 victim or party).

14 Section 5121 (relating to escape).

15 Section 5122 (relating to weapons or implements for
16 escape).

17 Section 5501(3) (relating to riot).

18 Section 5515 (relating to prohibiting of paramilitary
19 training).

20 Section 5516 (relating to facsimile weapons of mass
21 destruction).

22 Section 6110.1 (relating to possession of firearm by
23 minor).

24 Section 6301 (relating to corruption of minors).

25 Section 6302 (relating to sale or lease of weapons and
26 explosives).

27 Any offense equivalent to any of the above-enumerated
28 offenses under the prior laws of this Commonwealth or any
29 offense equivalent to any of the above-enumerated offenses
30 under the statutes of any other state or of the United

1 States.

2 * * *

3 Section 3. Section 5329(a) of Title 23, amended June 30,
4 2021 (P.L.197, No.38), is amended to read:

5 § 5329. Consideration of criminal conviction.

6 (a) Offenses.--Where a party seeks any form of custody, the
7 court shall consider whether that party or member of that
8 party's household has been convicted of or has pleaded guilty or
9 no contest to any of the offenses in this section or an offense
10 in another jurisdiction substantially equivalent to any of the
11 offenses in this section. The court shall consider such conduct
12 and determine that the party does not pose a threat of harm to
13 the child before making any order of custody to that party when
14 considering the following offenses:

15 18 Pa.C.S. Ch. 25 (relating to criminal homicide).

16 18 Pa.C.S. § 2702 (relating to aggravated assault).

17 18 Pa.C.S. § 2706 (relating to terroristic threats).

18 18 Pa.C.S. § 2709.1 (relating to stalking).

19 18 Pa.C.S. § 2718 (relating to strangulation).

20 18 Pa.C.S. § 2901 (relating to kidnapping).

21 18 Pa.C.S. § 2902 (relating to unlawful restraint).

22 18 Pa.C.S. § 2903 (relating to false imprisonment).

23 18 Pa.C.S. § 2910 (relating to luring a child into a motor
24 vehicle or structure).

25 18 Pa.C.S. Ch. 30 (relating to human trafficking).

26 18 Pa.C.S. § 3121 (relating to rape).

27 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

28 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
29 intercourse).

30 18 Pa.C.S. § 3124.1 (relating to sexual assault).

1 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

2 18 Pa.C.S. § 3126 (relating to indecent assault).

3 18 Pa.C.S. § 3127 (relating to indecent exposure).

4 18 Pa.C.S. § 3129 (relating to sexual intercourse with
5 animal).

6 18 Pa.C.S. § 3130 (relating to conduct relating to sex
7 offenders).

8 18 Pa.C.S. § 3301 (relating to arson and related offenses).

9 18 Pa.C.S. § 4302 (relating to incest).

10 18 Pa.C.S. § 4303 (relating to concealing death of child).

11 18 Pa.C.S. § 4304 (relating to endangering welfare of
12 children).

13 18 Pa.C.S. § 4305 (relating to dealing in infant children).

14 18 Pa.C.S. § 4307 (relating to child torture).

15 18 Pa.C.S. § 5902(b) or (b.1) (relating to prostitution and
16 related offenses).

17 18 Pa.C.S. § 5903(c) or (d) (relating to obscene and other
18 sexual materials and performances).

19 18 Pa.C.S. § 6301 (relating to corruption of minors).

20 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

21 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

22 18 Pa.C.S. § 6320 (relating to sexual exploitation of
23 children).

24 Section 6114 (relating to contempt for violation of order or
25 agreement).

26 The former 75 Pa.C.S. § 3731 (relating to driving under
27 influence of alcohol or controlled substance).

28 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol
29 or utilizing drugs).

30 Section 13(a)(1) of the act of April 14, 1972 (P.L.233,

1 No.64), known as The Controlled Substance, Drug, Device and
2 Cosmetic Act, to the extent that it prohibits the manufacture,
3 sale or delivery, holding, offering for sale or possession of
4 any controlled substance or other drug or device.

5 * * *

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