

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1691 Session of
2015

INTRODUCED BY MARSICO, REGAN, V. BROWN, BAKER, DRISCOLL, ROZZI,
GREINER, HARHART, THOMAS, SCHLOSSBERG, YOUNGBLOOD, IRVIN,
HICKERNELL, EVERETT, KOTIK, CALTAGIRONE, MILLARD, WHITE,
BARBIN, BOBACK, D. COSTA, BISHOP, O'NEILL, WATSON, PHILLIPS-
HILL, KAUFFMAN, READSHAW, NEILSON, A. HARRIS, PICKETT,
GIBBONS, CUTLER, PETRI, SACCONI, JOZWIAK, GINGRICH, QUINN,
B. MILLER, WARD, VEREB, CORBIN, PASHINSKI, RAPP, HARHAI,
MAJOR, TOOHIL, COHEN AND BENNINGHOFF, NOVEMBER 12, 2015

REFERRED TO COMMITTEE ON JUDICIARY, NOVEMBER 12, 2015

AN ACT

1 Amending Titles 23 (Domestic Relations) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, providing for sex trafficking and missing and
4 abducted children; and, in juvenile matters, further
5 providing for definitions and for disposition of dependent
6 child.

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

9 Section 1. Title 23 of the Pennsylvania Consolidated
10 Statutes is amended by adding a chapter to read:

11 CHAPTER 57

12 SEX TRAFFICKING AND MISSING AND ABDUCTED CHILDREN

13 Sec.

14 5701. Definitions.

15 5702. County responsibilities.

16 5703. Law enforcement responsibilities.

17 § 5701. Definitions.

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

"Child." An individual who is under 21 years of age and meets one of the following:

(1) The county agency is conducting an assessment of the need for services.

(2) The county agency is conducting an investigation of suspected child abuse of the child under Chapter 63 (relating to child protective services).

(3) The county agency is providing services to the child.

"County agency." As defined in section 6303 (relating to definitions).

"Department." The Department of Human Services of the Commonwealth.

"Law enforcement." The law enforcement agency which is responsible for investigating cases of missing children under 18 Pa.C.S. § 2908 (relating to missing children).

"Sex trafficking victim." As defined under section 475 of the Social Security Act (49 Stat. 620, 42 U.S.C. § 675). § 5702. County responsibilities.

(a) Report of possible sex trafficking victims.--A county agency shall report to law enforcement as soon as practicable, but in no case later than 24 hours after receiving information about a child who:

(1) the county agency has reasonable cause to suspect of being at risk of being a sex trafficking victim; or

(2) the county agency identifies as being a sex trafficking victim.

1 (b) Child missing from residence or abducted.--A county
2 agency shall report to law enforcement as soon as practicable
3 but no later than 24 hours after receiving information about a
4 child who is missing from the child's residence or is abducted.

5 (c) Report to department.--The county agency shall report
6 annually to the department the total number of children who are
7 sex trafficking victims. The report shall be submitted in the
8 form and by the deadline prescribed by the department.

9 § 5703. Law enforcement responsibilities.

10 When law enforcement receives information from a county
11 agency about a child who is missing from the child's residence
12 or is abducted under section 5702(b) (relating to county
13 responsibilities), law enforcement shall:

14 (1) enter the information into the National Crime
15 Information Center database; and

16 (2) inform the National Center for Missing and Exploited
17 Children.

18 Section 2. Section 6302 of Title 42 is amended by adding
19 definitions to read:

20 § 6302. Definitions.

21 The following words and phrases when used in this chapter
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "Age-appropriate or developmentally appropriate." The
25 following:

26 (1) activities or items that are generally accepted as
27 suitable for children of the same chronological age or level
28 of maturity or that are determined to be developmentally
29 appropriate for a child based on the development of
30 cognitive, emotional, physical and behavioral capacities that

1 are typical for an age or age group; and

2 (2) in the case of a specific child, activities or items
3 that are suitable for the child based on the developmental
4 stages attained by the child with respect to the cognitive,
5 emotional, physical and behavioral capacities of the child.

6 * * *

7 "Caregiver." A person with whom the child is placed in an
8 out-of-home placement, including a resource family or an
9 individual designated by a county agency or private agency. The
10 resource family is the caregiver for any child placed with that
11 family.

12 * * *

13 "Out-of-home placement." A setting that provides 24-hour
14 substitute care for a child away from the child's parents or
15 guardians and for whom the county agency has placement care and
16 responsibility. The term includes resource family homes and
17 supervised settings in which a child is living and, for a child
18 who has attained 18 years of age, a supervised setting in which
19 the individual is living independently. The term does not
20 include secure facilities, facilities operated primarily for the
21 detention of children who have been adjudicated delinquent,
22 accredited psychiatric residential treatment facilities or
23 hospitals.

24 "Private agency." An entity that provides out-of-home
25 placement services to children under a contract with a county
26 agency.

27 * * *

28 "Reasonable and prudent parent standard." The standard,
29 characterized by careful and sensible parental decisions that
30 maintain the health, safety and best interests of a child while

1 encouraging the emotional and developmental growth of the child,
2 that a caregiver must use when determining whether to allow a
3 child in an out-of-home placement under the responsibility of
4 the county agency to participate in extracurricular, enrichment,
5 cultural and social activities.

6 "Resource family." As defined under section 3 of the act of
7 November 22, 2005 (P.L.404, No.73), known as the Resource Family
8 Care Act.

9 * * *

10 Section 3. Section 6351(e)(1), (f)(8) and (f.1)(5) of Title
11 42 are amended and subsection (f) is amended by adding a
12 paragraph to read:

13 § 6351. Disposition of dependent child.

14 * * *

15 (e) Permanency hearings.--

16 (1) The court shall conduct a permanency hearing for the
17 purpose of determining or reviewing the permanency plan of
18 the child, the date by which the goal of permanency for the
19 child might be achieved and whether placement continues to be
20 best suited to the safety, protection and physical, mental
21 and moral welfare of the child. In any permanency hearing
22 held with respect to the child, the court shall consult with
23 the child regarding the child's permanency plan, including
24 the child's desired permanency goal, in a manner appropriate
25 to the child's age and maturity. If the court does not
26 consult personally with the child, the court shall ensure
27 that the views of the child regarding the permanency plan
28 have been ascertained to the fullest extent possible and
29 communicated to the court by the guardian ad litem under
30 section 6311 (relating to guardian ad litem for child in

1 court proceedings) or, as appropriate to the circumstances of
2 the case by the child's counsel, the court-appointed special
3 advocate or other person as designated by the court.

4 * * *

5 (f) Matters to be determined at permanency hearing.--At each
6 permanency hearing, a court shall determine all of the
7 following:

8 * * *

9 (8) The services needed to assist a child who is [16] 14
10 years of age or older to make the transition to [independent
11 living] successful adulthood.

12 * * *

13 (12) If the child has been placed with a caregiver,
14 whether the child is being provided with regular, ongoing
15 opportunities to participate in age-appropriate or
16 developmentally appropriate activities. In order to make its
17 determination under this paragraph, the county agency shall
18 document the steps it has taken to ensure that:

19 (i) the caregiver is following the reasonable and
20 prudent parent standard; and

21 (ii) the child has regular, ongoing opportunities to
22 engage in age-appropriate or developmentally appropriate
23 activities. The county agency shall consult with the
24 child regarding opportunities to engage in such
25 activities.

26 (f.1) Additional determination.--Based upon the
27 determinations made under subsection (f) and all relevant
28 evidence presented at the hearing, the court shall determine one
29 of the following:

30 * * *

1 (5) If and when the child will be placed in another
2 planned permanent living arrangement [intended to be
3 permanent in nature which is approved by the court in cases
4 where the county agency has documented a compelling reason
5 that it would not be best suited to the safety, protection
6 and physical, mental and moral welfare of the child to be
7 returned to the child's parent, guardian or custodian, to be
8 placed for adoption, to be placed with a legal custodian or
9 to be placed with a fit and willing relative.], the following
10 shall apply:

11 (i) The child must be 16 years of age or older.

12 (ii) The county agency shall document:

13 (A) A compelling reason that it would not be
14 best suited to the safety, protection and physical,
15 mental and moral welfare of the child to be returned
16 to the child's parent, guardian or custodian, to be
17 placed for adoption, to be placed with a legal
18 custodian or to be placed with a fit and willing
19 relative.

20 (B) Its intensive, ongoing and, as of the date
21 of the hearing, unsuccessful efforts to return the
22 child to the child's parent, guardian or custodian or
23 to secure placement for the child with a fit and
24 willing relative, including adult siblings, a legal
25 guardian or an adoptive parent.

26 (C) Its efforts to utilize search technology to
27 find biological family members for the child.

28 (iii) The court shall:

29 (A) Ask the child about the desired permanency
30 goal for the child.

1 (B) Make a judicial determination explaining
2 why, as of the date of the hearing, another planned
3 permanent living arrangement is the best permanency
4 plan for the child.

5 (C) Provide compelling reasons why it continues
6 not to be in the best interests of the child to
7 return home, be placed for adoption, be placed with a
8 legal guardian or be placed with a fit and willing
9 relative.

10 * * *

11 Section 4. This act shall take effect January 1, 2016, or
12 immediately, whichever is later.