

## No. 1986-164

## AN ACT

## HB 2474

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for multiple convictions for inchoate crimes, for aggravated assault, for juvenile records and for the unlawful use of computers; and prohibiting the retention of certain military equipment.

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

Section 1. Sections 906, 2702 and 3933 of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 906. Multiple convictions of *inchoate crimes* barred.

A person may not be convicted of more than one **[offense defined by this chapter] of the inchoate crimes of criminal attempt, criminal solicitation or criminal conspiracy** for conduct designed to commit or to culminate in the commission of the same crime.

§ 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] or firefighter in the performance of duty** or to an **[operator of a vehicle used in public transportation while operating such a vehicle] employee of an agency, company or other entity engaged in public transportation, while in the performance of duty;**

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

(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 subsection (a)(1) and (2) is a felony of the **[second] first degree**. Aggravated assault under subsection (a)(3), (4) and (5) is a **[misdemeanor of the first degree. Whenever any person has been previously convicted or adjudicated a delinquent in this Common-**

**wealth 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] felony of the second degree.**

§ 3933. Unlawful use of computer.

(a) Offense defined.—A person commits an offense if he:

(1) accesses, alters, damages or destroys any computer, computer system, computer network, computer software, computer program or data base or any part thereof, with the intent to interrupt the normal functioning of an organization or to devise or execute any scheme or artifice to defraud or deceive or control property or services by means of false or fraudulent pretenses, representations or promises; [or]

(2) intentionally and without authorization accesses, alters, *interferes with the operation of*, damages or destroys any computer, computer system, computer network, computer software, computer program or computer data base or any part thereof[.]; *or*

(3) *intentionally or knowingly and without authorization gives or publishes a password, identifying code, personal identification number or other confidential information about a computer, computer system, computer network or data base.*

(b) Grading.—An offense under subsection (a)(1) is a felony of the third degree. An offense under subsection (a)(2) *or* (3) is a misdemeanor of the first degree.

(c) Definitions.—As used in this section the following words and phrases shall have the meanings given to them in this subsection:

“Access.” To *intercept*, instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system [or], computer network *or data base*.

“Computer.” An electronic, magnetic, optical, hydraulic, organic or other high speed data processing device or system which performs logic, arithmetic or memory functions and includes all input, output, processing, storage, software or communication facilities which are connected or related to the device in a system or network.

“Computer network.” The interconnection of two or more computers through the usage of satellite, microwave, line or other communication medium.

“Computer program.” An ordered set of instructions or statements and related data that, when automatically executed in actual or modified form in a computer system, causes it to perform specified functions.

“Computer software.” A set of computer programs, procedures and associated documentation concerned with the operation of a computer system.

“Computer system.” A set of related, connected or unconnected computer equipment, devices and software.

“Data base.” A representation of information, knowledge, facts, concepts or instructions which are being prepared *or processed* or have been prepared *or processed* in a formalized manner and are intended for use in a computer, computer system or computer network, *including, but not limited to*,

*computer printouts, magnetic storage media, punched cards or data stored internally in the memory of the computer.*

“Financial instrument.” Includes, but is not limited to, any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security or any computer system representation thereof.

“Property.” Includes, but is not limited to, financial instruments, computer software and programs in either machine or human readable form, and anything of value, tangible or intangible.

“Services.” Includes, but is not limited to, computer time, data processing and storage functions.

Section 2. Title 18 is amended by adding a section to read:

§ 6711. *Retention of military property after notice to return.*

(a) *Offense defined.—A person who fails to return any military property, equipment, identification papers or other items belonging to the armed forces of the United States, any reserve component, element or component thereof, or the Pennsylvania military forces, after having been given proper notice to return the property or equipment, commits a summary offense.*

(b) *Form of notice.—Notice to return military property, equipment, identification papers or other items to the armed forces of the United States, any reserve component, element or component thereof, or the Pennsylvania military forces, may be given by personal notice upon the person in possession of the property or by mailing a registered or certified letter to the person’s last known address. The notice shall recite this section and contain a demand that the property be returned or, if it has been lost or destroyed, that restitution be paid as provided in subsection (c).*

(c) *Restitution to avoid prosecution.—A person may avoid prosecution under this section by returning the property or making restitution to the responsible official of the armed forces of the United States or the Pennsylvania military forces, as applicable, prior to the date of the hearing before the district justice, municipal court judge or other official authorized to conduct the hearing.*

Section 3. Section 9123(a) of Title 18 is amended to read:

§ 9123. *Juvenile records.*

(a) *Expungement of juvenile records.—Notwithstanding the provisions of section 9105 (relating to other criminal justice information) and except upon cause shown, expungement of records of juvenile delinquency cases wherever kept or retained shall occur after ten days notice to the district attorney, whenever the court upon its motion or upon the motion of a child or the parents or guardian finds:*

(1) *a complaint is filed which is not substantiated or the petition which is filed as a result of a complaint is dismissed by the court [other than as a result of a consent decree];*

(2) *six months have elapsed since the final discharge of the person from supervision under a consent decree and no proceeding seeking adjudication or conviction is pending;*

**[(2)] (3)** five years have elapsed since the final discharge of the person from commitment, placement, probation or any other disposition and referral and since such final discharge, the person has not been convicted of a felony, misdemeanor or adjudicated delinquent and no proceeding is pending seeking such conviction or adjudication; or

**[(3)] (4)** the individual is 21 years of age or older and a court orders the expungement.

\* \* \*

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

APPROVED—The 11th day of December, A. D. 1986.

DICK THORNBURGH