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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 918 Session of  
2023

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INTRODUCED BY SHUSTERMAN, CEPHAS, DALEY, HILL-EVANS, HOHENSTEIN,  
SANCHEZ, SCHLOSSBERG, MADDEN, FLEMING, KINKEAD AND KHAN,  
APRIL 17, 2023

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REFERRED TO COMMITTEE ON JUDICIARY, APRIL 17, 2023

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in particular rights and  
3 immunities, providing for action for nonconsensual misuse of  
4 condom.

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

7 Section 1. Title 42 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a section to read:

9 § 8320.1. Action for nonconsensual misuse of condom.

10 (a) Cause of action established.--A person may bring a civil  
11 action in order to recover damages for loss or injury sustained  
12 as a result of the nonconsensual misuse of a condom.

13 (b) Parties authorized to bring action.--An action may be  
14 brought by an individual or a guardian of an individual, if the  
15 individual is incompetent, who sustained the loss or injury.

16 (c) Damages.--A court shall award damages as provided in  
17 this subsection. In determining the extent of injury, the court  
18 shall consider that nonconsensual misuse of a condom may cause

1 long-term or permanent injury. The court shall award:

2 (1) Actual damages arising from the incident or \$500,  
3 whichever is greater. Damages shall include medical expenses,  
4 cost of testing, intentional infliction of emotional distress  
5 and negligent infliction of emotional distress. The court  
6 may, in its discretion, award up to three times the actual  
7 damages sustained, but not less than \$500.

8 (2) Reasonable attorney fees and court costs.

9 (3) Injunctive and other equitable relief.

10 (4) Additional relief the court deems necessary and  
11 proper.

12 (d) Mandatory counseling.--In a civil action under  
13 subsection (a), the plaintiff may ask the court to mandate the  
14 defendant to attend counseling sessions. If ordered to attend  
15 counseling, the defendant shall be financially responsible for  
16 the counseling fee.

17 (e) Other remedies preserved.--Nothing in this section shall  
18 be construed to limit, prevent or impair the ability of a person  
19 to receive restitution in any other cause of action or criminal  
20 liability.

21 (f) Definitions.--As used in this section, the term  
22 "nonconsensual misuse of a condom" means sexual intercourse  
23 between individuals where:

24 (1) One of the individuals reasonably believes that the  
25 other individual:

26 (i) will wear a condom and will not remove, tamper  
27 with or damage the condom; and

28 (ii) will not wear a condom that has been tampered  
29 with or damaged.

30 (2) The other individual wears a condom and:

1           (i) intentionally removes, tampers with or damages  
2           the condom; or  
3           (ii) knows that the condom has been tampered with or  
4           damaged.

5           Section 2. This act shall take effect in 60 days.