
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2088 Session of
1998

INTRODUCED BY GANNON, WOGAN, GEIST, CALTAGIRONE, SAYLOR,
E. Z. TAYLOR, GRUPPO, CLARK, ORIE, KENNEY, MILLER, HENNESSEY,
BOSCOLA, TRUE, KELLER AND EGOLF, JANUARY 12, 1998

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 12, 1998

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for probation
3 officer's authority to search.

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

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

8 § 6304.1. Authority to search.

9 (a) General rule.--

10 (1) Probation officers are authorized to search the
11 person and property of children under their supervision who
12 are alleged or adjudicated delinquent children or pursuant to
13 a consent decree in accordance with this section. Probation
14 officers are likewise authorized to search the person and
15 property of children taken into custody pursuant to sections
16 6304(a) (relating to powers and duties of probation officers)
17 and 6324 (relating to taking into custody), detained pursuant
18 to sections 6304(a) and 6325 (relating to detention of child)

1 or during the intake process pursuant to sections 6304(a) and
2 6331 (relating to release from detention or commencement of
3 proceedings) in accordance with this section. Nothing in this
4 section shall be construed to permit searches or seizures in
5 violation of the Constitution of the United States or section
6 8 of Article I of the Constitution of Pennsylvania.

7 (2) No violation of this section shall constitute an
8 independent ground for suppression of evidence in any
9 proceeding.

10 (b) Personal search.--A personal search of a child may be
11 conducted by any probation officer:

12 (1) if there is a reasonable suspicion to believe that
13 the child possesses contraband or other evidence of
14 violations of the conditions of supervision;

15 (2) when a child is transported or taken into custody;
16 or

17 (3) upon a child entering or leaving a detention center,
18 institution or other facility for alleged or adjudicated
19 delinquent children.

20 (c) Property search.--A property search may be conducted by
21 any probation officer if there is reasonable suspicion to
22 believe that the real or other property in the possession of or
23 under the control of the child contains contraband or other
24 evidence of violations of the conditions of supervision.

25 (d) Prior approval.--Prior approval of a supervisor shall be
26 obtained for a property search absent exigent circumstances. No
27 prior approval shall be required for a personal search.

28 (e) Report.--A written report of every property search
29 conducted without prior approval shall be prepared by the
30 probation officer who conducted the search and filed in the

1 child's case record. The exigent circumstances shall be stated
2 in the report.

3 (f) Notice.--The child may be detained if he is present
4 during a property search. If the child is not present during a
5 property search, the probation officer in charge of the search
6 shall make a reasonable effort to provide the child with notice
7 of the search, including a list of the items seized, after the
8 search is completed.

9 (g) Grounds for search.--The existence of reasonable
10 suspicion to search shall be determined in accordance with
11 constitutional search and seizure provisions as applied by
12 judicial decision. In accordance with such case law, the
13 following factors, where applicable, may be taken into account:

14 (1) The observation of officers.

15 (2) Information provided by others.

16 (3) The activities of the child.

17 (4) Information provided by the child.

18 (5) The experience of the probation officer with the
19 child.

20 (6) The experience of probation officers in similar
21 circumstances.

22 (7) The prior criminal, delinquent and supervisory
23 history of the offender.

24 (8) The need to verify compliance with the conditions of
25 supervision.

26 (h) Definitions.--As used in this section, the following
27 words and phrases shall have the meanings given to them in this
28 subsection:

29 "Conditions of supervision." Any terms or conditions of the
30 child's supervision, whether imposed by the court or a probation

1 officer, including compliance with all requirements of Federal,
2 State and local law.

3 "Contraband." Any item that the child is not permitted to
4 possess under the conditions of supervision, including any item
5 whose possession is forbidden by any Federal, State or local
6 law.

7 "Court." The court of common pleas or any judge or master
8 thereof.

9 "Exigent circumstances." The term includes, but is not
10 limited to, suspicion that contraband or other evidence of
11 violations of the conditions of supervision might be destroyed
12 or suspicion that a weapon might be used. Exigent circumstances
13 always exist with respect to a vehicle.

14 "Probation officer." A probation officer appointed or
15 employed by any court or by any county probation department.

16 "Personal search." A warrantless search of a child's person,
17 including, but not limited to, the child's clothing and any
18 personal property which is in the possession, within the reach
19 or under the control of the child.

20 "Property search." A warrantless search of real property,
21 vehicle or personal property which is in the possession or under
22 the control of the child.

23 "Supervisor." Any individual acting in a supervisory or
24 administrative capacity.

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