

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 317 Session of
1999

INTRODUCED BY EGOLF, LYNCH, LAUGHLIN, MAITLAND, TIGUE, THOMAS,
NAILOR, BAKER, PLATTS, HENNESSEY, WOGAN, VANCE, PRESTON,
HERSHEY, E. Z. TAYLOR, TRELLO, MAHER, SCHRODER, STERN, TRUE,
HARHAI, SEYFERT, WILT, SCRIMENTI AND M. COHEN,
FEBRUARY 3, 1999

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 3, 1999

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 release or delivery of a child taken into custody and for the
4 place of detention of a child alleged to be delinquent.

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

7 Section 1. Section 6326(c) of Title 42 of the Pennsylvania
8 Consolidated Statutes, amended December 15, 1998 (P.L.949,
9 No.126), is amended to read:

10 § 6326. Release or delivery to court.

11 * * *

12 (c) Detention in police lockup under certain
13 circumstances.--A child alleged to have committed a crime or
14 summary offense or to be in violation of conditions of probation
15 or other supervision following an adjudication of delinquency
16 may be held securely in a municipal police lockup or other
17 facility which houses an adult lockup only under the following

1 conditions:

2 (1) the secure holding shall only be for the purpose of
3 identification, investigation, processing, releasing or
4 transferring the child to a parent, guardian, other
5 custodian, or juvenile court or county children and youth
6 official, or to a shelter care or juvenile detention center,
7 or while awaiting space in a juvenile detention center;

8 (2) the secure holding shall be limited to the minimum
9 time necessary to complete the procedures listed in paragraph
10 (1), but in no case may such holding exceed six hours unless
11 the child is detained in a county correctional facility under
12 section 6327(a.1) (relating to place of detention); and

13 (3) if so held, a child must be separated by sight and
14 sound from incarcerated adult offenders and must be under the
15 continuous visual supervision of law enforcement officials or
16 facility staff.

17 * * *

18 Section 2. Section 6327(a), (b) and (c) of Title 42 are
19 amended and the section is amended by adding a subsection to
20 read:

21 § 6327. Place of detention.

22 (a) General rule.--

23 (1) A child alleged to be delinquent may be detained
24 only in:

25 [(1)] (i) A licensed foster home or a home approved
26 by the court.

27 [(2)] (ii) A facility operated by a licensed child
28 welfare agency or one approved by the court.

29 [(3)] (iii) A detention home, camp, center or other
30 facility for delinquent children which is under the

1 direction or supervision of the court or other public
2 authority or private agency, and is approved by the
3 Department of Public Welfare.

4 (iv) A county correctional facility under subsection
5 (a.1). A county correctional facility housing ten or
6 fewer juveniles at a time shall be exempt from licensing,
7 approval and regulations promulgated by the Department of
8 Public Welfare.

9 ~~[(4)]~~ (v) Any other suitable place or facility,
10 designated or operated by the court and approved by the
11 Department of Public Welfare.

12 (2) Under no circumstances shall a child be detained in:

13 (i) any facility with adults, unless the child is
14 detained in a county correctional facility under
15 subsection (a.1); or

16 (ii) a place where the child is apt to be abused by
17 other children.

18 (a.1) Detention in county correctional facility.--A child
19 alleged to be or previously adjudicated delinquent of a
20 misdemeanor or felony offense may only be detained in a county
21 correctional facility when so ordered by a court and only under
22 the following conditions:

23 (1) At the discretion of the court and when one of the
24 following applies:

25 (i) There is an immediate and urgent necessity to
26 detain the child for the protection of the person or the
27 property of others, and the circumstances surrounding the
28 offense that the child has been charged with involve
29 physical harm or substantial threat of physical harm.

30 (ii) There is a need to ensure a court appearance

1 and when there is reason to believe that the child may
2 abscond and there is no parent or responsible adult
3 willing and able to assume responsibility for the child's
4 appearance.

5 (iii) Other resources, such as the child's home, or
6 placement in a foster home, a group home, or other
7 shelter care alternative, have been tried and proven
8 unsuccessful.

9 (iv) There are compelling and clearly documented
10 reasons why placement with parents or in a shelter care
11 alternative cannot be considered.

12 (2) The child is separated by sight and sound from
13 incarcerated adult offenders and is under the continuous
14 visual supervision of law enforcement officials or facility
15 staff.

16 (3) The county has no juvenile detention facility, and
17 no space in a juvenile detention facility within a reasonable
18 distance or in a contiguous county is available.

19 (4) The child is placed in the first available space in
20 a juvenile detention center within a reasonable distance or
21 in a contiguous county, but in no case may a child be held in
22 a county correctional facility for more than 21 consecutive
23 days.

24 (5) Upon request of the court, the county juvenile
25 probation department delivers the child to the court or any
26 other specified location.

27 (b) Report by correctional officer of receipt of child.--The
28 official in charge of a jail or other facility for the detention
29 of adult offenders or persons charged with crime shall inform
30 the court immediately if a person who is or appears to be under

1 the age of 18 years is received at the facility and shall bring
2 him before the court upon request or deliver him to a detention
3 or shelter care facility designated by the court[.], unless the
4 child is detained in a county correctional facility under
5 subsection (a.1), in which case the county juvenile probation
6 department shall be responsible.

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) or the child is detained in a county
15 correctional facility under subsection (a.1).

16 * * *

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