

JUDICIARY AND JUDICIAL PROCEDURE (42 PA.C.S) - AMEND
Act of Mar. 15, 1995, Special Session 1, P.L. 972, No. 6 **Cl. 42**
Special Session No. 1 of 1995
No. 1995-6

SB 10

AN ACT

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for law enforcement records, juvenile history record information and adjudications involving certain children.

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

Section 1. Sections 6302, 6308, 6309 and 6341(a) of Title 42 of the Pennsylvania Consolidated Statutes are amended to read:

§ 6302. Definitions.

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

"Child." An individual who:

- (1) is under the age of 18 years;
- (2) is under the age of 21 years who committed an act of delinquency before reaching the age of 18 years; or
- (3) was adjudicated dependent before reaching the age of 18 years and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event shall a child remain in a course of instruction or treatment past the age of 21 years.

"Court." The court of common pleas.

"Custodian." A person other than a parent or legal guardian, who stands in loco parentis to the child, or a person to whom legal custody of the child has been given by order of a court.

["Dangerous juvenile offender." A child who has been determined by the court to meet all of the following requirements:

- (1) Is 15 years of age or older.
- (2) Has been adjudicated delinquent for one or more of the following offenses:
 - (i) Attempted murder.
 - (ii) Voluntary manslaughter.
 - (iii) Rape.
 - (iv) Involuntary deviate sexual intercourse.
 - (v) Kidnapping.
 - (vi) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).
 - (vii) Felonious aggravated assault as defined in 18 Pa.C.S. § 2702 (relating to aggravated assault).
 - (viii) Aggravated assault with a deadly weapon.

- (ix) Arson as defined in 18 Pa.C.S. § 3301(a) (relating to arson and related offenses).
- (3) Has been previously adjudicated delinquent subsequent to the child's 12th birthday for one or more of the following offenses:
 - (i) Attempted murder.
 - (ii) Voluntary manslaughter.
 - (iii) Rape.
 - (iv) Involuntary deviate sexual intercourse.
 - (v) Kidnapping.
 - (vi) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).
 - (vii) Felonious aggravated assault as defined in 18 Pa.C.S. § 2702 (relating to aggravated assault).
 - (viii) Aggravated assault with a deadly weapon.
 - (ix) Arson as defined in 18 Pa.C.S. § 3301(a) (relating to arson and related offenses).

An adjudication for an offense arising from the same criminal episode as the offense considered under paragraph (2) shall not be considered an adjudication for the purpose of this paragraph.]

"Delinquent act."

(1) The term means an act designated a crime under the law of this Commonwealth, or of another state if the act occurred in that state, or under Federal law, or under local ordinances.

(2) The term shall not include:

- (i) The crime of murder.
- (ii) Summary offenses, unless the child fails to comply with a lawful sentence imposed thereunder, in which event notice of such fact shall be certified to the court.
- (iii) A crime committed by a child who has been found guilty in a criminal proceeding for other than a summary offense.

"Delinquent child." A child ten years of age or older whom the court has found to have committed a delinquent act and is in need of treatment, supervision or rehabilitation.

"Dependent child." A child who:

- (1) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals;
- (2) has been placed for care or adoption in violation of law;
- (3) has been abandoned by his parents, guardian, or other custodian;
- (4) is without a parent, guardian, or legal custodian;
- (5) while subject to compulsory school attendance is habitually and without justification truant from school;
- (6) has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of his parent, guardian or other custodian and who is ungovernable and found to be in need of care, treatment or supervision;
- (7) is under the age of ten years and has committed a

delinquent act;

(8) has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in paragraph (6); or

(9) has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is defined as ungovernable in paragraph (6).

"Protective supervision." Supervision ordered by the court of children found to be dependent.

"Shelter care." Temporary care of a child in physically unrestricted facilities.

§ 6308. Law enforcement records.

(a) General rule.--[Except as provided in section 6309 (relating to juvenile history record information), the law] **Law** enforcement records and files concerning a child shall be kept separate from the records and files of arrests of adults. Unless a charge of delinquency is transferred for criminal prosecution under section 6355 (relating to transfer to criminal proceedings), the interest of national security requires, or the court otherwise orders in the interest of the child, the records and files shall not be open to public inspection or their contents disclosed to the public except as provided in subsection (b); but inspection of the records and files is permitted by:

(1) The court having the child before it in any proceeding.

(2) Counsel for a party to the proceeding.

(3) The officers of institutions or agencies to whom the child is committed.

(4) Law enforcement officers of other jurisdictions when necessary for the discharge of their official duties.

(5) A court in which the child is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him.

(b) Public availability.--

(1) The contents of law enforcement records and files concerning a child shall not be disclosed to the public except if the child is 14 or more years of age at the time of the alleged conduct and if any of the following apply:

(i) The child has been adjudicated delinquent by a court as a result of an act or acts which include the elements of rape, kidnapping, murder, robbery, arson, burglary, violation of section 13(a)(30) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or other act involving the use of or threat of serious bodily harm.

(ii) A petition alleging delinquency has been filed by a law enforcement agency alleging that the child has committed an act or acts which include the elements of rape, kidnapping, murder, robbery, arson, burglary, violation of section 13(a)(30) of The Controlled

Substance, Drug, Device and Cosmetic Act, or other act involving the use of or threat of serious bodily harm and the child previously has been adjudicated delinquent by a court as a result of an act or acts which included the elements of one of such crimes.

[(iii) The child is a dangerous juvenile offender.]

(2) If the conduct of the child meets the requirements for disclosure as set forth in paragraph (1), then the court or law enforcement agency, as the case may be, shall disclose the name, age and address of the child, the offenses charged and the disposition of the case. The master or judge who adjudicates a child delinquent shall specify the particular offenses and counts thereof which the child is found to have committed and such information shall be inserted on any law enforcement records or files disclosed to the public as provided for in this section.

(c) Fingerprints and photographs.--

(1) Law enforcement officers shall have the authority to take or cause to be taken the fingerprints or photographs, or both, of any child who is alleged to have committed [a delinquent act that, but for the application of this chapter, would constitute a felony or a violation of 18 Pa.C.S. Ch. 61 Subch. A (relating to uniform firearms act).] **an act designated as a misdemeanor or felony under the laws of this Commonwealth or of another state if the act occurred in that state or under Federal law.**

(2) Fingerprint and photographic records may be disseminated to law enforcement officers of other jurisdictions, the Pennsylvania State Police and the Federal Bureau of Investigation [if a child has, on the basis of a felony or a violation of 18 Pa.C.S. Ch. 61 Subch. A, been adjudicated delinquent or found guilty in a criminal proceeding.] **and may be used for investigative purposes.**

(3) Fingerprints and photographic records of children **shall be kept separately from adults and** shall be immediately destroyed **upon notice of the court as provided under section 6341(a) (relating to adjudication)** by all persons and agencies having these records if the child is not adjudicated delinquent or not found guilty in a criminal proceeding for reason of the alleged acts.

§ 6309. Juvenile history record information.

(a) Applicability of Criminal History Record Information Act.--Except for 18 Pa.C.S. §§ 9105 (relating to other criminal justice information), 9112(a) and (b) (relating to mandatory fingerprinting) and 9113 (relating to disposition reporting by criminal justice agencies), the remaining provisions of 18 Pa.C.S. Ch. 91 (relating to criminal history record information) shall apply to all [dangerous juvenile offenders] **alleged delinquents** whose fingerprints and photographs are taken pursuant to section 6308(c) (relating to law enforcement records) and to any juvenile justice agency which collects, maintains, disseminates or receives juvenile history record information.

(b) Central repository.--The Pennsylvania State Police shall establish a Statewide central repository of fingerprints,

photographs and juvenile history record information of [dangerous juvenile offenders] **alleged delinquents** whose fingerprints and photographs are taken pursuant to section 6308(c). [This repository may be combined with a repository of similar information on adult offenders, as provided in 18 Pa.C.S. Ch. 91.]

(c) Fingerprints and photographs.--The [court of proper jurisdiction] **arresting authority** shall ensure that the fingerprints and photographs of [a dangerous juvenile offender] **an alleged delinquent** whose fingerprints and photographs which have been taken by an arresting authority pursuant to section 6308(c) are forwarded to the central repository . [within 48 hours after a dangerous juvenile offender has been adjudicated delinquent.

(d) Disposition reporting.--The division or judge of the court assigned to conduct juvenile hearings shall collect and submit juvenile history record information to the central repository within 90 days of an adjudication of delinquency. The division or judge of the court assigned to conduct juvenile hearings shall continually update juvenile history record information as required by the Juvenile Court Judges' Commission.]

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

"Criminal history record information." In addition to the meaning in 18 Pa.C.S. § 9102 (relating to definitions), the term includes the meaning of juvenile history record information as defined in this subsection.

"Juvenile history record information." Information collected pursuant to this section concerning [dangerous juvenile offenders] **alleged delinquents** whose fingerprints and photographs are taken pursuant to section 6308(c) and arising from the filing of a petition of delinquency, consisting of identifiable descriptions, dates and notations of arrests, indictments, information or other delinquency charges and any adjudication of delinquency, informal adjustment, consent decree or preadjudication disposition other than dismissal arising therefrom. Juvenile history record information shall not include intelligence information, investigative information, treatment information, including medical and psychiatric information, caution indicator information, modus operandi information, wanted persons information, stolen property information, missing persons information, employment history information, personal history information or presentence investigation information.

§ 6341. Adjudication.

(a) General rule.--After hearing the evidence on the petition the court shall make and file its findings as to whether the child is a dependent child, or if the petition alleges that the child is delinquent, whether the acts ascribed to the child were committed by him. If the court finds that the child is not a dependent child or that the allegations of delinquency have not been established it shall dismiss the petition and order the child discharged from any detention or other restriction theretofore ordered in the proceeding. **For**

cases involving allegations of delinquency where fingerprints or photographs or both have been taken by a law enforcement agency and where it is determined that acts ascribed to the child were not committed by him, the court shall direct that those records be immediately destroyed by law enforcement agencies.

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

APPROVED--The 15th day of March, A. D. 1995.

THOMAS J. RIDGE