

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2088 Session of  
1998

INTRODUCED BY GANNON, WOGAN, GEIST, CALTAGIRONE, SAYLOR,  
E. Z. TAYLOR, GRUPPO, CLARK, ORIE, KENNEY, MILLER, HENNESSEY,  
BOSCOLA, TRUE, KELLER AND EGOLF, JANUARY 12, 1998

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 12, 1998

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, providing for probation  
3 officer's authority to search.

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

6 Section 1. Title 42 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a section to read:

8 § 6304.1. Authority to search.

9 (a) General rule.--

10 (1) Probation officers are authorized to search the  
11 person and property of children under their supervision who  
12 are alleged or adjudicated delinquent children or pursuant to  
13 a consent decree in accordance with this section. Probation  
14 officers are likewise authorized to search the person and  
15 property of children taken into custody pursuant to sections  
16 6304(a) (relating to powers and duties of probation officers)  
17 and 6324 (relating to taking into custody), detained pursuant  
18 to sections 6304(a) and 6325 (relating to detention of child)

1 or during the intake process pursuant to sections 6304(a) and  
2 6331 (relating to release from detention or commencement of  
3 proceedings) in accordance with this section. Nothing in this  
4 section shall be construed to permit searches or seizures in  
5 violation of the Constitution of the United States or section  
6 8 of Article I of the Constitution of Pennsylvania.

7 (2) No violation of this section shall constitute an  
8 independent ground for suppression of evidence in any  
9 proceeding.

10 (b) Personal search.--A personal search of a child may be  
11 conducted by any probation officer:

12 (1) if there is a reasonable suspicion to believe that  
13 the child possesses contraband or other evidence of  
14 violations of the conditions of supervision;

15 (2) when a child is transported or taken into custody;  
16 or

17 (3) upon a child entering or leaving a detention center,  
18 institution or other facility for alleged or adjudicated  
19 delinquent children.

20 (c) Property search.--A property search may be conducted by  
21 any probation officer if there is reasonable suspicion to  
22 believe that the real or other property in the possession of or  
23 under the control of the child contains contraband or other  
24 evidence of violations of the conditions of supervision.

25 (d) Prior approval.--Prior approval of a supervisor shall be  
26 obtained for a property search absent exigent circumstances. No  
27 prior approval shall be required for a personal search.

28 (e) Report.--A written report of every property search  
29 conducted without prior approval shall be prepared by the  
30 probation officer who conducted the search and filed in the

1 child's case record. The exigent circumstances shall be stated  
2 in the report.

3 (f) Notice.--The child may be detained if he is present  
4 during a property search. If the child is not present during a  
5 property search, the probation officer in charge of the search  
6 shall make a reasonable effort to provide the child with notice  
7 of the search, including a list of the items seized, after the  
8 search is completed.

9 (g) Grounds for search.--The existence of reasonable  
10 suspicion to search shall be determined in accordance with  
11 constitutional search and seizure provisions as applied by  
12 judicial decision. In accordance with such case law, the  
13 following factors, where applicable, may be taken into account:

14 (1) The observation of officers.

15 (2) Information provided by others.

16 (3) The activities of the child.

17 (4) Information provided by the child.

18 (5) The experience of the probation officer with the  
19 child.

20 (6) The experience of probation officers in similar  
21 circumstances.

22 (7) The prior criminal, delinquent and supervisory  
23 history of the offender.

24 (8) The need to verify compliance with the conditions of  
25 supervision.

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

29 "Conditions of supervision." Any terms or conditions of the  
30 child's supervision, whether imposed by the court or a probation

officer, including compliance with all requirements of Federal, State and local law.

"Contraband." Any item that the child is not permitted to possess under the conditions of supervision, including any item whose possession is forbidden by any Federal, State or local law.

"Court." The court of common pleas or any judge or master thereof.

"Exigent circumstances." The term includes, but is not limited to, suspicion that contraband or other evidence of violations of the conditions of supervision might be destroyed or suspicion that a weapon might be used. Exigent circumstances always exist with respect to a vehicle.

"Probation officer." A probation officer appointed or employed by any court or by any county probation department.

"Personal search." A warrantless search of a child's person, including, but not limited to, the child's clothing and any personal property which is in the possession, within the reach or under the control of the child.

"Property search." A warrantless search of real property, vehicle or personal property which is in the possession or under the control of the child.

"Supervisor." Any individual acting in a supervisory or administrative capacity.

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