

No. 1980-167

## AN ACT

SB 544

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing criminal penalties for carrying weapons on school property and defining aggravated assault and increasing the grading for certain types of aggravated assault on a second and subsequent conviction and authorizing prosecution for obscenity violations whether or not the activity is enjoined.

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

Section 1. Title 18, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, is amended by adding a section to read:

**§ 912. Possession of weapon on school property.**

*(a) Definition.—Notwithstanding the definition of “weapon” in section 907 (relating to possessing instruments of crime), “weapon” for purposes of this section shall include but not be limited to any knife, cutting instrument, cutting tool, nun-chuck stick, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.*

*(b) Offense defined.—A person commits a misdemeanor of the first degree if he possesses a weapon in the buildings of, on the grounds of, or in any conveyance providing transportation to or from any elementary or secondary publicly-funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school.*

*(c) Defense.—It shall be a defense that the weapon is possessed and used in conjunction with a lawful supervised school activity or course or is possessed for other lawful purpose.*

Section 2. Section 2702 and subsections (a)(1) and (h) of section 5903 of Title 18 are amended and section 5903 is amended by adding a subsection to read:

**§ 2702. Aggravated assault.**

*(a) Offense defined.—A person is guilty of aggravated assault if he:*

*(1) attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life;*

*(2) attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to a police officer making or attempting to make a lawful arrest;*

*(3) attempts to cause or intentionally or knowingly causes bodily injury to a police officer making or attempting to make a lawful arrest; [or]*

(4) attempts to cause or intentionally or knowingly causes bodily injury to another with a deadly weapon; or

(5) *attempts to cause or intentionally or knowingly causes bodily injury to a teaching staff member, school board member, other employee or student of any elementary or secondary publicly-funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school while acting in the scope of his or her employment or because of his or her employment relationship to the school.*

(b) Grading.—Aggravated assault under [paragraphs] subsection (a)(1) and [(a)] (2) [of this section] is a felony of the second degree. Aggravated assault under [paragraphs] subsection (a)(3), [and (a)](4) and (5) [of this section] is a misdemeanor of the first degree. *Whenever any person has been previously convicted or adjudicated a delinquent in this Commonwealth for the offense set forth in subsection (a)(5), a subsequent petition, indictment or information of aggravated assault under subsection (a)(5) shall be classified as a felony of the third degree.*

§ 5903. Obscene and other sexual materials.

(a) Offenses defined.—No person, knowing the obscene character of the materials involved, shall:

(1) display or cause or permit the display of any [obscene] *explicit sexual materials as defined in subsection (c), in or on any window, showcase, newsstand, display rack, billboard, display board, viewing screen, motion picture screen, marquee or similar place in such manner that the display is visible from any public street, highway, sidewalk, transportation facility or other public thoroughfare, or in any business or commercial establishment where minors, as a part of the general public or otherwise, are or will probably be exposed to view all or any part of such materials.*

\* \* \*

(h) Criminal prosecution [for enjoined activities].—

(1) Any person who violates subsection (a) or (f) [as to the matters enjoined pursuant to subsection (g) commits] *is guilty of a misdemeanor of the [second] first degree. Violation of subsection (a) is a felony of the third degree if the offender has previously been convicted of a violation of subsection (a) or if the material was sold, distributed, prepared or published for the purpose of resale.*

(2) Any person who violates subsection (c) or (d) [as to matters enjoined pursuant to subsection (g) commits] *is guilty of a misdemeanor of the first degree. Violation of subsection (c) or (d) is a felony of the third degree if the offender has previously been convicted of a violation of subsection (c) or (d).*

(3) [Elements of the offense shall be determined de novo at the criminal proceeding and findings] *Findings made in [the] an equity action shall not be binding in the criminal proceedings.*

\* \* \*

*(k) Ordinances or resolutions.—Nothing in this chapter shall be construed to invalidate, supersede, repeal or preempt any ordinance or resolution of any political subdivision insofar as it is consistent with this chapter, and political subdivisions further retain the right to regulate any activities, displays, exhibitions, or materials not specifically regulated by this chapter.*

Section 3. If any provision of this amendatory act, including any part of any section, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

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

APPROVED—The 16th day of October, A. D. 1980.

DICK THORNBURGH