

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1419 Session of  
2003

INTRODUCED BY BLAUM, GINGRICH, ZUG, MACKERETH, S. MILLER,  
LAUGHLIN, JAMES, HARHAI, McNAUGHTON, GRUCELA, SATHER, WALKO,  
HARPER, TIGUE, TRUE, BAKER, COY, MANN, KOTIK, HASAY, WEBER,  
WANSACZ, EGOLF, E. Z. TAYLOR, DALEY, CRAHALLA, BUNT, CLYMER,  
GOODMAN, MELIO, CORRIGAN AND J. TAYLOR, MAY 12, 2003

REFERRED TO COMMITTEE ON JUDICIARY, MAY 12, 2003

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, adding definitions;  
3 further providing for inspection of court files and records,  
4 for disposition of delinquent child and for limitation on and  
5 change in place of commitment; and providing for involuntary  
6 treatment of dangerous juvenile sex offenders.

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

9 Section 1. Section 6302 of Title 42 of the Pennsylvania  
10 Consolidated Statutes is amended by adding definitions to read:

11 § 6302. Definitions.

12 The following words and phrases when used in this chapter  
13 shall have, unless the context clearly indicates otherwise, the  
14 meanings given to them in this section:

15 \* \* \*

16 "Board." The State Sexual Offenders Assessment Board.

17 \* \* \*

18 "Dangerous juvenile sex offender." A juvenile sex offender

1 who has been assessed by the State Sexual Offenders Assessment  
2 Board and determined to be in need of involuntary treatment.

3 \* \* \*

4 "Juvenile sex offender." A child who has been placed in a  
5 juvenile facility under section 6352 (relating to disposition of  
6 delinquent child) and who is:

7 (1) A child adjudicated delinquent of any of the  
8 following conduct, regardless of the age of the victim, which  
9 if committed by an adult would be classified as a felony:

10 (i) 18 Pa.C.S. § 3121 (relating to rape).

11 (ii) 18 Pa.C.S. § 3123 (relating to involuntary  
12 deviate sexual intercourse).

13 (iii) 18 Pa.C.S. § 3124.1 (relating to sexual  
14 assault).

15 (iv) 18 Pa.C.S. § 3125 (relating to aggravated  
16 indecent assault).

17 (2) A child adjudicated delinquent under 18 Pa.C.S. §  
18 4302 (relating to incest) when the victim is under 12 years  
19 of age, which offense, if committed by an adult would be  
20 classified as a felony.

21 (3) A child adjudicated delinquent of conduct in  
22 violation of 18 Pa.C.S. § 3126 (relating to indecent assault)  
23 which if committed by an adult would be classified as a  
24 misdemeanor.

25 (4) A child who has been adjudicated delinquent in any  
26 other state, territory or the District of Columbia, or in any  
27 Federal court for conduct equivalent to any of the conduct  
28 listed under this definition, becomes a resident of this  
29 Commonwealth and is subject to juvenile court jurisdiction  
30 under the Interstate Compact on Juveniles.

1       (5) A child adjudicated delinquent of an attempt,  
2       conspiracy or solicitation to commit any of the conduct under  
3       paragraph (1), (2), (3) or (4).

4       "Mental abnormality." A congenital or acquired condition of  
5       a person that affects the emotional or volitional capacity of  
6       the person in a manner that predisposes that person to the  
7       commission of criminal sexual acts to a degree that makes the  
8       person a menace to the health and safety of other persons.

9       \* \* \*

10      Section 2. Section 6307 of Title 42 is amended by adding a  
11 paragraph to read:

12      § 6307. Inspection of court files and records.

13      All files and records of the court in a proceeding under this  
14 chapter are open to inspection only by:

15      \* \* \*

16      (8) The board for use in completing assessments to  
17      determine if certain juvenile sex offenders are dangerous  
18      juvenile sex offenders.

19      Section 3. Section 6352(a) of Title 42 is amended to read:

20      § 6352. Disposition of delinquent child.

21      (a) General rule.--If the child is found to be a delinquent  
22 child the court may make any of the following orders of  
23 disposition determined to be consistent with the protection of  
24 the public interest and best suited to the child's treatment,  
25 supervision, rehabilitation and welfare, which disposition  
26 shall, as appropriate to the individual circumstances of the  
27 child's case, provide balanced attention to the protection of  
28 the community, the imposition of accountability for offenses  
29 committed and the development of competencies to enable the  
30 child to become a responsible and productive member of the

1 community:

2 (1) Any order authorized by section 6351 (relating to  
3 disposition of dependent child).

4 (2) Placing the child on probation under supervision of  
5 the probation officer of the court or the court of another  
6 state as provided in section 6363 (relating to ordering  
7 foreign supervision), under conditions and limitations the  
8 court prescribes.

9 (3) Committing the child to an institution, youth  
10 development center, camp, or other facility for delinquent  
11 children operated under the direction or supervision of the  
12 court or other public authority and approved by the  
13 Department of Public Welfare.

14 (4) If the child is 12 years of age or older, committing  
15 the child to an institution operated by the Department of  
16 Public Welfare.

17 (5) Ordering payment by the child of reasonable amounts  
18 of money as fines, costs or restitution as deemed appropriate  
19 as part of the plan of rehabilitation considering the nature  
20 of the acts committed and the earning capacity of the child.  
21 For an order made under this subsection, the court shall  
22 retain jurisdiction until there has been full compliance with  
23 the order or until the delinquent child attains 21 years of  
24 age. Any restitution order which remains unpaid at the time  
25 the child attains 21 years of age shall continue to be  
26 collectible under section 9728 (relating to collection of  
27 restitution, reparation, fees, costs, fines and penalties).

28 (6) An order of the terms of probation may include an  
29 appropriate fine considering the nature of the act committed  
30 or restitution not in excess of actual damages caused by the

1 child which shall be paid from the earnings of the child  
2 received through participation in a constructive program of  
3 service or education acceptable to the victim and the court  
4 whereby, during the course of such service, the child shall  
5 be paid not less than the minimum wage of this Commonwealth.  
6 In ordering such service, the court shall take into  
7 consideration the age, physical and mental capacity of the  
8 child and the service shall be designed to impress upon the  
9 child a sense of responsibility for the injuries caused to  
10 the person or property of another. The order of the court  
11 shall be limited in duration consistent with the limitations  
12 in section 6353 (relating to limitation on and change in  
13 place of commitment) and in the act of May 13, 1915 (P.L.286,  
14 No.177), known as the Child Labor Law. The court order shall  
15 specify the nature of the work, the number of hours to be  
16 spent performing the assigned tasks, and shall further  
17 specify that as part of a plan of treatment and  
18 rehabilitation that up to 75% of the earnings of the child be  
19 used for restitution in order to provide positive  
20 reinforcement for the work performed.

21 (7) Placing a juvenile sex offender under supervision as  
22 deemed appropriate as part of a plan of rehabilitation  
23 considering the nature of the acts committed. For an order  
24 made under this paragraph, the court shall retain  
25 jurisdiction until the juvenile sex offender attains 21 years  
26 of age.

27 In selecting from the alternatives set forth in this section,  
28 the court shall follow the general principle that the  
29 disposition imposed should provide the means through which the  
30 provisions of this chapter are executed and enforced consistent

1 with section 6301(b) (relating to purposes) and when confinement  
2 is necessary, the court shall impose the minimum amount of  
3 confinement that is consistent with the protection of the public  
4 and the rehabilitation needs of the child.

5 \* \* \*

6 Section 4. Section 6353 of Title 42 is amended by adding a  
7 subsection to read:

8 § 6353. Limitation on and change in place of commitment.

9 \* \* \*

10 (a.1) Assessment of juvenile sex offenders.--

11 (1) A juvenile sex offender who remains in placement 90  
12 days before reaching his 20th birthday shall be subject to an  
13 assessment by the board.

14 (2) The juvenile probation office shall inform the court  
15 that a juvenile sex offender still in placement is about to  
16 reach his 20th birthday. Upon notice received from the  
17 juvenile probation office the court shall, no less than 90  
18 days before the offender's 20th birthday, issue an order for  
19 an assessment by the board to determine whether the offender  
20 is a dangerous juvenile sex offender. The board shall submit  
21 a written report to the court and to the district attorney,  
22 the offender's attorney, the offender and the offender's  
23 parent or guardian within 90 days of the issuance of the  
24 order. Within 30 days of receiving the report, the court  
25 shall hold a disposition review hearing to determine whether  
26 there is reasonable cause to believe that the offender is a  
27 dangerous juvenile sex offender. If the court determines that  
28 there is reasonable cause to believe that the offender is a  
29 dangerous juvenile sex offender, the court shall initiate the  
30 procedures under Chapter 64 (relating to involuntary

1 treatment of dangerous juvenile sex offenders) to determine  
2 whether the offender shall be committed for treatment in  
3 accordance with Chapter 64.

4 (3) The board shall establish standards for evaluations  
5 and for evaluators conducting the assessments. An assessment  
6 shall include, but not be limited to, an examination of the  
7 requisite mental condition and the risk to reoffend sexually.  
8 The board shall make findings determining whether the  
9 juvenile sex offender is a dangerous juvenile sex offender.

10 (4) All State, county, court and local agencies, offices  
11 or entities in this Commonwealth shall cooperate by providing  
12 copies of records and information as requested by the board  
13 in connection with the assessment.

14 \* \* \*

15 Section 5. Title 42 is amended by adding a chapter to read:

16 CHAPTER 64

17 INVOLUNTARY TREATMENT OF DANGEROUS JUVENILE SEX OFFENDERS

18 Sec.

19 6401. Definitions.

20 6402. Hearing.

21 6403. Involuntary treatment.

22 6404. Annual assessment.

23 6405. Report to court.

24 6406. Annual review.

25 6407. Review hearing.

26 6408. Secure facility.

27 6409. Supreme Court rules.

28 6410. Department rules and regulations.

29 § 6401. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Board." The State Sexual Offenders Assessment Board.

4 "Dangerous juvenile sex offender." A juvenile sex offender  
5 who has been assessed by the State Sexual Offenders Assessment  
6 Board and determined to be in need of involuntary treatment.

7 "Department." The Department of Public Welfare of the  
8 Commonwealth.

9 "Juvenile sex offender." A child who has been placed in a  
10 juvenile facility under section 6352 (relating to disposition of  
11 delinquent child) and who is:

12 (1) A child adjudicated delinquent of any of the  
13 following conduct, regardless of the age of the victim, which  
14 if committed by an adult would be classified as a felony:

15 (i) 18 Pa.C.S. § 3121 (relating to rape).

16 (ii) 18 Pa.C.S. § 3123 (relating to involuntary  
17 deviate sexual intercourse).

18 (iii) 18 Pa.C.S. § 3124.1 (relating to sexual  
19 assault).

20 (iv) 18 Pa.C.S. § 3125 (relating to aggravated  
21 indecent assault).

22 (2) A child adjudicated delinquent under 18 Pa.C.S. §  
23 4302 (relating to incest) when the victim is under 12 years  
24 of age, which offense, if committed by an adult would be  
25 classified as a felony.

26 (3) A child adjudicated delinquent of conduct in  
27 violation of 18 Pa.C.S. § 3126 (relating to indecent assault)  
28 which if committed by an adult would be classified as a  
29 misdemeanor.

30 (4) A child who has been adjudicated delinquent in any



1 other state, territory or the District of Columbia, or in any  
2 Federal court for conduct equivalent to any of the conduct  
3 listed under this definition, becomes a resident of this  
4 Commonwealth and is subject to juvenile court jurisdiction  
5 under the Interstate Compact on Juveniles.

6 (5) A child adjudicated delinquent of an attempt,  
7 conspiracy or solicitation to commit any of the conduct under  
8 paragraph (1), (2), (3) or (4).

9 "Mental abnormality." A congenital or acquired condition of  
10 a person that affects the emotional or volitional capacity of  
11 the person in a manner that predisposes that person to the  
12 commission of criminal sexual acts to a degree that makes the  
13 person a menace to the health and safety of other persons.

14 § 6402. Hearing.

15 A hearing to determine whether an individual is a dangerous  
16 juvenile sex offender shall be conducted in accordance with the  
17 following:

18 (1) The hearing shall be scheduled within 60 days of the  
19 determination, pursuant to section 6353(a.1)(2) (relating to  
20 limitation on and change in place of commitment), that there  
21 is reasonable cause to believe that the individual is a  
22 dangerous juvenile sex offender.

23 (2) The court may convene the hearing at a location  
24 other than a courthouse when doing so appears to be in the  
25 best interest of the individual.

26 (3) The court may order such additional examinations  
27 that it believes are necessary.

28 (4) The individual shall have the right to counsel and  
29 to the assistance of an expert in sexual violence and  
30 offenses. If the individual cannot afford counsel or an

1 expert in sexual violence and offenses, the court shall  
2 appoint one. A copy of the expert assessment shall be  
3 provided to the district attorney.

4 (5) The individual shall be given notice of the hearing  
5 and an opportunity to be heard, the right to call witnesses,  
6 the right to call expert witnesses and the right to cross-  
7 examine witnesses.

8 (6) A stenographic or other sufficient record shall be  
9 made, which shall be sealed by the court and which may be  
10 obtained or examined only upon the request of the individual,  
11 the individual's counsel, the district attorney or by order  
12 of the court on good cause shown.

13 (7) At the hearing the court shall determine whether the  
14 Commonwealth has proved by clear and convincing evidence that  
15 the individual is a dangerous juvenile sex offender.

16 (8) A copy of the order containing the determination of  
17 the court shall be submitted to:

18 (i) The individual.

19 (ii) The individual's attorney.

20 (iii) The individual's parent or guardian.

21 (iv) The district attorney.

22 (v) The facility in which the individual is placed.

23 (vi) The department.

24 (9) If the court determines that the individual is not a  
25 dangerous juvenile sex offender, the individual shall return  
26 to the facility in which he is placed to complete his program  
27 of treatment. Upon release the juvenile court shall provide  
28 supervision up to such time as the individual attains 21  
29 years of age.

30 § 6403. Involuntary treatment.

1        If the court determines that the individual is a dangerous  
2 juvenile sex offender, the individual shall be involuntarily  
3 committed for inpatient treatment at a facility operated or  
4 licensed by the department until such time as his mental  
5 abnormality or personality disorder has so changed that he is  
6 safe to reside in the community.

7    § 6404. Annual assessment.

8        Each year the board shall reassess each dangerous juvenile  
9 sex offender committed under this chapter. The dangerous  
10 juvenile sex offender may retain, or if he is indigent and so  
11 requests, the court shall appoint an expert in the field of  
12 sexual violence and offenses to examine the dangerous juvenile  
13 sex offender, and the expert shall have access to all records  
14 concerning the dangerous juvenile sex offender.

15    § 6405. Report to court.

16        The board shall provide a written report of its reassessment  
17 to the court, the district attorney and the dangerous juvenile  
18 sex offender.

19    § 6406. Annual review.

20        (a) Court determination.--Each year upon receipt of the  
21 board's report the court shall conduct a review of the status of  
22 the dangerous juvenile sex offender. The court shall determine  
23 whether there is reasonable cause to believe that the dangerous  
24 juvenile sex offender's condition has so changed that it is safe  
25 for him to reside in the community and that he is not likely to  
26 engage in acts of sexual violence if discharged or whether he  
27 shall be recommitted for additional treatment.

28        (b) Right to petition.--The department or the dangerous  
29 juvenile sex offender shall have the right to petition the court  
30 for discharge at the annual review.

1 (c) Notice.--The department shall provide the dangerous  
2 juvenile sex offender with an annual written notice of his right  
3 to petition the court for release over the department's  
4 objection. The notice shall contain a waiver of rights to  
5 petition the court. The department shall file the notice and  
6 waiver form with the court before the annual review.

7 (d) Rights of offender.--The dangerous juvenile sex offender  
8 has the right to be represented by counsel at the review and is  
9 entitled to be present at the review.

10 (e) Hearing.--If the court determines that there is  
11 reasonable cause to believe it is safe to release the dangerous  
12 juvenile sex offender, the court shall schedule a hearing on the  
13 issue.

14 (f) Recommitment.--If the court determines that the  
15 dangerous juvenile sex offender is likely to engage in acts of  
16 sexual violence, he shall be recommitted to the department for  
17 continued involuntary treatment.

18 § 6407. Review hearing.

19 (a) Procedures.--A review hearing shall be held within five  
20 days of the decision of the court under section 6406 (relating  
21 to annual review). At the hearing the dangerous juvenile sex  
22 offender is entitled to be present and is entitled to the  
23 benefit of all protections afforded him at the initial hearing  
24 under section 6402 (relating to hearing). The district attorney  
25 bears the burden of proving by clear and convincing evidence  
26 that the dangerous juvenile sex offender's mental condition  
27 remains such that it is not safe for the dangerous juvenile sex  
28 offender to reside in the community and that, if released, he is  
29 likely to engage in acts of sexual violence.

30 (b) Discharge.--If the court determines that it is safe for

1 the dangerous juvenile sex offender to reside in the community  
2 and he is not likely to engage in acts of sexual violence, the  
3 dangerous juvenile sex offender shall be discharged to the  
4 community.

5 § 6408. Secure facility.

6 At all times, dangerous juvenile sex offenders committed for  
7 control, care and treatment by the department under this chapter  
8 shall be kept in a separate, secure facility developed  
9 exclusively for the treatment of dangerous juvenile sex  
10 offenders. The department shall be responsible for all costs  
11 relating to the control, care and treatment of persons committed  
12 to the department's custody pursuant to this chapter.

13 § 6409. Supreme Court rules.

14 The Supreme Court may promulgate rules necessary to implement  
15 this chapter.

16 § 6410. Department rules and regulations.

17 The department shall promulgate rules and regulations  
18 necessary for the establishment of a program of treatment, care  
19 and control for dangerous juvenile sex offenders.

20 Section 6. This act shall take effect in 180 days.