

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 36

Session of
1989

INTRODUCED BY LLOYD, KOSINSKI, HALUSKA, BUNT, JOHNSON, VEON,
G. SNYDER, DOMBROWSKI, MRKONIC, WOZNIAK, VROON, BATTISTO,
CIVERA, DeLUCA, MERRY, RAYMOND, MAIALE, CAWLEY, STUBAN,
DISTLER, GODSHALL AND COLAIZZO, JANUARY 18, 1989

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 18, 1989

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further regulating
3 transfers to and from criminal proceedings.

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

6 Section 1. Section 6322 of Title 42 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 6322. Transfer from criminal proceedings.

9 (a) General rule.--Except as provided in 75 Pa.C.S. § 6303
10 (relating to rights and liabilities of minors) or in the event
11 the child is charged with murder, attempt to commit murder,
12 aggravated assault or recklessly endangering another person or
13 has been found guilty in a criminal proceeding, if it appears to
14 the court in a criminal proceeding that the defendant is a
15 child, this chapter shall immediately become applicable, and the
16 court shall forthwith halt further criminal proceedings, and,
17 where appropriate, transfer the case to the division or a judge

1 of the court assigned to conduct juvenile hearings, together
2 with a copy of the accusatory pleading and other papers,
3 documents, and transcripts of testimony relating to the case.
4 [If it appears to the court in a criminal proceeding charging
5 murder, that the defendant is a child, the case may similarly be
6 transferred and the provisions of this chapter applied.] In
7 determining whether to transfer a case charging murder, attempt
8 to commit murder, aggravated assault or recklessly endangering
9 another person, the court shall apply the criteria in section
10 6355(a)(4)(iii)(A) (relating to transfer to criminal
11 proceedings). However, the child shall be required to show the
12 court that the child is amenable to treatment, supervision or
13 rehabilitation as a juvenile by meeting the criteria listed in
14 section 6355(a)(4)(iii)(A). If the court orders the case to be
15 transferred to the division or a judge of the court assigned to
16 conduct juvenile hearings, the defendant shall be taken
17 forthwith to the probation officer or to a place of detention
18 designated by the court or released to the custody of his
19 parent, guardian, custodian, or other person legally responsible
20 for him, to be brought before the court at a time to be
21 designated. The accusatory pleading may serve in lieu of a
22 petition otherwise required by this chapter, unless the court
23 directs the filing of a petition.

24 (b) Transfer of convicted criminal cases.--If in a criminal
25 proceeding charging murder, attempt to commit murder, aggravated
26 assault or recklessly endangering another person the child is
27 convicted of a crime less than [murder] the one with which the
28 child was charged, the case may be transferred for disposition
29 to the division or a judge of the court assigned to conduct
30 juvenile hearings. If, in a criminal proceeding resulting from a

1 transfer under section 6355(a), the child is convicted of a
2 lesser charge which is classified as a misdemeanor, the case may
3 be transferred for disposition to the division or a judge of the
4 court assigned to conduct juvenile hearings.

5 Section 2. Section 6355 of the act is amended to read:

6 § 6355. Transfer to criminal proceedings.

7 * * *

8 (e) Murder, attempt to commit murder, aggravated assault or
9 recklessly endangering another person.--Where the petition
10 alleges conduct which if proven would constitute murder, attempt
11 to commit murder, aggravated assault or recklessly endangering
12 another person, the court shall require the offense to be
13 prosecuted under the criminal law and procedures, except where
14 the case has been transferred pursuant to section 6322 (relating
15 to transfer from criminal proceedings) from the division or a
16 judge of the court assigned to conduct criminal proceedings.

17 * * *

18 Section 3. This act shall take effect in 60 days.