

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1551 Session of  
2023

INTRODUCED BY RABB, BULLOCK, CEPHAS, DELLOSO, FIEDLER, HILL-  
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SHUSTERMAN, BOROWSKI, HOWARD, WARREN, CEPEDA-FREYTIZ AND  
GREEN, JUNE 29, 2023

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 29, 2023

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in juvenile matters,  
3 further providing for definitions, for scope of chapter, for  
4 inspection of court files and records, for transfer from  
5 criminal proceedings, for place of detention and for conduct  
6 of hearings and repealing provisions relating to transfer to  
7 criminal proceedings; and making editorial changes.

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

10 Section 1. The definition of "delinquent act" in section  
11 6302 of Title 42 of the Pennsylvania Consolidated Statutes is  
12 amended to read:

13 § 6302. Definitions.

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

17 \* \* \*

18 "Delinquent [act."

19 (1) The term means an] act." An act designated a crime

1 under the law of this Commonwealth, or of another state if  
2 the act occurred in that state, or under Federal law, or an  
3 act which constitutes indirect criminal contempt under  
4 Chapter 62A (relating to protection of victims of sexual  
5 violence or intimidation) with respect to sexual violence or  
6 23 Pa.C.S. Ch. 61 (relating to protection from abuse) or the  
7 failure of a child to comply with a lawful sentence imposed  
8 for a summary offense, in which event notice of the fact  
9 shall be certified to the court.

10 [(2) The term shall not include:

11 (i) The crime of murder.

12 (ii) Any of the following prohibited conduct where  
13 the child was 15 years of age or older at the time of the  
14 alleged conduct and a deadly weapon as defined in 18  
15 Pa.C.S. § 2301 (relating to definitions) was used during  
16 the commission of the offense which, if committed by an  
17 adult, would be classified as:

18 (A) Rape as defined in 18 Pa.C.S. § 3121

19 (relating to rape).

20 (B) Involuntary deviate sexual intercourse as  
21 defined in 18 Pa.C.S. § 3123 (relating to involuntary  
22 deviate sexual intercourse).

23 (C) Aggravated assault as defined in 18 Pa.C.S.  
24 § 2702(a)(1) or (2) (relating to aggravated assault).

25 (D) Robbery as defined in 18 Pa.C.S. § 3701(a)  
26 (1)(i), (ii) or (iii) (relating to robbery).

27 (E) Robbery of motor vehicle as defined in 18  
28 Pa.C.S. § 3702 (relating to robbery of motor  
29 vehicle).

30 (F) Aggravated indecent assault as defined in 18

1 Pa.C.S. § 3125 (relating to aggravated indecent  
2 assault).

3 (G) Kidnapping as defined in 18 Pa.C.S. § 2901  
4 (relating to kidnapping).

5 (H) Voluntary manslaughter.

6 (I) An attempt, conspiracy or solicitation to  
7 commit murder or any of these crimes as provided in  
8 18 Pa.C.S. §§ 901 (relating to criminal attempt), 902  
9 (relating to criminal solicitation) and 903 (relating  
10 to criminal conspiracy).

11 (iii) Any of the following prohibited conduct where  
12 the child was 15 years of age or older at the time of the  
13 alleged conduct and has been previously adjudicated  
14 delinquent of any of the following prohibited conduct  
15 which, if committed by an adult, would be classified as:

16 (A) Rape as defined in 18 Pa.C.S. § 3121.

17 (B) Involuntary deviate sexual intercourse as  
18 defined in 18 Pa.C.S. § 3123.

19 (C) Robbery as defined in 18 Pa.C.S. § 3701(a)  
20 (1)(i), (ii) or (iii).

21 (D) Robbery of motor vehicle as defined in 18  
22 Pa.C.S. § 3702.

23 (E) Aggravated indecent assault as defined in 18  
24 Pa.C.S. § 3125.

25 (F) Kidnapping as defined in 18 Pa.C.S. § 2901.

26 (G) Voluntary manslaughter.

27 (H) An attempt, conspiracy or solicitation to  
28 commit murder or any of these crimes as provided in  
29 18 Pa.C.S. §§ 901, 902 and 903.

30 (iv) Summary offenses.

1 (v) A crime committed by a child who has been found  
2 guilty in a criminal proceeding for other than a summary  
3 offense.]

4 \* \* \*

5 Section 2. Sections 6303(b), 6307(b)(1.1) and 6308(a)  
6 introductory paragraph and (c)(1) of Title 42 are amended to  
7 read:

8 § 6303. Scope of chapter.

9 \* \* \*

10 (b) Minor judiciary.--No child shall be detained, committed  
11 or sentenced to imprisonment by a magisterial district judge or  
12 a judge of the minor judiciary [unless the child is charged with  
13 an act set forth in paragraph (2)(i), (ii), (iii) or (v) of the  
14 definition of "delinquent act" in section 6302 (relating to  
15 definitions)].

16 \* \* \*

17 § 6307. Inspection of court files and records.

18 \* \* \*

19 (b) Public availability.--

20 (1.1) The contents of court records and files concerning  
21 a child shall not be disclosed to the public. [unless any of  
22 the following apply:

23 (i) The child has been adjudicated delinquent by a  
24 court as a result of an act or acts committed when the  
25 child was 14 years of age or older and the conduct would  
26 have constituted one or more of the following offenses if  
27 committed by an adult:

28 (A) Murder.

29 (B) Voluntary manslaughter.

30 (C) Aggravated assault as defined in 18 Pa.C.S.

1 § 2702(a)(1) or (2) (relating to aggravated assault).

2 (D) Sexual Assault as defined in 18 Pa.C.S. §  
3 3124.1 (relating to sexual assault).

4 (E) Aggravated indecent assault as defined in 18  
5 Pa.C.S. § 3125 (relating to aggravated indecent  
6 assault).

7 (F) Arson as defined in 18 Pa.C.S. § 3301(a)(1)  
8 (relating to arson and related offenses).

9 (G) Burglary as a felony in the first degree as  
10 defined in 18 Pa.C.S. § 3502(c)(1) (relating to  
11 burglary).

12 (H) Involuntary deviate sexual intercourse.

13 (I) Kidnapping.

14 (J) Rape.

15 (K) Robbery as defined in 18 Pa.C.S. § 3701(a)  
16 (1)(i), (ii) or (iii) (relating to robbery).

17 (L) Robbery of motor vehicle.

18 (M) Violation of 18 Pa.C.S. Ch. 61 (relating to  
19 firearms and other dangerous articles).

20 (N) Attempt or conspiracy to commit any of the  
21 offenses in this subparagraph.

22 (ii) A petition alleging delinquency has been filed  
23 alleging that the child has committed an act or acts  
24 subject to a hearing pursuant to section 6336(e)  
25 (relating to conduct of hearings) and the child  
26 previously has been adjudicated delinquent by a court as  
27 a result of an act or acts committed when the child was  
28 14 years of age or older and the conduct would have  
29 constituted one or more of the following offenses if  
30 committed by an adult:

1 (A) Murder.

2 (B) Voluntary manslaughter.

3 (C) Aggravated assault as defined in 18 Pa.C.S.

4 § 2702(a)(1) or (2).

5 (D) Sexual Assault as defined in 18 Pa.C.S. §

6 3124.1.

7 (E) Aggravated indecent assault as defined in 18

8 Pa.C.S. § 3125.

9 (F) Arson as defined in 18 Pa.C.S. § 3301(a)(1).

10 (G) Burglary as a felony in the first degree as

11 defined in 18 Pa.C.S. § 3502(c)(1).

12 (H) Involuntary deviate sexual intercourse.

13 (I) Kidnapping.

14 (J) Rape.

15 (K) Robbery as defined in 18 Pa.C.S. § 3701(a)

16 (1)(i), (ii) or (iii).

17 (L) Robbery of motor vehicle.

18 (M) Violation of 18 Pa.C.S. Ch. 61.

19 (N) Attempt or conspiracy to commit any of the

20 offenses in this subparagraph.]

21 \* \* \*

22 § 6308. Law enforcement records.

23 (a) General rule.--Law enforcement records and files

24 concerning a child shall be kept separate from the records and

25 files of arrests of adults. Unless [a charge of delinquency is

26 transferred for criminal prosecution under section 6355

27 (relating to transfer to criminal proceedings),] the interest of

28 national security requires[, ] or the court otherwise orders in

29 the interest of the child, the records and files shall not be

30 open to public inspection or their contents disclosed to the

1 public except as provided in subsection (b); but inspection of  
2 the records and files is permitted by:

3 \* \* \*

4 (c) Fingerprints and photographs.--

5 (1) Law enforcement officers shall have the authority to  
6 take or cause to be taken the fingerprints or photographs, or  
7 both, of any child who is alleged to have committed an act  
8 designated as a misdemeanor or felony under the laws of this  
9 Commonwealth or of another state if the act occurred in that  
10 state or under Federal law. If a child is found to be a  
11 delinquent child pursuant to section 6341 (relating to  
12 adjudication) on the basis of an act designated as a  
13 misdemeanor or felony [or the child's case is transferred for  
14 criminal prosecution pursuant to section 6355], the law  
15 enforcement agency that alleged the child to be a delinquent  
16 child shall take or cause to be taken the fingerprints and  
17 photographs of the child, if not previously taken pursuant to  
18 this case, and ensure that these records are forwarded to the  
19 central repository pursuant to section 6309(c) (relating to  
20 juvenile history record information). If a child was alleged  
21 to be delinquent by other than a law enforcement agency, the  
22 court shall direct the juvenile probation department to  
23 ensure that the delinquent child's fingerprints and  
24 photographs are taken by a law enforcement agency.

25 \* \* \*

26 Section 3. Section 6322(a) of Title 42 is amended and the  
27 section is amended by adding a subsection to read:

28 § 6322. Transfer from criminal proceedings.

29 (a) General rule.--Except as provided in 75 Pa.C.S. § 6303  
30 (relating to rights and liabilities of minors) or in the event

1 the child [is charged with murder or any of the offenses  
2 excluded by paragraph (2)(ii) or (iii) of the definition of  
3 "delinquent act" in section 6302 (relating to definitions) or]  
4 has been found guilty in a criminal proceeding, if it appears to  
5 the court in a criminal proceeding that the defendant [is a  
6 child] was a child at the time of the offense, this chapter  
7 shall immediately become applicable, and the court shall  
8 forthwith halt further criminal proceedings, and, where  
9 appropriate, transfer the case to the division or a judge of the  
10 court assigned to conduct juvenile hearings, together with a  
11 copy of the accusatory pleading and other papers, documents, and  
12 transcripts of testimony relating to the case. [If it appears to  
13 the court in a criminal proceeding charging murder or any of the  
14 offenses excluded by paragraph (2)(ii) or (iii) of the  
15 definition of "delinquent act" in section 6302, that the  
16 defendant is a child, the case may similarly be transferred and  
17 the provisions of this chapter applied. In determining whether  
18 to transfer a case charging murder or any of the offenses  
19 excluded from the definition of "delinquent act" in section  
20 6302, the child shall be required to establish by a  
21 preponderance of the evidence that the transfer will serve the  
22 public interest. In determining whether the child has so  
23 established that the transfer will serve the public interest,  
24 the court shall consider the factors contained in section  
25 6355(a)(4)(iii) (relating to transfer to criminal proceedings).]

26 \* \* \*

27 (f) Transfer of cases back to juvenile court.--In the case  
28 of an individual who was under 18 years of age at the time of  
29 the offense and whose case has already been transferred or is  
30 otherwise within the adult criminal justice system, the case

1 shall be returned to juvenile court in accordance with  
2 subsection (a).

3 Section 4. Sections 6327(c), (c.1) and (d), 6336(e),  
4 6337.1(b)(3)(ii) and 6339(a) of Title 42 are amended to read:  
5 § 6327. Place of detention.

6 \* \* \*

7 (c) Detention in jail prohibited.--It is unlawful for any  
8 person in charge of or employed by a jail knowingly to receive  
9 for detention or to detain in the jail any person whom he has or  
10 should have reason to believe is a child. [unless, in a criminal  
11 proceeding, the child has been charged with or has been found  
12 guilty of an act set forth in paragraph (2)(i), (ii), (iii) or  
13 (v) of the definition of "delinquent act" in section 6302  
14 (relating to definitions).

15 (c.1) Detention of child.--

16 (1) A child who is subject to criminal proceedings  
17 having been charged with an act set forth under paragraph  
18 (2)(i), (ii) or (iii) of the definition of "delinquent act"  
19 in section 6302, who has not been released on bail and who  
20 may seek or is seeking transfer to juvenile proceedings under  
21 section 6322 (relating to transfer from criminal proceedings)  
22 may be detained in a secure detention facility approved by  
23 the Department of Public Welfare for the detention of alleged  
24 and adjudicated delinquent children if the attorney for the  
25 Commonwealth has consented to and the court has ordered the  
26 detention.

27 (2) Secure detention ordered under this subsection shall  
28 not affect a child's eligibility for or ability to post bail.

29 (3) For a child held in secure detention under this  
30 subsection, the court shall order the immediate transfer of

1 the child to the county jail if any of the following apply:

2 (i) The court determines that the child is no longer  
3 seeking transfer under section 6322.

4 (ii) The court denies the motion filed under section  
5 6322.

6 (iii) The child attains 18 years of age. This  
7 subparagraph does not apply if:

8 (A) the court has granted the motion filed under  
9 section 6322; or

10 (B) the child is otherwise under order of  
11 commitment to the secure detention facility pursuant  
12 to the jurisdiction of the court in a delinquency  
13 matter.

14 (d) Transfer of child subject to criminal proceedings.--If a  
15 case is transferred for criminal prosecution the child may be  
16 transferred to the appropriate officer or detention facility in  
17 accordance with the law governing the detention of persons  
18 charged with crime. The court in making the transfer may order  
19 continued detention as a juvenile pending trial if the child is  
20 unable to provide bail.]

21 \* \* \*

22 § 6336. Conduct of hearings.

23 \* \* \*

24 [(e) Open proceedings.--The general public shall not be  
25 excluded from any hearings under this chapter:

26 (1) Pursuant to a petition alleging delinquency where  
27 the child was 14 years of age or older at the time of the  
28 alleged conduct and the alleged conduct would be considered a  
29 felony if committed by an adult.

30 (2) Pursuant to a petition alleging delinquency where

1 the child was 12 years of age or older at the time of the  
2 alleged conduct and where the alleged conduct would have  
3 constituted one or more of the following offenses if  
4 committed by an adult:

5 (i) Murder.

6 (ii) Voluntary manslaughter.

7 (iii) Aggravated assault as defined in 18 Pa.C.S. §  
8 2702(a)(1) or (2) (relating to aggravated assault).

9 (iv) Arson as defined in 18 Pa.C.S. § 3301(a)(1)  
10 (relating to arson and related offenses).

11 (v) Involuntary deviate sexual intercourse.

12 (vi) Kidnapping.

13 (vii) Rape.

14 (viii) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)  
15 (i), (ii) or (iii) (relating to robbery).

16 (ix) Robbery of motor vehicle.

17 (x) Attempt or conspiracy to commit any of the  
18 offenses in this paragraph.

19 Notwithstanding anything in this subsection, the proceedings  
20 shall be closed upon and to the extent of any agreement between  
21 the child and the attorney for the Commonwealth.]

22 \* \* \*

23 § 6337.1. Right to counsel for children in dependency and  
24 delinquency proceedings.

25 \* \* \*

26 (b) Children in delinquency proceedings.--

27 \* \* \*

28 (3) Notwithstanding paragraph (1), a child who is 14  
29 years of age or older may waive the right to counsel if the  
30 court has determined that the waiver is knowingly,

1 intelligently and voluntarily made after having conducted a  
2 colloquy with the child on the record, in accordance with the  
3 Pennsylvania Rules of Juvenile Court Procedure, and the  
4 hearing for which waiver is sought is not one of the  
5 following:

6 \* \* \*

7 [(ii) A hearing to consider transfer to criminal  
8 proceedings under section 6355 (relating to transfer to  
9 criminal proceedings).]

10 \* \* \*

11 § 6339. Investigation and report.

12 (a) General rule.--If the allegations of a petition are  
13 admitted by a [party or notice of hearing under section 6355  
14 (relating to transfer to criminal proceedings) has been given],  
15 the court, prior to the hearing on need for treatment or  
16 disposition, may direct that a social study and report in  
17 writing to the court be made by an officer of the court or other  
18 person designated by the court, concerning the child, his  
19 family, his environment, and other matters relevant to  
20 disposition of the case. If the allegations of the petition are  
21 not admitted [and notice of a hearing under section 6355 has not  
22 been given], the court shall not direct the making of the study  
23 and report until after the court has held a hearing on the  
24 petition upon notice of hearing given pursuant to this chapter  
25 and the court has found that the child committed a delinquent  
26 act or is a dependent child.

27 \* \* \*

28 Section 5. Section 6355 of Title 42 is repealed:

29 [§ 6355. Transfer to criminal proceedings.]

30 (a) General rule.--After a petition has been filed alleging

1 delinquency based on conduct which is designated a crime or  
2 public offense under the laws, including local ordinances, of  
3 this Commonwealth, the court before hearing the petition on its  
4 merits may rule that this chapter is not applicable and that the  
5 offense should be prosecuted, and transfer the offense, where  
6 appropriate, to the division or a judge of the court assigned to  
7 conduct criminal proceedings, for prosecution of the offense if  
8 all of the following exist:

9 (1) The child was 14 or more years of age at the time of  
10 the alleged conduct.

11 (2) A hearing on whether the transfer should be made is  
12 held in conformity with this chapter.

13 (3) Notice in writing of the time, place, and purpose of  
14 the hearing is given to the child and his parents, guardian,  
15 or other custodian at least three days before the hearing.

16 (4) The court finds:

17 (i) that there is a prima facie case that the child  
18 committed the delinquent act alleged;

19 (ii) that the delinquent act would be considered a  
20 felony if committed by an adult;

21 (iii) that there are reasonable grounds to believe  
22 that the public interest is served by the transfer of the  
23 case for criminal prosecution. In determining whether the  
24 public interest can be served, the court shall consider  
25 the following factors:

26 (A) the impact of the offense on the victim or  
27 victims;

28 (B) the impact of the offense on the community;

29 (C) the threat to the safety of the public or  
30 any individual posed by the child;

1 (D) the nature and circumstances of the offense  
2 allegedly committed by the child;

3 (E) the degree of the child's culpability;

4 (F) the adequacy and duration of dispositional  
5 alternatives available under this chapter and in the  
6 adult criminal justice system; and

7 (G) whether the child is amenable to treatment,  
8 supervision or rehabilitation as a juvenile by  
9 considering the following factors:

10 (I) age;

11 (II) mental capacity;

12 (III) maturity;

13 (IV) the degree of criminal sophistication  
14 exhibited by the child;

15 (V) previous records, if any;

16 (VI) the nature and extent of any prior  
17 delinquent history, including the success or  
18 failure of any previous attempts by the juvenile  
19 court to rehabilitate the child;

20 (VII) whether the child can be rehabilitated  
21 prior to the expiration of the juvenile court  
22 jurisdiction;

23 (VIII) probation or institutional reports,  
24 if any;

25 (IX) any other relevant factors; and

26 (iv) that there are reasonable grounds to believe  
27 that the child is not committable to an institution for  
28 the mentally retarded or mentally ill.

29 (b) Chapter inapplicable following transfer.--The transfer  
30 terminates the applicability of this chapter over the child with

1 respect to the delinquent acts alleged in the petition.

2 (c) Transfer at request of child.--The child may request  
3 that the case be transferred for prosecution in which event the  
4 court may order this chapter not applicable.

5 (d) Effect of transfer from criminal proceedings.--No  
6 hearing shall be conducted where this chapter becomes applicable  
7 because of a previous determination by the court in a criminal  
8 proceeding.

9 (e) Murder and other excluded acts.--Where the petition  
10 alleges conduct which if proven would constitute murder, or any  
11 of the offenses excluded by paragraph (2)(ii) or (iii) of the  
12 definition of "delinquent act" in section 6302 (relating to  
13 definitions), the court shall require the offense to be  
14 prosecuted under the criminal law and procedures, except where  
15 the case has been transferred pursuant to section 6322 (relating  
16 to transfer from criminal proceedings) from the division or a  
17 judge of the court assigned to conduct criminal proceedings.

18 (f) Transfer action interlocutory.--The decision of the  
19 court to transfer or not to transfer the case shall be  
20 interlocutory.

21 (g) Burden of proof.--The burden of establishing by a  
22 preponderance of evidence that the public interest is served by  
23 the transfer of the case to criminal court and that a child is  
24 not amenable to treatment, supervision or rehabilitation as a  
25 juvenile shall rest with the Commonwealth unless the following  
26 apply:

27 (1) (i) a deadly weapon as defined in 18 Pa.C.S. § 2301  
28 (relating to definitions) was used and the child was 14  
29 years of age at the time of the offense; or

30 (ii) the child was 15 years of age or older at the

1 time of the offense and was previously adjudicated  
2 delinquent of a crime that would be considered a felony  
3 if committed by an adult; and

4 (2) there is a prima facie case that the child committed  
5 a delinquent act which, if committed by an adult, would be  
6 classified as rape, involuntary deviate sexual intercourse,  
7 aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or  
8 (2) (relating to aggravated assault), robbery as defined in  
9 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to  
10 robbery), robbery of motor vehicle, aggravated indecent  
11 assault, kidnapping, voluntary manslaughter, an attempt,  
12 conspiracy or solicitation to commit any of these crimes or  
13 an attempt to commit murder as specified in paragraph (2)(ii)  
14 of the definition of "delinquent act" in section 6302.

15 If either of the preceding criteria are met, the burden of  
16 establishing by a preponderance of the evidence that retaining  
17 the case under this chapter serves the public interest and that  
18 the child is amenable to treatment, supervision or  
19 rehabilitation as a juvenile shall rest with the child.]

20 Section 6. This act shall apply to all proceedings that  
21 commence on or after the effective date of this section.

22 Section 7. This act shall take effect in 60 days.