

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 850 Session of
2011

INTRODUCED BY GREENLEAF, BAKER, TARTAGLIONE, FONTANA, COSTA,
YUDICHAK, BOSCOLA, ALLOWAY, HUGHES AND FARNESE,
MARCH 16, 2011

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 15, 2012

AN ACT

1 ~~Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and~~ ←
2 ~~Judicial Procedure) of the Pennsylvania Consolidated~~
3 ~~Statutes, in minors, providing for the offense of~~
4 ~~cyberbullying by minors; in criminal history record~~
5 ~~information, further providing for expungement and for~~
6 ~~juvenile records; and, in relation to summary offenses,~~
7 ~~further providing for short title and purpose of chapter, for~~
8 ~~the scope of the Juvenile Act, for inspection of court files~~
9 ~~and records, for conduct of hearings and for right to~~
10 ~~counsel.~~
11 AMENDING TITLES 18 (CRIMES AND OFFENSES), 42 (JUDICIARY AND ←
12 JUDICIAL PROCEDURE) AND 61 (PRISONS AND PAROLE), OF THE
13 PENNSYLVANIA CONSOLIDATED STATUTES, IN AUTHORIZED DISPOSITION ←
14 OF OFFENDERS, FURTHER PROVIDING FOR SENTENCE FOR MURDER,
15 MURDER OF UNBORN CHILD AND MURDER OF LAW ENFORCEMENT OFFICER;
16 AND PROVIDING FOR SENTENCE OF PERSONS UNDER THE AGE OF 18 FOR
17 MURDER, MURDER OF AN UNBORN CHILD AND MURDER OF A LAW
18 ENFORCEMENT OFFICER; IN MINORS, PROVIDING FOR THE OFFENSE OF
19 CYBERBULLYING BY MINORS; IN CRIMINAL HISTORY RECORD
20 INFORMATION, FURTHER PROVIDING FOR EXPUNGEMENT AND FOR
21 JUVENILE RECORDS; IN RELATION TO SUMMARY OFFENSES, FURTHER
22 PROVIDING FOR SHORT TITLE AND PURPOSE OF CHAPTER, FOR
23 DEFINITIONS, FOR THE SCOPE OF THE JUVENILE ACT, FOR
24 INSPECTION OF COURT FILES AND RECORDS, FOR CONDUCT OF
25 HEARINGS AND FOR RIGHT TO COUNSEL; AND, IN PENNSYLVANIA BOARD
26 OF PROBATION AND PAROLE, FURTHER PROVIDING FOR PAROLE
27 PROCEDURE IN AUTHORIZED DISPOSITION OF OFFENDERS, FURTHER ←
28 PROVIDING FOR SENTENCE FOR MURDER, MURDER OF UNBORN CHILD AND
29 MURDER OF LAW ENFORCEMENT OFFICER AND PROVIDING FOR SENTENCE
30 OF PERSONS UNDER THE AGE OF 18 FOR MURDER, MURDER OF AN
31 UNBORN CHILD AND MURDER OF A LAW ENFORCEMENT OFFICER; IN

1 CRIMINAL HISTORY RECORD INFORMATION, FURTHER PROVIDING FOR
2 EXPUNGEMENT AND FOR JUVENILE RECORDS; AND PROVIDING FOR CRIME
3 VICTIMS; IN JUVENILE MATTERS, FURTHER PROVIDING FOR SHORT
4 TITLE AND PURPOSES OF CHAPTER, FOR DEFINITIONS, FOR SCOPE,
5 FOR INSPECTION OF COURT FILES AND RECORDS AND FOR CONDUCT OF
6 HEARINGS; IN SENTENCING, PROVIDING FOR SENTENCING FOR CERTAIN
7 MURDERS OF INFANT PERSONS AND FOR SENTENCES FOR SECOND AND
8 SUBSEQUENT OFFENSES; IN PENNSYLVANIA BOARD OF PROBATION AND
9 PAROLE, FURTHER PROVIDING FOR PAROLE PROCEDURE.

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

12 ~~Section 1. Title 18 of the Pennsylvania Consolidated~~ ←
13 ~~Statutes is amended by adding a section to read:~~

14 SECTION 1. SECTION 1102(A)(1) AND (B) OF TITLE 18 OF THE ←
15 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

16 § 1102. SENTENCE FOR MURDER, MURDER OF UNBORN CHILD AND MURDER
17 OF LAW ENFORCEMENT OFFICER.

18 (A) FIRST DEGREE.--

19 (1) [A] EXCEPT AS PROVIDED UNDER SECTION 1102.1
20 (RELATING TO SENTENCE OF PERSONS UNDER THE AGE OF 18 FOR
21 MURDER, MURDER OF AN UNBORN CHILD AND MURDER OF A LAW
22 ENFORCEMENT OFFICER), A PERSON WHO HAS BEEN CONVICTED OF A
23 MURDER OF THE FIRST DEGREE OR OF MURDER OF A LAW ENFORCEMENT
24 OFFICER OF THE FIRST DEGREE SHALL BE SENTENCED TO DEATH OR TO
25 A TERM OF LIFE IMPRISONMENT IN ACCORDANCE WITH 42 PA.C.S. §
26 9711 (RELATING TO SENTENCING PROCEDURE FOR MURDER OF THE
27 FIRST DEGREE).

28 * * *

29 (B) SECOND DEGREE.--[A] EXCEPT AS PROVIDED UNDER SECTION
30 1102.1, A PERSON WHO HAS BEEN CONVICTED OF MURDER OF THE SECOND
31 DEGREE, OF SECOND DEGREE MURDER OF AN UNBORN CHILD OR OF SECOND
32 DEGREE MURDER OF A LAW ENFORCEMENT OFFICER SHALL BE SENTENCED TO
33 A TERM OF LIFE IMPRISONMENT.

34 * * *



SECTION 2. TITLE 18 IS AMENDED BY ADDING ~~SECTIONS~~ A SECTION
TO READ:

§ 1102.1. SENTENCE OF PERSONS UNDER THE AGE OF 18 FOR MURDER,
MURDER OF AN UNBORN CHILD AND MURDER OF A LAW
ENFORCEMENT OFFICER.

(A) FIRST DEGREE MURDER.--A PERSON WHO HAS BEEN CONVICTED,
AFTER JUNE 24, 2012, OF A MURDER OF THE FIRST DEGREE, FIRST
DEGREE MURDER OF AN UNBORN CHILD OR OF MURDER OF A LAW
ENFORCEMENT OFFICER OF THE FIRST DEGREE AND WHO WAS UNDER THE
AGE OF 18 AT THE TIME OF THE COMMISSION OF THE OFFENSE SHALL BE
SENTENCED AS FOLLOWS:

(1) A PERSON WHO AT THE TIME OF THE COMMISSION OF THE
OFFENSE WAS 15 YEARS OF AGE OR OLDER SHALL BE SENTENCED TO A
TERM OF LIFE IMPRISONMENT WITHOUT PAROLE, OR A TERM OF
IMPRISONMENT, THE MINIMUM OF WHICH SHALL BE AT LEAST 35 YEARS
TO LIFE.

(2) A PERSON WHO AT THE TIME OF THE COMMISSION OF THE
OFFENSE WAS UNDER 15 YEARS OF AGE SHALL BE SENTENCED TO A
TERM OF LIFE IMPRISONMENT WITHOUT PAROLE, OR A TERM OF
IMPRISONMENT, THE MINIMUM OF WHICH SHALL BE AT LEAST 25 YEARS
TO LIFE.

(B) NOTICE.--REASONABLE NOTICE TO THE DEFENDANT OF THE
COMMONWEALTH'S INTENTION TO SEEK A SENTENCE OF LIFE IMPRISONMENT
WITHOUT PAROLE UNDER SUBSECTION (A) SHALL BE PROVIDED AFTER
CONVICTION AND BEFORE SENTENCING.

(C) SECOND DEGREE MURDER.--A PERSON WHO HAS BEEN CONVICTED,
AFTER JUNE 24, 2012, OF A MURDER OF THE SECOND DEGREE, SECOND
DEGREE MURDER OF AN UNBORN CHILD OR OF MURDER OF A LAW
ENFORCEMENT OFFICER OF THE SECOND DEGREE AND WHO WAS UNDER THE
AGE OF 18 AT THE TIME OF THE COMMISSION OF THE OFFENSE SHALL BE

1 SENTENCED AS FOLLOWS:

2 (1) A PERSON WHO AT THE TIME OF THE COMMISSION OF THE
3 OFFENSE WAS 15 YEARS OF AGE OR OLDER SHALL BE SENTENCED TO A
4 TERM OF IMPRISONMENT THE MINIMUM OF WHICH SHALL BE AT LEAST
5 30 YEARS TO LIFE.

6 (2) A PERSON WHO AT THE TIME OF THE COMMISSION OF THE
7 OFFENSE WAS UNDER 15 YEARS OF AGE SHALL BE SENTENCED TO A
8 TERM OF IMPRISONMENT THE MINIMUM OF WHICH SHALL BE AT LEAST
9 20 YEARS TO LIFE.

10 (D) FINDINGS.--IN DETERMINING WHETHER TO IMPOSE A SENTENCE
11 OF LIFE WITHOUT PAROLE UNDER SUBSECTION (A), THE COURT SHALL
12 CONSIDER AND MAKE FINDINGS ON THE RECORD REGARDING THE
13 FOLLOWING:

14 (1) THE IMPACT OF THE OFFENSE ON EACH VICTIM, INCLUDING
15 ORAL AND WRITTEN VICTIM IMPACT STATEMENTS MADE OR SUBMITTED
16 BY FAMILY MEMBERS OF THE VICTIM DETAILING THE PHYSICAL,
17 PSYCHOLOGICAL AND ECONOMIC EFFECTS OF THE CRIME ON THE VICTIM
18 AND THE VICTIM'S FAMILY. A VICTIM IMPACT STATEMENT MAY
19 INCLUDE COMMENT ON THE SENTENCE OF THE DEFENDANT.

20 (2) THE IMPACT OF THE OFFENSE ON THE COMMUNITY.

21 (3) THE THREAT TO THE SAFETY OF THE PUBLIC OR ANY
22 INDIVIDUAL POSED BY THE DEFENDANT.

23 (4) THE NATURE AND CIRCUMSTANCES OF THE OFFENSE
24 COMMITTED BY THE DEFENDANT.

25 (5) THE DEGREE OF THE DEFENDANT'S CULPABILITY.

26 (6) GUIDELINES FOR SENTENCING AND RESENTENCING ADOPTED
27 BY THE PENNSYLVANIA COMMISSION ON SENTENCING.

28 (7) AGE-RELATED CHARACTERISTICS OF THE DEFENDANT,
29 INCLUDING:

30 (I) AGE.

1 (II) MENTAL CAPACITY.

2 (III) MATURITY.

3 (IV) THE DEGREE OF CRIMINAL SOPHISTICATION EXHIBITED
4 BY THE DEFENDANT.

5 (V) THE NATURE AND EXTENT OF ANY PRIOR DELINQUENT OR
6 CRIMINAL HISTORY, INCLUDING THE SUCCESS OR FAILURE OF ANY
7 PREVIOUS ATTEMPTS BY THE COURT TO REHABILITATE THE
8 DEFENDANT.

9 (VI) PROBATION OR INSTITUTIONAL REPORTS.

10 (VII) OTHER RELEVANT FACTORS.

11 (E) MINIMUM SENTENCE.--NOTHING UNDER THIS SECTION SHALL
12 PREVENT THE SENTENCING COURT FROM IMPOSING A MINIMUM SENTENCE
13 GREATER THAN THAT PROVIDED IN THIS SECTION. SENTENCING
14 GUIDELINES PROMULGATED BY THE PENNSYLVANIA COMMISSION ON
15 SENTENCING MAY NOT SUPERSEDE THE MANDATORY MINIMUM SENTENCES
16 PROVIDED UNDER THIS SECTION.

17 (F) APPEAL BY COMMONWEALTH.--IF A SENTENCING COURT REFUSES
18 TO APPLY THIS SECTION WHERE APPLICABLE, THE COMMONWEALTH SHALL
19 HAVE THE RIGHT TO APPELLATE REVIEW OF THE ACTION OF THE
20 SENTENCING COURT. THE APPELLATE COURT SHALL VACATE THE SENTENCE
21 AND REMAND THE CASE TO THE SENTENCING COURT FOR IMPOSITION OF A
22 SENTENCE IN ACCORDANCE WITH THIS SECTION IF IT FINDS THAT THE
23 SENTENCE WAS IMPOSED IN VIOLATION OF THIS SECTION.

24 ~~§ 6321. Cyberbullying by minors.~~

25 ~~(a) Offense defined. A minor commits a misdemeanor of the~~
26 ~~third degree if:~~

27 ~~(1) the minor knowingly transmits or disseminates any~~
28 ~~electronic communication, including a visual depiction of~~
29 ~~himself or any other person in a state of nudity, to another~~
30 ~~minor with the knowledge or intent that the communication~~



~~would coerce, intimidate, torment, harass or otherwise cause emotional distress to the other minor; or~~

~~(2) the minor does any of the following involving another minor:~~

~~(i) photographs, videotapes, depicts on a computer or films the other minor in a state of nudity without the person's knowledge or consent; or~~

~~(ii) transmits, distributes, publishes or disseminates a visual depiction of the other minor in a state of nudity where the minor depicted has not given consent or has withdrawn consent for the dissemination.~~

~~(b) Seizure and forfeiture of electronic communication device. An electronic communication device used in violation of this section may be seized by and forfeited to the Commonwealth.~~

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

~~"Disseminate." To cause or make an electronic communication from one person, place or electronic communication device to two or more persons, places or electronic communication devices.~~

~~"Electronic communication." As defined in section 5702 (relating to definitions).~~

~~"Minor." An individual under 18 years of age.~~

~~"Nudity." The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple or the depiction of covered male genitals in a discernibly turgid state.~~

~~"Transmit." To cause or make an electronic communication~~

~~from one person, place or electronic communication device to
only one other person, place or electronic communication device.
"Visual depiction." A photograph, videotape, film or
depiction on a computer. The term shall not include a
photograph, videotape, film or depiction on a computer, taken,
taped, filmed, made, produced, used or intended to be used, for
or in furtherance of a commercial purpose or to the transmission
or dissemination of such a visual depiction.~~

~~Section 2. Sections 9122(a)(3) and (d) and 9123(a) of Title
18 are amended to read:~~

SECTION 3. SECTION 9122(A)(3) AND (D) OF TITLE 18 ARE
AMENDED TO READ:

§ 9122. Expungement.

(a) Specific proceedings.--Criminal history record
information shall be expunged in a specific criminal proceeding
when:

* * *

(3) a person 21 years of age or older who has been
convicted of a violation of section 6308 (relating to
purchase, consumption, possession or transportation of liquor
or malt or brewed beverages), which occurred on or after the
day the person attained 18 years of age, petitions the court
of common pleas in the county where the conviction occurred
seeking expungement and the person has satisfied all terms
and conditions of the sentence imposed for the violation,
including any suspension of operating privileges imposed
pursuant to section 6310.4 (relating to restriction of
operating privileges). Upon review of the petition, the court
shall order the expungement of all criminal history record
information and all administrative records of the Department

1 of Transportation relating to said conviction.

2 * * *

3 (d) Notice of expungement.--Notice of expungement shall
4 promptly be submitted to the central [respository] repository
5 which shall notify all criminal justice agencies which have
6 received the criminal history record information to be expunged.

7 * * *

8 SECTION 4. SECTION 9123(A) OF TITLE 18, AMENDED JULY 5, 2012
9 (P.L.880, NO.91), IS AMENDED TO READ:

10 § 9123. Juvenile records.

11 (a) Expungement of juvenile records.--Notwithstanding the
12 provisions of section 9105 (relating to other criminal justice
13 information) and except ~~upon cause shown~~ AS PROVIDED UNDER
14 SUBSECTION (A.1), expungement of records of juvenile delinquency
15 cases and cases involving summary offenses committed while the
16 individual was under 18 years of age, wherever kept or retained
17 shall occur after 30 days' notice to the district attorney,
18 whenever the court upon its own motion or upon the motion of a
19 child or the parents or guardian finds:

20 (1) a complaint is filed which is not substantiated or
21 the petition which is filed as a result of a complaint is
22 dismissed by the court;

23 (1.1) a written allegation is filed which was not
24 approved for prosecution;

25 (1.2) SIX MONTHS HAVE ELAPSED SINCE the individual
26 successfully completed an informal adjustment and no
27 proceeding seeking adjudication or conviction is pending;

28 (2) six months have elapsed since the final discharge of
29 the person from supervision under a consent decree or
30 diversion program, including a program under 42 Pa.C.S. §

1 1520 (relating to adjudication alternative program) and no
2 proceeding seeking adjudication or conviction is pending;

3 (2.1) the individual is 18 years of age or older and SIX ←
4 MONTHS HAVE ELAPSED SINCE the individual has satisfied all
5 terms and conditions of the sentence imposed following a
6 conviction for a summary offense, with the exception of a
7 violation of section 6308 (relating to purchase, consumption,
8 possession or transportation of liquor or malt or brewed
9 beverages), committed while the individual was under 18 years
10 of age and the individual has not been convicted of a felony,
11 misdemeanor or adjudicated delinquent and no proceeding is
12 pending to seek such conviction and adjudication;

13 (2.2) the individual is 18 years of age or older and has
14 been convicted of a violation of section 6308 which occurred
15 while the individual was under 18 years of age and SIX MONTHS ←
16 HAVE ELAPSED SINCE the individual has satisfied all terms and
17 conditions of the sentence imposed for the violation,
18 including any suspension of operating privileges imposed
19 under section 6310.4 (relating to restriction of operating
20 privileges). Expungement shall include all criminal history
21 record information and all administrative records of the
22 Department of Transportation relating to the conviction;

23 (3) five years have elapsed since the final discharge of
24 the person from commitment, placement, probation or any other
25 disposition and referral and since such final discharge, the
26 person has not been convicted of a felony, misdemeanor or
27 adjudicated delinquent and no proceeding is pending seeking
28 such conviction or adjudication; or

29 (4) [the individual is 18 years of age or older,] the
30 attorney for the Commonwealth consents to the expungement and

1 a court orders the expungement after giving consideration to
2 the following factors:

- 3 (i) the type of offense;
- 4 (ii) the individual's age, history of employment,
5 criminal activity and drug or alcohol problems;
- 6 (iii) adverse consequences that the individual may
7 suffer if the records are not expunged; and
- 8 (iv) whether retention of the record is required for
9 purposes of protection of the public safety.

10 * * *

11 SECTION 4.1. TITLE 18 IS AMENDED BY ADDING A CHAPTER TO
12 READ:

13 CHAPTER 94

14 CRIME VICTIMS

15 SEC.

16 9401. DEFINITIONS.

17 9402. OFFICE OF THE VICTIM ADVOCATE.

18 § 9401. DEFINITIONS.

19 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
20 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
21 CONTEXT CLEARLY INDICATES OTHERWISE:

22 "CRIME VICTIMS ACT." THE ACT OF NOVEMBER 24, 1998 (P.L.882,
23 NO.111), KNOWN AS THE CRIME VICTIMS ACT.

24 "OFFICE OF VICTIM ADVOCATE." THE OFFICE OF VICTIM ADVOCATE
25 ESTABLISHED UNDER SECTION 302 OF THE CRIMES VICTIMS ACT.

26 § 9402. OFFICE OF VICTIM ADVOCATE.

27 THE OFFICE OF VICTIM ADVOCATE HAS THE POWER AND DUTY TO
28 REPRESENT AND ADVOCATE FOR THE INTERESTS OF INDIVIDUAL CRIME
29 VICTIMS IN ACCORDANCE WITH SECTION 302 OF THE CRIME VICTIMS ACT,
30 AND ADVOCATE FOR THE INTERESTS OF CRIME VICTIMS GENERALLY,

1 INCLUDING THE VICTIMS OF CRIMES COMMITTED BY JUVENILES.

2 Section 3 5. Section 6301(b) of Title 42 is amended to read: ←

3 § 6301. Short title and purposes of chapter.

4 * * *

5 (b) Purposes.--This chapter shall be interpreted and
6 construed as to effectuate the following purposes:

7 (1) To preserve the unity of the family whenever
8 possible or to provide another alternative permanent family
9 when the unity of the family cannot be maintained.

10 (1.1) To provide for the care, protection, safety and
11 wholesome mental and physical development of children coming
12 within the provisions of this chapter.

13 (2) Consistent with the protection of the public
14 interest, to provide for children committing delinquent acts
15 programs of supervision, care and rehabilitation which
16 provide balanced attention to the protection of the
17 community, the imposition of accountability for offenses
18 committed and the development of competencies to enable
19 children to become responsible and productive members of the
20 community.

21 (3) To achieve the foregoing purposes in a family
22 environment whenever possible, separating the child from
23 parents only when necessary for his welfare, safety or health
24 or in the interests of public safety[.], BY DOING ALL OF THE ←
25 FOLLOWING:

26 (I) EMPLOYING EVIDENCE-BASED PRACTICES WHENEVER
27 POSSIBLE AND, IN THE CASE OF A DELINQUENT CHILD, BY USING
28 THE LEAST RESTRICTIVE INTERVENTION THAT IS CONSISTENT
29 WITH THE PROTECTION OF THE COMMUNITY, THE IMPOSITION OF
30 ACCOUNTABILITY FOR OFFENSES COMMITTED AND THE

1 REHABILITATION, SUPERVISION AND TREATMENT NEEDS OF THE
2 CHILD; AND

3 (II) IMPOSING CONFINEMENT ONLY IF NECESSARY AND FOR
4 THE MINIMUM AMOUNT OF TIME THAT IS CONSISTENT WITH THE
5 PURPOSES UNDER PARAGRAPHS (1), (1.1) AND (2).

6 (4) To provide means through which the provisions of
7 this chapter are executed and enforced and in which the
8 parties are assured a fair hearing and their constitutional
9 and other legal rights recognized and enforced.

10 ~~(5) To use the least restrictive sanctions consistent~~ ←
11 ~~with the protection of the community and the rehabilitation~~
12 ~~needs of a delinquent child; and to use confinement as a last~~
13 ~~resort and to impose it for the minimum amount of time that~~
14 ~~is consistent with the protection of the public and the~~
15 ~~rehabilitation needs of a delinquent child.~~

16 ~~(6) To employ whenever possible evidence based~~
17 ~~practices, with fidelity, at every stage of the juvenile~~
18 ~~justice process.~~

19 SECTION 6. PARAGRAPH (7) OF THE DEFINITION OF "DEPENDENT" ←
20 CHILD" IN SECTION 6302 OF TITLE 42 IS AMENDED TO READ:

21 § 6302. DEFINITIONS.

22 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
23 SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE
24 MEANINGS GIVEN TO THEM IN THIS SECTION:

25 * * *

26 "DEPENDENT CHILD." A CHILD WHO:

27 * * *

28 (7) [IS UNDER THE AGE OF TEN YEARS AND] HAS COMMITTED A
29 DELINQUENT ACT OR CRIME, OTHER THAN A SUMMARY OFFENSE, WHILE
30 UNDER THE AGE OF TEN YEARS;

1 * * *

2 Section 4 7. Sections 6303, 6307 and 6336 of Title 42 are
3 amended by adding subsections to read:

4 § 6303. Scope of chapter.

5 * * *

6 (c) Summary offenses generally.--In addition to the
7 provisions of subsection (a) (5) and notwithstanding the
8 exclusion of summary offenses generally from the definition of
9 "delinquent act" under section 6302, the provisions of sections
10 6307 (relating to inspection of court files and records) and
11 6336(d) (relating to conduct of hearings), insofar as section
12 6336(d) relates to the exclusion of the general public from the
13 proceedings, shall apply to proceedings involving a child
14 charged with a summary offense when the proceedings are before a
15 judge of the minor judiciary.

16 § 6307. Inspection of court files and records.

17 * * *

18 (c) Summary offenses.--The provisions of this section shall
19 apply to proceedings involving a child charged with a summary
20 offense when the proceedings are before a judge of the minor
21 judiciary.

22 § 6336. Conduct of hearings.

23 * * *

24 (g) Summary offenses.--The provisions of subsection (d),
25 insofar as it relates to the exclusion of the general public
26 from the proceedings, shall apply to proceedings involving a
27 child charged with a summary offense when the proceedings are
28 before a judge of the minor judiciary.

29 (h) Adjudication alternative.--The magisterial district
30 judge may refer a child charged with a summary offense to an

adjudication alternative program under section 1520 (relating to
adjudication alternative program) and the Pennsylvania Rules of
Criminal Procedure.

~~Section 5 8. Section 6337 of Title 42, AMENDED APRIL 9, 2012~~ ←
~~(P.L.223, NO.23), is amended to read:~~

~~§ 6337. Right to counsel.~~

~~(a) Court to provide counsel.~~

~~(1) Except as provided in section 6311 (relating to~~ ←
~~guardian ad litem for child in court proceedings), a party is~~
~~entitled to representation by legal counsel at all stages of~~
~~any proceedings under this chapter and if he is without~~
~~financial resources or otherwise unable to employ counsel, to~~
~~have the court provide counsel for him.~~

~~(2) If a party appears without counsel the court shall~~
~~ascertain whether he knows of his right thereto and to be~~
~~provided with counsel by the court if applicable. The court~~
~~may continue the proceeding to enable a party to obtain~~
~~counsel. [Counsel must be provided for a child unless his~~
~~parent, guardian, or custodian is present in court and~~
~~affirmatively waive it. However, the parent, guardian, or~~
~~custodian may not waive counsel for a child when their~~
~~interest may be in conflict with the interest or interests of~~
~~the child.]~~

~~(3) If the interests of two or more parties may~~
~~conflict, separate counsel shall be provided for each of~~
~~them.~~

~~(1) EXCEPT AS PROVIDED UNDER THIS SECTION AND IN SECTION~~ ←
~~6311 (RELATING TO GUARDIAN AD LITEM FOR CHILD IN COURT~~
~~PROCEEDINGS), A PARTY IS ENTITLED TO REPRESENTATION BY LEGAL~~
~~COUNSEL AT ALL STAGES OF ANY PROCEEDINGS UNDER THIS CHAPTER~~

1 ~~AND IF HE IS WITHOUT FINANCIAL RESOURCES OR OTHERWISE UNABLE~~
2 ~~TO EMPLOY COUNSEL, TO HAVE THE COURT PROVIDE COUNSEL FOR HIM.~~

3 ~~(2) IF A PARTY OTHER THAN A CHILD APPEARS AT A HEARING~~
4 ~~WITHOUT COUNSEL THE COURT SHALL ASCERTAIN WHETHER HE KNOWS OF~~
5 ~~HIS RIGHT THERETO AND TO BE PROVIDED WITH COUNSEL BY THE~~
6 ~~COURT IF APPLICABLE. THE COURT MAY CONTINUE THE PROCEEDING TO~~
7 ~~ENABLE A PARTY TO OBTAIN COUNSEL. [EXCEPT AS PROVIDED UNDER~~
8 ~~SECTION 6337.1 (RELATING TO RIGHT TO COUNSEL FOR CHILDREN IN~~
9 ~~DEPENDENCY AND DELINQUENCY PROCEEDINGS), COUNSEL MUST BE~~
10 ~~PROVIDED FOR A CHILD.]~~

11 ~~(3) IF THE INTERESTS OF TWO OR MORE PARTIES MAY~~
12 ~~CONFLICT, SEPARATE COUNSEL SHALL BE PROVIDED FOR EACH OF~~
13 ~~THEM.~~

14 ~~(b) Delinquency cases.~~

15 ~~(1) In delinquency cases, all children are presumed~~
16 ~~indigent. The presumption may be rebutted if the court~~
17 ~~ascertains that the child has the financial resources to~~
18 ~~retain counsel of his choice at his own expense.~~

19 ~~(2) The court shall not consider the financial resources~~
20 ~~of the child's parent, guardian or custodian when~~
21 ~~ascertaining whether the child has the financial resources to~~
22 ~~retain counsel of his choice at his own expense.~~

23 SECTION 8. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ: 

24 § 9711.1. SENTENCING FOR CERTAIN MURDERS OF INFANT PERSONS.

25 (A) SENTENCE ENHANCEMENT.--THE PENNSYLVANIA COMMISSION ON
26 SENTENCING, PURSUANT TO SECTION 2154 (RELATING TO ADOPTION OF
27 GUIDELINES FOR SENTENCING), SHALL PROVIDE FOR A SENTENCING
28 ENHANCEMENT FOR AN OFFENSE UNDER 18 PA.C.S. § 2502(C) (RELATING
29 TO MURDER) WHEN THE VICTIM WAS LESS THAN 13 YEARS OF AGE AT THE
30 TIME OF THE COMMISSION OF THE OFFENSE.

1 (B) APPLICABILITY.--THE APPLICABILITY OF THIS SECTION SHALL
2 BE DETERMINED AT SENTENCING. THE COURT SHALL CONSIDER ANY
3 EVIDENCE PRESENTED AT TRIAL AND SHALL DETERMINE, BY
4 PREPONDERANCE OF THE EVIDENCE, IF THIS SECTION IS APPLICABLE.

5 (C) CONSECUTIVE SENTENCE.--A SENTENCE IMPOSED UPON A PERSON
6 TO WHOM THIS SECTION APPLIES SHALL BE SERVED CONSECUTIVELY TO
7 ANY OTHER SENTENCE THE PERSON IS SERVING AND TO ANY OTHER
8 SENTENCE BEING THEN IMPOSED BY THE COURT.

9 SECTION 9. SECTION 9714(G) OF TITLE 42, AMENDED JULY 5, 2012
10 (P.L.1050, NO.122), IS AMENDED TO READ:

11 § 9714. SENTENCES FOR SECOND AND SUBSEQUENT OFFENSES.

12 * * *

13 (G) DEFINITION.--AS USED IN THIS SECTION, THE TERM "CRIME OF
14 VIOLENCE" MEANS MURDER OF THE THIRD DEGREE, VOLUNTARY
15 MANSLAUGHTER, MANSLAUGHTER OF A LAW ENFORCEMENT OFFICER AS
16 DEFINED IN 18 PA.C.S. § 2507(C) OR (D) (RELATING TO CRIMINAL
17 HOMICIDE OF LAW ENFORCEMENT OFFICER), MURDER OF THE THIRD DEGREE
18 INVOLVING AN UNBORN CHILD AS DEFINED IN 18 PA.C.S. § 2604(C)
19 (RELATING TO MURDER OF UNBORN CHILD), AGGRAVATED ASSAULT OF AN
20 UNBORN CHILD AS DEFINED IN 18 PA.C.S. § 2606 (RELATING TO
21 AGGRAVATED ASSAULT OF UNBORN CHILD), AGGRAVATED ASSAULT AS
22 DEFINED IN 18 PA.C.S. § 2702(A)(1) OR (2) (RELATING TO
23 AGGRAVATED ASSAULT), ASSAULT OF LAW ENFORCEMENT OFFICER AS
24 DEFINED IN 18 PA.C.S. § 2702.1 (RELATING TO ASSAULT OF LAW
25 ENFORCEMENT OFFICER), USE OF WEAPONS OF MASS DESTRUCTION AS
26 DEFINED IN 18 PA.C.S. § 2716(B) (RELATING TO WEAPONS OF MASS
27 DESTRUCTION), TERRORISM AS DEFINED IN 18 PA.C.S. § 2717(B)(2)
28 (RELATING TO TERRORISM), TRAFFICKING OF PERSONS WHEN THE OFFENSE
29 IS GRADED AS A FELONY OF THE FIRST DEGREE AS PROVIDED IN 18
30 PA.C.S. § 3002 (RELATING TO TRAFFICKING OF PERSONS), RAPE,

1 INVOLUNTARY DEVIATE SEXUAL INTERCOURSE, AGGRAVATED INDECENT
2 ASSAULT, INCEST, SEXUAL ASSAULT, ARSON AS DEFINED IN 18 PA.C.S.
3 § 3301(A) (RELATING TO ARSON AND RELATED OFFENSES), ECOTERRORISM
4 AS [DEFINED] CLASSIFIED IN 18 PA.C.S. § [3311(B)(2)] 3311(B)(3)
5 (RELATING TO ECOTERRORISM), KIDNAPPING, BURGLARY AS DEFINED IN
6 18 PA.C.S. § 3502(A)(1) (RELATING TO BURGLARY), ROBBERY AS
7 DEFINED IN 18 PA.C.S. § 3701(A)(1)(I), (II) OR (III) (RELATING
8 TO ROBBERY), OR ROBBERY OF A MOTOR VEHICLE, DRUG DELIVERY
9 RESULTING IN DEATH AS DEFINED IN 18 PA.C.S. § 2506(A) (RELATING
10 TO DRUG DELIVERY RESULTING IN DEATH), OR CRIMINAL ATTEMPT,
11 CRIMINAL CONSPIRACY OR CRIMINAL SOLICITATION TO COMMIT MURDER OR
12 ANY OF THE OFFENSES LISTED ABOVE, OR AN EQUIVALENT CRIME UNDER
13 THE LAWS OF THIS COMMONWEALTH IN EFFECT AT THE TIME OF THE
14 COMMISSION OF THAT OFFENSE OR AN EQUIVALENT CRIME IN ANOTHER
15 JURISDICTION.

16 SECTION 9 10. SECTION 6139(A) OF TITLE 61 IS AMENDED BY
17 ADDING ~~A PARAGRAPH~~ PARAGRAPHS TO READ:
18 § 6139. PAROLE PROCEDURE.

19 (A) SPECIFIC REQUIREMENTS.--

20 * * *

21 (3.1) NOTWITHSTANDING PARAGRAPHS (2) AND (3), THE BOARD
22 SHALL NOT BE REQUIRED TO CONSIDER NOR DISPOSE OF AN
23 APPLICATION BY AN INMATE OR AN INMATE'S ATTORNEY IN THE CASE
24 OF AN INMATE SENTENCED UNDER 18 PA.C.S. § 1102.1 (RELATING TO
25 SENTENCE OF PERSONS UNDER THE AGE OF 18 FOR MURDER, MURDER OF
26 AN UNBORN CHILD AND MURDER OF A LAW ENFORCEMENT OFFICER) IF A
27 PAROLE DECISION HAS BEEN ISSUED BY THE BOARD WITHIN FIVE
28 YEARS OF THE DATE OF THE CURRENT APPLICATION.

29 (3.2) NOTHING UNDER THIS SECTION SHALL BE INTERPRETED AS
30 GRANTING A RIGHT TO BE PAROLED TO ANY PERSON, AND A DECISION

1 BY THE BOARD AND ITS DESIGNEES RELATING TO A PERSON SENTENCED
2 UNDER 18 PA.C.S. § 1102.1 MAY NOT BE CONSIDERED AN
3 ADJUDICATION UNDER 2 PA.C.S. CHS. 5 SUBCH. A (RELATING TO
4 PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES AND 7 SUBCH.
5 A (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY
6 ACTION)).

7 * * *

8 Section ~~6~~ 11. This act shall take effect as follows: ←

9 (1) The addition of 42 Pa.C.S. §§ 6303(c), 6307(c) and
10 6336(g) and (h) shall take effect in 90 days.

11 ~~(2) The amendment of 42 Pa.C.S. § 6337 shall take effect~~ ←
12 ~~immediately.~~

13 ~~(3) This section shall take effect immediately.~~

14 (2) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT ←
15 IMMEDIATELY:

16 (I) THE AMENDMENT OF 18 PA.C.S. § 1102(A)(1) AND
17 (B).

18 (II) THE ADDITION OF 18 PA.C.S. § 1102.1.

19 (III) THE AMENDMENT OF PARAGRAPH (7) OF THE
20 DEFINITION OF "DEPENDENT CHILD" IN 42 PA.C.S. § 6302.

21 ~~(IV) THE AMENDMENT OF 42 PA.C.S. § 6337.~~ ←

22 ~~(V)~~ (IV) THE ADDITION OF 61 PA.C.S. § 6139(A)(3.1). ←

23 ~~(VI)~~ (V) THIS SECTION. ←

24 ~~(4)~~ (3) The remainder of this act shall take effect in ←
25 60 days.