

COMMITTEE BILL ANALYSIS

Bill: House Bill 1264

Printer's No.: 1387

Sponsor: Representative Parker

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Synopsis: This bill amends the Judicial Code, Title 42 of the Pennsylvania Consolidated Statutes, by adding a section to allow expert testimony in sexual assault cases.

Summary:

Rule

Under new section 5920 the court may qualify a witness as an expert if the witness has specialized knowledge beyond that possessed by the average layperson. The witness's expertise shall be based on the witness's knowledge, skill, experience, training or education that will assist the trier of fact in understanding the dynamics of sexual violence, victim responses to sexual violence and the impact of sexual violence on victims during and after being assaulted.

If qualified as an expert, the witness may testify to facts and opinions regarding specific types of victim responses and victim behaviors. The witness's opinion regarding the credibility of any other witness, including the victim, shall not be admissible.

Scope and application

Section 5920 applies to a criminal proceeding for an offense for which registration is required under Megan's Law and a criminal proceeding for statutory sexual assault. Section 5920 applies to actions initiated on or after the effective date of this legislation.

Effective date

This act takes effect in 60 days.

Background: The House of Representatives passed House Bill 1264 on June 24, 2011 by a vote of 197 to 0.

Findings

House Bill 1264 includes findings of the General Assembly. These findings will not be part of the statutory law. The findings include that victims of sex crimes behave in many different ways and jurors often perceive common victim behaviors as counterintuitive and mistakenly believe that those behaviors are compelling evidence of a victim's lack of credibility. Many courts in other states have recognized that expert testimony is necessary to provide jurors with the proper context in which to evaluate a victim's behavior.

Current law

According to the Pennsylvania Coalition Against Rape, Pennsylvania is the only state that does not allow expert testimony in sexual assault cases. Under current case law, testimony from qualified experts regarding recognized and accepted forms of post-traumatic stress disorder and counterintuitive victim behavior is not admissible (see Commonwealth v. Dunkle, 602 A.2d 830 (Pa. 1992)).

While Pennsylvania Rules of Evidence 702 through 704 govern expert testimony by witnesses, there are examples where the General Assembly has addressed specific situations. Section 404 of the Mental Health Procedures Act, 1976 Act 143, states "a psychiatrist appointed by the court may be called as a witness by the attorney for the Commonwealth or by the defendant and each party may also summon any other psychiatrist or other expert to testify."