
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 223 Session of
2017

INTRODUCED BY GREENLEAF, HAYWOOD, RAFFERTY, BREWSTER AND HUGHES,
JANUARY 26, 2017

REFERRED TO JUDICIARY, JANUARY 26, 2017

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in juvenile matters,
3 further providing for short title and purposes of chapter,
4 for definitions, for scope of chapter, for powers and duties
5 of probation officers, for masters, for inspection of court
6 files and records, for law enforcement records, for guardian
7 ad litem for child in court proceedings, for commencement of
8 proceedings, for transfer from criminal proceedings, for
9 informal adjustment, for taking into custody, for release or
10 delivery to court, for place of detention, for release from
11 detention or commencement of proceedings, for petition, for
12 release or holding of hearing, for conduct of hearings, for
13 notice and hearing, for right to counsel for children in
14 dependency and delinquency proceedings, for consent decree,
15 for adjudication, for court-appointed special advocates, for
16 disposition of dependent child, for disposition of delinquent
17 child, for limitation on and change in place of commitment,
18 for transfer to criminal proceedings, for disposition of
19 mentally ill or mentally retarded child and for assessment of
20 delinquent children by the State Sexual Offenders Assessment
21 Board and providing for role of interstate compacts.

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 Section 1. Section 6301(b)(1.1) of Title 42 of the
25 Pennsylvania Consolidated Statutes is amended to read:

26 § 6301. Short title and purposes of chapter.

27 * * *

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

3 * * *

4 (1.1) To provide for the care, protection, safety and
5 wholesome mental and physical development of children coming
6 within the provisions of this chapter[.], recognizing that
7 the ongoing neurological and psychological development of
8 children and adolescents, as well as the more pronounced
9 impact of experiences and external influences, differentiates
10 them qualitatively from adults in their capacities and
11 decision-making processes.

12 * * *

13 Section 2. The definitions of "delinquent act" and "shelter
14 care" in section 6302 of Title 42 are amended and the section is
15 amended by adding definitions to read:

16 § 6302. Definitions.

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

20 * * *

21 "Delinquent act."

22 (1) The term means:

23 (i) an act designated a crime under the law of this
24 Commonwealth, or of another state if the act occurred in
25 that state, or under Federal law[, or under local
26 ordinances or];

27 (ii) an act which constitutes indirect criminal
28 contempt under Chapter 62A (relating to protection of
29 victims of sexual violence or intimidation) with respect
30 to sexual violence or 23 Pa.C.S. Ch. 61 (relating to

1 protection from abuse)[.]; or

2 (iii) the failure of a child to comply with a lawful
3 sentence imposed for a summary offense, in which event,
4 notice of that fact shall be certified to the court.

5 (2) The term shall not include:

6 (i) The crime of murder when the child was 15 years
7 of age or older at the time of the alleged murder.

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

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

15 (relating to rape).

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

19 (C) Aggravated assault as defined in 18 Pa.C.S.
20 § 2702(a)(1) or (2) (relating to aggravated assault).

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

23 (E) Robbery of motor vehicle as defined in 18
24 Pa.C.S. § 3702 (relating to robbery of motor
25 vehicle).

26 (F) Aggravated indecent assault as defined in 18
27 Pa.C.S. § 3125 (relating to aggravated indecent
28 assault).

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

1 (H) Voluntary manslaughter.

2 (I) An attempt, conspiracy or solicitation to
3 commit murder or any of these crimes as provided in
4 18 Pa.C.S. §§ 901 (relating to criminal attempt), 902
5 (relating to criminal solicitation) and 903 (relating
6 to criminal conspiracy).

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

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

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

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

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

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

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

22 (G) Voluntary manslaughter.

23 (H) An attempt, conspiracy or solicitation to
24 commit murder or any of these crimes as provided in
25 18 Pa.C.S. §§ 901, 902 and 903.

26 (iv) Summary offenses[, unless the child fails to
27 comply with a lawful sentence imposed thereunder, in
28 which event notice of such fact shall be certified to the
29 court].

30 (v) A crime committed by a child who has been found

1 guilty in a criminal proceeding for other than a summary
2 offense.

3 * * *

4 "Juvenile probation officer." A person who has been
5 appointed by the court or employed by a county's juvenile
6 probation office and who has been properly commissioned by being
7 sworn in as an officer of the court to exercise the powers and
8 duties set forth in Rule 195 of the Pennsylvania Rules of
9 Juvenile Court Procedure, 23 Pa.C.S. Ch. 63 (relating to child
10 protective services) and this chapter.

11 "Law enforcement officer." A person who is by law given the
12 power to enforce the law when acting within the scope of that
13 person's employment.

14 * * *

15 "Police officer." A person who is by law given the power to
16 arrest when acting within the scope of the person's employment.

17 * * *

18 "Shelter care." Temporary care of a child in physically
19 unrestricted facilities. A facility approved by the Department
20 of [Public Welfare] Human Services to provide shelter care may
21 be located in the same building as a facility approved to
22 provide secure detention services provided that children
23 receiving shelter care services are segregated from the children
24 receiving secure detention services as required by the
25 department.

26 Section 3. Sections 6303(b), 6304(a)(2), 6305(b), 6307(a)
27 (6.5) and 6308(a)(6) of Title 42 are amended to read:

28 § 6303. Scope of chapter.

29 * * *

30 (b) Minor judiciary.--[No]

1 (1) Except as provided in paragraph (2), no child shall
2 be detained, committed or sentenced to imprisonment by a
3 magisterial district judge or a judge of the minor judiciary
4 unless the child is charged with an act set forth in
5 paragraph (2)(i), (ii), (iii) or (v) of the definition of
6 "delinquent act" in section 6302 (relating to definitions).

7 (2) A magisterial district judge may issue an arrest
8 warrant for a child, as authorized under the Pennsylvania
9 Rules of Juvenile Court Procedure, which may lead to
10 detention of the child in limited circumstances.

11 * * *

12 § 6304. Powers and duties of probation officers.

13 (a) General rule.--For the purpose of carrying out the
14 objectives and purposes of this chapter, and subject to the
15 limitations of this chapter or imposed by the court, a probation
16 officer shall:

17 * * *

18 (2) [Receive] Subject to any required prior submission
19 to an attorney for the Commonwealth, as provided under the
20 Pennsylvania Rules of Juvenile Court Procedure, receive and
21 examine complaints and charges of delinquency or dependency
22 of a child for the purpose of considering the commencement of
23 proceedings under this chapter.

24 * * *

25 § 6305. Masters.

26 * * *

27 (b) Hearings before masters.--[The court of common pleas may
28 direct that hearings in any case or class of cases be conducted
29 in the first instance by the master in the manner provided in
30 this chapter.]

1 (1) Before commencing the hearing the master shall
2 inform the parties who have appeared that they are entitled
3 to have the matter heard by a judge. If a party objects, the
4 hearing shall be conducted by a judge.

5 (2) A master in a juvenile proceeding may only hear a
6 case or class of cases specifically authorized by the
7 Pennsylvania Rules of Juvenile Court Procedure.

8 * * *

9 § 6307. Inspection of court files and records.

10 (a) General rule.--All files and records of the court in a
11 proceeding under this chapter are open to inspection only by:

12 * * *

13 (6.5) The Department of [Public Welfare] Human Services
14 for use in determining whether an individual named as the
15 perpetrator of an indicated report of child abuse should be
16 expunged from the Statewide database.

17 * * *

18 § 6308. Law enforcement records.

19 (a) General rule.--Law enforcement records and files
20 concerning a child shall be kept separate from the records and
21 files of arrests of adults. Unless a charge of delinquency is
22 transferred for criminal prosecution under section 6355
23 (relating to transfer to criminal proceedings), the interest of
24 national security requires, or the court otherwise orders in the
25 interest of the child, the records and files shall not be open
26 to public inspection or their contents disclosed to the public
27 except as provided in subsection (b); but inspection of the
28 records and files is permitted by:

29 * * *

30 (6) The Department of [Public Welfare] Human Services

1 for use in determining whether an individual named as the
2 perpetrator of an indicated report of child abuse should be
3 expunged from the Statewide database.

4 * * *

5 Section 4. Section 6311 of Title 42 is amended by adding
6 subsections to read:

7 § 6311. Guardian ad litem for child in court proceedings.

8 * * *

9 (a.1) Conflict of interest.--Pursuant to the Pennsylvania
10 Rules of Juvenile Court Procedure, a guardian ad litem who comes
11 into possession of information that may result in a conflict
12 between the legal interests of the child and the best interest
13 of the child may file a motion with the court for the
14 appointment of separate persons as legal counsel and guardian ad
15 litem.

16 * * *

17 (c) Waiver of right.--A child may not waive the right to a
18 guardian ad litem under any circumstances.

19 Section 5. Sections 6321(a), 6322(a) and (c), 6323(a)(2),
20 6324, 6326(d)(4), 6327(a), (c.1), (e) and (f), 6331, 6334,
21 6335(a), (c) and (f), 6336(b), (c) and (e), 6336.1(b)(1) and (3)
22 introductory paragraph, 6337.1(a) and 6340(c), (d) and (e) of
23 Title 42 are amended to read:

24 § 6321. Commencement of proceedings.

25 (a) General rule.--A proceeding under this chapter may be
26 commenced:

27 (1) By transfer of a case as provided in section 6322
28 (relating to transfer from criminal proceedings).

29 (2) By the court accepting jurisdiction as provided in
30 section 6362 (relating to disposition of resident child

1 received from another state) or accepting supervision of a
2 child as provided in section 6364 (relating to supervision
3 under foreign order).

4 (2.1) By taking a child into custody in accordance with
5 the provisions of section 6324 (relating to taking into
6 custody).

7 (3) [In other cases by the filing of a petition as
8 provided in this chapter. The petition and all other
9 documents in the proceeding shall be entitled "In the
10 interest of....., a minor," and shall
11 be captioned and docketed as provided by general rule.] In a
12 delinquency case, except as otherwise provided, by the
13 submission of a written allegation under the Pennsylvania
14 Rules of Juvenile Court Procedure.

15 (4) In a dependency case, as provided under the
16 Pennsylvania Rules of Juvenile Court Procedure.

17 * * *

18 § 6322. Transfer from criminal proceedings.

19 (a) General rule.--Except as provided in 75 Pa.C.S. § 6303
20 (relating to rights and liabilities of minors) or in the event
21 the child is 15 years of age or older and charged with murder or
22 any of the offenses excluded by paragraph (2)(ii) or (iii) of
23 the definition of "delinquent act" in section 6302 (relating to
24 definitions) or has been found guilty in a criminal proceeding,
25 if it appears to the court in a criminal proceeding that the
26 defendant is a child, this chapter shall immediately become
27 applicable, and the court shall forthwith halt further criminal
28 proceedings, and, where appropriate, transfer the case to the
29 division or a judge of the court assigned to conduct juvenile
30 hearings, together with a copy of the accusatory pleading and

1 other papers, documents, and transcripts of testimony relating
2 to the case. If it appears to the court in a criminal proceeding
3 charging murder by a child 15 years of age or older or any of
4 the offenses excluded by paragraph (2) (ii) or (iii) of the
5 definition of "delinquent act" in section 6302, that the
6 defendant is a child, the case may similarly be transferred and
7 the provisions of this chapter applied. In determining whether
8 to transfer a case charging murder by a child 15 years of age or
9 older or any of the offenses excluded from the definition of
10 "delinquent act" in section 6302, the child shall be required to
11 establish by a preponderance of the evidence that the transfer
12 will serve the public interest. In determining whether the child
13 has so established that the transfer will serve the public
14 interest, the court shall consider the factors contained in
15 section 6355(a) (4) (iii) (relating to transfer to criminal
16 proceedings).

17 * * *

18 (c) Expedited review of transfer orders.--The transfer order
19 shall be subject to the same expedited review applicable to
20 orders granting or denying release or modifying the conditions
21 of release prior to sentence, as provided in [Rule 1762 of] the
22 Pennsylvania Rules of Appellate Procedure.

23 * * *

24 § 6323. Informal adjustment.

25 (a) General rule.--

26 * * *

27 (2) Similarly, the probation officer may in the case of
28 [a] an alleged delinquent child, or a dependent child where
29 the jurisdiction of the court is permitted under paragraph
30 (6) of the definition of "dependent child" in section 6302,

1 refer the child and his parents to an agency for assisting in
2 the matter.

3 * * *

4 § 6324. Taking into custody.

5 A child may be taken into custody:

6 (1) Pursuant to an order of the court under this
7 chapter. Prior to entering a protective custody order
8 removing a child from the home of the parent, guardian or
9 custodian, the court must determine that to allow the child
10 to remain in the home is contrary to the welfare of the
11 child.

12 (2) Pursuant to the laws of arrest.

13 [(3) By a law enforcement officer or duly authorized
14 officer of the court if there are reasonable grounds to
15 believe that the child is suffering from illness or injury or
16 is in imminent danger from his surroundings, and that his
17 removal is necessary.

18 (4) By a law enforcement officer or duly authorized
19 officer of the court if there are reasonable grounds to
20 believe that the child has run away from his parents,
21 guardian, or other custodian.

22 (5) By a law enforcement officer or duly authorized
23 officer of the court if there are reasonable grounds to
24 believe that the child has violated conditions of his
25 probation.]

26 (3) By a police officer or juvenile probation officer if
27 there are reasonable grounds to believe that the child:

28 (i) Is suffering from illness or injury or is in
29 imminent danger from his surroundings, and that his
30 removal is necessary.

1 (ii) Has run away from his parents, guardian or
2 other custodian.

3 (iii) Has violated conditions of his probation.

4 § 6326. Release or delivery to court.

5 * * *

6 (d) Conditions of detention.--Notwithstanding other
7 provisions of law, a child held in nonsecure custody in a
8 building or facility which houses an adult lockup may be so held
9 only under the following conditions:

10 * * *

11 (4) the child must be under continuous visual
12 supervision by a law enforcement officer or other facility
13 staff during the period of nonsecure custody and, wherever
14 possible, shall be separated by sight and sound from
15 incarcerated adults.

16 * * *

17 § 6327. Place of detention.

18 (a) General rule.--A child alleged to be delinquent may be
19 detained only in:

20 (1) A licensed foster home or a home approved by the
21 court.

22 (2) A facility operated by a licensed child welfare
23 agency or one approved by the court.

24 (3) A detention home, camp, center or other facility for
25 delinquent children which is under the direction or
26 supervision of the court or other public authority or private
27 agency, and is approved by the Department of [Public Welfare]
28 Human Services.

29 (4) Any other suitable place or facility, designated or
30 operated by the court and approved by the Department of

1 [Public Welfare] Human Services.

2 Under no circumstances shall a child be detained in any facility
3 with adults, or where the child is apt to be abused by other
4 children.

5 * * *

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

7 (1) A child who is subject to criminal proceedings
8 having been charged with an act set forth under paragraph
9 (2) (i), (ii) or (iii) of the definition of "delinquent act"
10 in section 6302, who has not been released on bail and who
11 may seek or is seeking transfer to juvenile proceedings under
12 section 6322 (relating to transfer from criminal proceedings)
13 may be detained in a secure detention facility approved by
14 the Department of [Public Welfare] Human Services for the
15 detention of alleged and adjudicated delinquent children if
16 the attorney for the Commonwealth has consented to and the
17 court has ordered the detention.

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

20 (3) For a child held in secure detention under this
21 subsection, the court shall order the immediate transfer of
22 the child to the county jail if any of the following apply:

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

25 (ii) The court denies the motion filed under section
26 6322.

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

29 (A) the court has granted the motion filed under
30 section 6322; or

1 (B) the child is otherwise under order of
2 commitment to the secure detention facility pursuant
3 to the jurisdiction of the court in a delinquency
4 matter.

5 * * *

6 (e) Detention of dependent child.--A child alleged to be
7 dependent may be detained or placed only in a Department of
8 [Public Welfare] Human Services approved shelter care facility
9 as stated in subsection (a) (1), (2) and (4), and shall not be
10 detained in a jail or other facility intended or used for the
11 detention of adults charged with criminal offenses, but may be
12 detained in the same shelter care facilities with alleged or
13 adjudicated delinquent children.

14 (f) Development of approved shelter care programs.--The
15 Department of [Public Welfare] Human Services shall develop or
16 assist in the development in each county of this Commonwealth
17 approved programs for the provision of shelter care for children
18 needing these services who have been taken into custody under
19 section 6324 (relating to taking into custody) and for children
20 referred to or under the jurisdiction of the court.

21 § 6331. Release from detention or commencement of proceedings.

22 If a child is brought before the court or delivered to a
23 detention or shelter care facility designated by the court, the
24 intake or other authorized officer of the court shall
25 immediately make an investigation and release the child unless
26 it appears that his detention or shelter care is warranted or
27 required under section 6325 (relating to detention of child).
28 The release of the child shall not prevent the subsequent filing
29 of a petition as provided in this chapter. If he is not so
30 released, a petition shall be promptly made and presented to the

1 court within 24 hours or the next court business day [of the
2 admission of the child to detention or shelter care] following
3 the detention hearing or shelter care hearing.

4 § 6334. Petition.

5 (a) Contents of petition.--A petition, which shall be
6 verified and may be on information and belief, may be brought by
7 any person including a law enforcement officer. It shall set
8 forth plainly[:

9 (1) The facts which bring the child within the
10 jurisdiction of the court and this chapter, with a statement
11 that it is in the best interest of the child and the public
12 that the proceeding be brought and, if delinquency is
13 alleged, that the child is in need of treatment, supervision
14 or rehabilitation.

15 (2) The name, age, and residence address, if any, of the
16 child on whose behalf the petition is brought.

17 (3) The names and residence addresses, if known to the
18 petitioner, of the parents, guardian, or custodian of the
19 child and of the spouse, if any, of the child. If none of his
20 parents, guardian, or custodian resides or can be found
21 within this Commonwealth, or if their respective places of
22 residence address are unknown, the name of any known adult
23 relative residing within the county, or if there be none, the
24 known adult relative residing nearest to the location of the
25 court.

26 (4) If the child is in custody and, if so, the place of his
27 detention and the time he was taken into custody.] all
28 information required under the Pennsylvania Rules of Juvenile
29 Court Procedure.

30 (a.1) Who may file petition.--

1 (1) A delinquency petition shall be filed by:
2 (i) A juvenile probation officer.
3 (ii) An attorney for the Commonwealth, if one has
4 been appointed by the district attorney for that purpose
5 under the Pennsylvania Rules of Juvenile Court Procedure.
6 (2) A dependency petition shall be filed by a county agency.
7 Any other person shall file an application with the court for
8 authorization to file a private petition.

9 (b) Aggravated circumstances in dependency proceedings.--

10 (1) An allegation that aggravated circumstances exist
11 may be brought:

12 (i) in a petition for dependency with regard to a
13 child who is alleged to be a dependent child; or

14 (ii) in a petition for a permanency hearing with
15 regard to a child who has been determined to be a
16 dependent child.

17 (2) The existence of aggravated circumstances may be
18 alleged by the county agency or the child's attorney. If the
19 county agency reasonably believes that aggravated
20 circumstances exist, it shall file the appropriate petition
21 as soon as possible but no later than 21 days from the
22 determination by the county agency that aggravated
23 circumstances exist.

24 (3) A petition for dependency or a permanency hearing
25 that alleges aggravated circumstances shall include a
26 statement of the facts the county agency or the child's
27 attorney intends to prove to support the allegation. A
28 criminal conviction shall not be required to allege the
29 existence of aggravated physical neglect or physical abuse
30 resulting in serious bodily injury or sexual violence

1 committed by the parent.

2 § 6335. Release or holding of hearing.

3 (a) General rule.--After the petition has been filed
4 alleging the child to be dependent or delinquent, the court
5 shall fix a time for hearing thereon, which, if the child is in
6 detention or shelter care shall not be later than ten days after
7 the filing of the petition. The child may be detained for an
8 additional ten days after the filing of a request to transfer to
9 criminal proceedings. Except as provided in subsection (f), if
10 the detention, shelter care or transfer hearing is not held
11 within [such] the allotted time, the child shall be immediately
12 released from detention or shelter care. A child may be detained
13 or kept in shelter care for an additional single period not to
14 exceed ten days where:

15 (1) the court determines at a hearing that:

16 (i) evidence material to the case is unavailable;

17 (ii) due diligence to obtain such evidence has been
18 exercised; and

19 (iii) there are reasonable grounds to believe that
20 such evidence will be available at a later date; and

21 (2) the court finds by clear and convincing evidence
22 that:

23 (i) the life of the child would be in danger;

24 (ii) the community would be exposed to a specific
25 danger; or

26 (iii) the child will abscond or be removed from the
27 jurisdiction of the court.

28 The court shall direct the issuance of a summons to the parents,
29 guardian, or other custodian, a guardian ad litem, and any other
30 persons as appear to the court to be proper or necessary

1 [parties] to the proceeding, requiring them to appear before the
2 court at the time fixed to answer the allegations of the
3 petition. The summons shall also be directed to the child if he
4 is 14 or more years of age or is alleged to be a delinquent. A
5 copy of the petition shall accompany the summons, unless the
6 petition has already been served.

7 * * *

8 (c) Warrant of arrest.--[If it appears from affidavit filed
9 or from sworn testimony before the court that the conduct,
10 condition, or surroundings of the child are endangering his
11 health or welfare or those of others, or that he may abscond or
12 be removed from the jurisdiction of the court or will not be
13 brought before the court notwithstanding the service of the
14 summons, the] The court may issue a warrant of arrest pursuant
15 to the Pennsylvania Rules of Juvenile Court Procedure.

16 * * *

17 (f) Limitations on release.--The child shall not be released
18 from detention or shelter care under authority of subsection (a)
19 if the failure to hold a hearing within ten days after the
20 filing of the petition or the filing of the request for transfer
21 to criminal proceedings is the result of delay caused by the
22 child. Delay caused by the child shall include, but not be
23 limited to:

24 (1) Delay caused by the unavailability of the child or
25 his attorney.

26 (2) Delay caused by any continuance granted at the
27 request of the child or his attorney.

28 (3) Delay caused by the unavailability of a witness
29 resulting from conduct by or on behalf of the child.

30 At the conclusion of any court proceeding in which the scheduled

1 hearing is not held, the court shall state on the record whether
2 the failure to hold the hearing resulted from delay caused by
3 the child. Where the court determines that failure to hold a
4 hearing is the result of delay caused by the child, the child
5 may continue to be held in detention or shelter care. However,
6 the additional period of detention shall not exceed ten days,
7 provided that such detention may be continued by the court for
8 successive ten-day intervals.

9 § 6336. Conduct of hearings.

10 * * *

11 (b) Functions of district attorney.--The district attorney[,
12 upon request of the court,] shall present the evidence in
13 support of the petition and otherwise conduct the proceedings on
14 behalf of the Commonwealth.

15 (c) Record.--If requested by the party or ordered by the
16 court, the proceedings of the detention or shelter care hearing
17 shall be recorded by appropriate means. If not so recorded, full
18 minutes of the proceedings shall be kept by the court. All other
19 proceedings shall be recorded. Full minutes are not considered a
20 recording.

21 * * *

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

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

28 (2) Pursuant to a petition alleging delinquency where
29 the child was 12 or 13 years of age [or older] at the time of
30 the alleged conduct and where the alleged conduct would have

1 constituted one or more of the following offenses if
2 committed by an adult:

3 (i) Murder.

4 (ii) Voluntary manslaughter.

5 (iii) Aggravated assault as defined in 18 Pa.C.S. §
6 2702(a) (1) or (2) (relating to aggravated assault).

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

9 (v) Involuntary deviate sexual intercourse.

10 (vi) Kidnapping.

11 (vii) Rape.

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

14 (ix) Robbery of motor vehicle.

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

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

20 * * *

21 § 6336.1. Notice and hearing.

22 * * *

23 (b) Permanency hearings.--

24 (1) Prior to a permanency hearing under section 6351(e)
25 (relating to disposition of dependent child), a child's
26 foster parent or parents, preadoptive parent or relative
27 providing care for the child may submit [to the court] a
28 report in regard to the child's adjustment, progress and
29 condition. The report shall be submitted to a designee of the
30 court appointed by the president judge or the president

1 judge's designee, in accordance with the Pennsylvania Rules
2 of Juvenile Court Procedure, who shall file the report and
3 submit it to the judge, attorneys, parties and, if appointed,
4 a court-appointed special advocate.

5 * * *

6 (3) The Department of [Public Welfare] Human Services
7 shall develop a form for use by a foster parent or parents,
8 preadoptive parent or relative providing care for the child,
9 including, but not limited to, the following information:

10 * * *

11 § 6337.1. Right to counsel for children in dependency and
12 delinquency proceedings.

13 (a) Children in dependency proceedings.--Legal counsel shall
14 be provided for a child who is alleged or has been found to be a
15 dependent child in accordance with the Pennsylvania Rules of
16 Juvenile Court Procedure. A child may not waive the right to a
17 guardian ad litem under any circumstances.

18 * * *

19 § 6340. Consent decree.

20 * * *

21 (c) Duration of decree.--A consent decree shall remain in
22 force for no longer than six months unless [the child is
23 discharged sooner by probation services with the approval of the
24 court. Upon application of the probation services or other
25 agency supervising the child, made before expiration of the six-
26 month period, a consent decree may be extended by the court for
27 an additional six months.] modified upon motion pursuant to the
28 Pennsylvania Rules of Juvenile Court Procedure. Upon motion, the
29 court may discharge the juvenile at an earlier time or extend
30 the time period not to exceed an additional six months. If the

1 district attorney objects to a modification of the consent
2 decree under this subsection, the court shall dismiss the
3 motion.

4 * * *

5 (d) Reinstatement of petition.--If, prior to [discharge by
6 the probation services or] expiration of the consent decree,
7 including a modification made under subsection (c), a new
8 petition is filed against the child, or the child otherwise
9 fails to fulfill express terms and conditions of the decree, the
10 petition under which the child was continued under supervision
11 may, in the discretion of the district attorney following
12 consultation with the probation services, be reinstated and the
13 child held accountable as if the consent decree had never been
14 entered.

15 (e) Effect of decree.--A child who [is discharged by the
16 probation services, or who] completes a period of supervision
17 without reinstatement of the original petition, shall not again
18 be proceeded against in any court for the same offense alleged
19 in the petition or an offense based upon the same conduct.

20 Section 6. Section 6341(a) and (b) of Title 42 are amended
21 and subsection (b.1) is amended by adding a paragraph to read:
22 § 6341. Adjudication.

23 (a) General rule.--After hearing the evidence on the
24 petition the court shall make and file its findings as to
25 whether the child is a dependent child. If the petition alleges
26 that the child is delinquent, within seven days of hearing the
27 evidence on the petition, the court shall make and file its
28 findings whether the acts ascribed to the child were committed
29 by him. This time limitation may only be extended pursuant to
30 the agreement of the child and the attorney for the

1 Commonwealth. The court's failure to comply with the time
2 limitations stated in this section shall not be grounds for
3 discharging the child or dismissing the proceeding. If the court
4 finds that the child is not a dependent child or that the
5 allegations of delinquency have not been established it shall
6 dismiss the petition and order the child discharged from any
7 detention or other restriction theretofore ordered in the
8 proceeding. [For] Subject to the Pennsylvania Rules of Juvenile
9 Court Procedure, cases involving allegations of delinquency
10 where fingerprints or photographs or both have been taken by a
11 law enforcement agency and where it is determined that acts
12 ascribed to the child were not committed by him, the court shall
13 direct that those records be immediately destroyed by law
14 enforcement agencies.

15 (b) Finding of delinquency.--If the court finds on proof
16 beyond a reasonable doubt that the child committed the acts by
17 reason of which he is alleged to be delinquent it shall enter
18 such finding on the record and shall specify the particular
19 offenses, including the grading and counts thereof which the
20 child is found to have committed. The court shall then proceed
21 immediately or at a postponed hearing, which shall occur not
22 later than 20 days after such finding if the child is in
23 detention or not more than 60 days after such finding if the
24 child is not in detention, to hear evidence as to whether the
25 child is in need of treatment, supervision or rehabilitation and
26 to make and file its findings thereon. This time limitation may
27 only be extended pursuant to the agreement of the child and the
28 attorney for the Commonwealth. The court's failure to comply
29 with the time limitations stated in this section shall not be
30 grounds for discharging the child or dismissing the proceeding.

1 [In the absence of evidence to the contrary] Unless evidence is
2 produced to show that a child is not in need of treatment,
3 supervision or rehabilitation, evidence of the commission of
4 acts which constitute a felony shall be sufficient to sustain a
5 finding that the child is in need of treatment, supervision or
6 rehabilitation. If the court finds that the child is not in need
7 of treatment, supervision or rehabilitation it shall dismiss the
8 proceeding and discharge the child from any detention or other
9 restriction theretofore ordered.

10 (b.1) School notification.--

11 * * *

12 (1.1) In addition to the information provided in
13 paragraph (1), the juvenile probation office shall provide
14 notice of the following information:

15 (i) A statement informing the building principal or
16 the principal's designee that information received under
17 this section:

18 (A) Shall be maintained separately from the
19 juvenile's official school record.

20 (B) Is for the limited purposes of:

21 (I) Protecting school personnel and
22 students.

23 (II) Arranging for appropriate counseling
24 and education for the juvenile.

25 (C) May not be used for school disciplinary
26 decisions concerning the juvenile unless:

27 (I) The juvenile was under the supervision
28 of the school board of directors at the time of
29 the incident.

30 (II) The act or acts that were substantiated

1 by the court took place on or within 1,500 feet
2 of the school property.

3 (III) The school has complied with all other
4 statutory, regulatory and constitutional
5 provisions relative to the imposition of school
6 discipline.

7 (D) Shall be shared with the juvenile's
8 teachers.

9 (ii) A statement informing the building principal or
10 the principal's designee of the requirements to:

11 (A) Maintain a log of all school district
12 employees or building principals or their designees
13 from other school districts to whom this information
14 was subsequently provided when a juvenile was
15 transferred to another school.

16 (B) Provide a copy of the notice as listed in
17 subparagraph (i) to the new school.

18 * * *

19 Section 7. Sections 6342(f), 6351(e)(3)(i), 6352(a), 6353,
20 6355(a)(4)(iv), (e) and (g), 6356 and 6358(e) of Title 42 are
21 amended to read:

22 § 6342. Court-appointed special advocates.

23 * * *

24 (f) Standards.--The Juvenile Court Judges' Commission
25 established [under the act of December 21, 1959 (P.L.1962,
26 No.717), entitled "An act providing for the creation and
27 operation of the Juvenile Court Judges' Commission in the
28 Department of Justice; prescribing its powers and duties; and
29 making an appropriation,"] in Subchapter F (relating to Juvenile
30 Court Judges' Commission) shall develop standards governing the

1 qualifications and training of court-appointed special
2 advocates.

3 § 6351. Disposition of dependent child.

4 * * *

5 (e) Permanency hearings.--

6 * * *

7 (3) The court shall conduct permanency hearings as
8 follows:

9 (i) Within six months of:

10 (A) the date of the child's removal from the
11 child's parent, guardian or custodian for placement
12 under section 6324 (relating to taking into custody)
13 or 6332 or pursuant to a transfer of temporary legal
14 custody or other disposition under subsection (a) (2)
15 or the date of the order of disposition, whichever is
16 the earliest; or

17 (B) each previous permanency hearing until the
18 child is [returned to the child's parent, guardian or
19 custodian or] removed from the jurisdiction of the
20 court.

21 * * *

22 § 6352. Disposition of delinquent child.

23 (a) General rule.--If the child is found to be a delinquent
24 child the court may make any of the following orders of
25 disposition determined to be consistent with the protection of
26 the public interest and best suited to the child's treatment,
27 supervision, rehabilitation and welfare, which disposition
28 shall, as appropriate to the individual circumstances of the
29 child's case, provide balanced attention to the protection of
30 the community, the imposition of accountability for offenses

1 committed and the development of competencies to enable the
2 child to become a responsible and productive member of the
3 community:

4 (1) Any order authorized by section 6351 (relating to
5 disposition of dependent child).

6 (2) Placing the child on probation under supervision of
7 the probation officer of the court or the court of another
8 state as provided in section 6363 (relating to ordering
9 foreign supervision), under conditions and limitations the
10 court prescribes.

11 (3) Committing the child to an institution, youth
12 development center, camp, or other facility for delinquent
13 children operated under the direction or supervision of the
14 court or other public authority and approved by the
15 Department of [Public Welfare] Human Services.

16 (4) If the child is 12 years of age or older, committing
17 the child to an institution operated by the Department of
18 [Public Welfare] Human Services.

19 (5) Ordering payment by the child of reasonable amounts
20 of money as fines, costs, fees or restitution as deemed
21 appropriate as part of the plan of rehabilitation considering
22 the nature of the acts committed and the earning capacity of
23 the child, including a contribution to a restitution fund.
24 The president judge of the court of common pleas shall
25 establish a restitution fund for the deposit of all
26 contributions to the restitution fund which are received or
27 collected. The president judge of the court of common pleas
28 shall promulgate written guidelines for the administration of
29 the fund. Disbursements from the fund shall be made, subject
30 to the written guidelines and the limitations of this

1 chapter, at the discretion of the president judge and used to
2 reimburse crime victims for financial losses resulting from
3 delinquent acts. For an order made under this subsection, the
4 court shall retain jurisdiction until there has been full
5 compliance with the order or until the delinquent child
6 attains 21 years of age. Any restitution order which remains
7 unpaid at the time the child attains 21 years of age shall
8 continue to be collectible under section 9728 (relating to
9 collection of restitution, reparation, fees, costs, fines and
10 penalties).

11 (6) An order of the terms of probation may include an
12 appropriate fine considering the nature of the act committed
13 or restitution not in excess of actual damages caused by the
14 child which shall be paid from the earnings of the child
15 received through participation in a constructive program of
16 service or education acceptable to the victim and the court
17 whereby, during the course of such service, the child shall
18 be paid not less than the minimum wage of this Commonwealth.
19 In ordering such service, the court shall take into
20 consideration the age, physical and mental capacity of the
21 child and the service shall be designed to impress upon the
22 child a sense of responsibility for the injuries caused to
23 the person or property of another. The order of the court
24 shall be limited in duration consistent with the limitations
25 in section 6353 (relating to dispositional review hearing,
26 limitation on commitment and change in place of commitment)
27 and in the act of [May 13, 1915 (P.L.286, No.177), known as
28 the Child Labor Law] October 24, 2012 (P.L.1209, No.151),
29 known as the Child Labor Act. The court order shall specify
30 the nature of the work, the number of hours to be spent

1 performing the assigned tasks, and shall further specify that
2 as part of a plan of treatment and rehabilitation that up to
3 75% of the earnings of the child be used for restitution in
4 order to provide positive reinforcement for the work
5 performed.

6 In selecting from the alternatives set forth in this section,
7 the court shall follow the general principle that the
8 disposition imposed should provide the means through which the
9 provisions of this chapter are executed and enforced consistent
10 with section 6301(b) (relating to purposes) and when confinement
11 is necessary, the court shall impose the minimum amount of
12 confinement that is consistent with the protection of the public
13 and the rehabilitation needs of the child.

14 * * *

15 § 6353. [Limitation on] Dispositional review hearing,
16 limitation on commitment and change in place of
17 commitment.

18 (a) [General rule.--No] Dispositional review hearing.--In
19 all cases, a dispositional review hearing shall be held at least
20 every six months.

21 (a.1) Limitation on initial commitment.--No delinquent child
22 shall initially be committed to an institution for a period
23 longer than four years or a period longer than he could have
24 been sentenced by the court if he had been convicted of the same
25 offense as an adult, whichever is less. The initial commitment
26 may be extended for a similar period of time, or modified, if
27 the court finds after hearing that the extension or modification
28 will effectuate the original purpose for which the order was
29 entered. The delinquent child shall have notice of the extension
30 or modification hearing and shall be given an opportunity to be

1 heard. The committing court shall review each commitment at
2 least every six months [and shall hold a disposition review
3 hearing at least every nine months].

4 (b) Transfer to other institution.--After placement of the
5 child, and if his progress with the institution warrants it, the
6 institution may seek to transfer the child to a less secure
7 facility, including a group home or foster boarding home. The
8 institution shall give the committing court written notice of
9 all requests for transfer and shall give the attorney for the
10 Commonwealth written notice of a request for transfer from a
11 secure facility to another facility. If the court, or in the
12 case of a request to transfer from a secure facility, the
13 attorney for the Commonwealth, does not object to the request
14 for transfer within ten days after the receipt of such notice,
15 the transfer may be effectuated. If the court, or in the case of
16 a request to transfer from a secure facility, the attorney for
17 the Commonwealth, objects to the transfer, the court shall hold
18 a hearing within 20 days after objecting to the transfer for the
19 purpose of reviewing the commitment order. The institution shall
20 be notified of the scheduled hearing, at which hearing evidence
21 may be presented by any interested party on the issue of the
22 propriety of the transfer. If the institution seeks to transfer
23 to a more secure facility the child shall have a full hearing
24 before the committing court. At the hearing, the court may
25 reaffirm or modify its commitment order.

26 (c) Notice of available facilities and services.--
27 Immediately after the Commonwealth adopts its budget, the
28 Department of [Public Welfare] Human Services shall notify the
29 courts and the General Assembly, for each Department of [Public
30 Welfare] Human Services region, of the available:

1 (1) Secure beds for the serious juvenile offenders.

2 (2) General residential beds for the adjudicated
3 delinquent child.

4 (3) The community-based programs for the adjudicated
5 delinquent child.

6 If the population at a particular institution or program exceeds
7 110% of capacity, the department shall notify the courts and the
8 General Assembly that intake to that institution or program is
9 temporarily closed and shall make available equivalent services
10 to children in equivalent facilities.

11 § 6355. Transfer to criminal proceedings.

12 (a) General rule.--After a petition has been filed alleging
13 delinquency based on conduct which is designated a crime or
14 public offense under the laws, including local ordinances, of
15 this Commonwealth, the court before hearing the petition on its
16 merits may rule that this chapter is not applicable and that the
17 offense should be prosecuted, and transfer the offense, where
18 appropriate, to the division or a judge of the court assigned to
19 conduct criminal proceedings, for prosecution of the offense if
20 all of the following exist:

21 * * *

22 (4) The court finds:

23 * * *

24 (iv) that there are reasonable grounds to believe
25 that the child is not committable to an institution for
26 the [mentally retarded] intellectually disabled or
27 mentally ill.

28 * * *

29 (e) Murder and other excluded acts.--Where the petition
30 alleges conduct which if proven would constitute murder by a

1 child 15 years of age or older, or any of the offenses excluded
2 by paragraph (2)(ii) or (iii) of the definition of "delinquent
3 act" in section 6302 (relating to definitions), the court shall
4 require the offense to be prosecuted under the criminal law and
5 procedures, except where the case has been transferred pursuant
6 to section 6322 (relating to transfer from criminal proceedings)
7 from the division or a judge of the court assigned to conduct
8 criminal proceedings.

9 * * *

10 (g) Burden of proof.--The burden of establishing by a
11 preponderance of evidence that the public interest is served by
12 the transfer of the case to criminal court [and that a child is
13 not amenable to treatment, supervision or rehabilitation as a
14 juvenile] shall rest with the Commonwealth unless the following
15 apply:

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

19 (ii) the child was 15 years of age or older at the
20 time of the offense and was previously adjudicated
21 delinquent of a crime that would be considered a felony
22 if committed by an adult; [and] or

23 (iii) the child was 14 years of age or older at the
24 time of the offense and is charged with murder; and

25 (2) there is a prima facie case that the child committed
26 a delinquent act which, if committed by an adult, would be
27 classified as murder, rape, involuntary deviate sexual
28 intercourse, aggravated assault as defined in 18 Pa.C.S. §
29 2702(a)(1) or (2) (relating to aggravated assault), robbery
30 as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii)

1 (relating to robbery), robbery of motor vehicle, aggravated
2 indecent assault, kidnapping, voluntary manslaughter, an
3 attempt, conspiracy or solicitation to commit any of these
4 crimes or an attempt to commit murder as specified in
5 paragraph (2)(ii) of the definition of "delinquent act" in
6 section 6302.

7 If [either of] the preceding criteria are met, the burden of
8 establishing by a preponderance of the evidence that retaining
9 the case under this chapter serves the public interest [and that
10 the child is amenable to treatment, supervision or
11 rehabilitation as a juvenile] shall rest with the child.

12 § 6356. Disposition of mentally ill or [mentally retarded]
13 intellectually disabled child.

14 If, at a dispositional hearing of a child found to be a
15 delinquent or at any hearing, the evidence indicates that the
16 child may be subject to commitment or detention under the
17 provisions of the act of October 20, 1966 (3rd Sp.Sess., P.L.96,
18 No.6), known as the "Mental Health and [Mental Retardation]
19 Intellectual Disability Act of 1966," or the act of July 9, 1976
20 (P.L.817, No.143), known as the "Mental Health Procedures Act,"
21 the court shall proceed under the provisions of the appropriate
22 statute.

23 § 6358. Assessment of delinquent children by the State Sexual
24 Offenders Assessment Board.

25 * * *

26 (e) Dispositional review hearing.--Where the board has
27 concluded that the child is in need of involuntary treatment
28 pursuant to the provisions of Chapter 64 (relating to court-
29 ordered involuntary treatment of certain sexually violent
30 persons), the court shall conduct a hearing at which the county

1 solicitor or a designee, the probation officer and the child's
2 attorney are present. The court shall consider the assessment,
3 treatment information and any other relevant information
4 regarding the delinquent child at the dispositional review
5 hearing pursuant to section 6353 (relating to dispositional
6 review hearing, limitation on commitment and change in place of
7 commitment), which shall be held no later than 180 days before
8 the 21st birthday of the child. Where the submission of the
9 report was delayed pursuant to subsection (c), the dispositional
10 review hearing shall be held no later than 90 days before the
11 21st birthday of the child.

12 * * *

13 Section 8. Title 42 is amended by adding a section to read:
14 § 6366. Role of interstate compacts.

15 In a disposition under this subchapter, any conflict between
16 the provisions of this subchapter and the following interstate
17 compacts shall be resolved in favor of the interpretation set
18 forth in the compact:

19 (1) The Interstate Compact on the Placement of Children
20 under section 761 of the act of June 13, 1967 (P.L.31,
21 No.21), known as the Human Services Code.

22 (2) The act of July 2, 2004 (P.L.468, No.54), known as
23 the Interstate Compact for Juveniles Act.

24 (3) To the extent it relates to minors, 61 Pa.C.S. Ch.
25 71 Subch. B (relating to interstate compact for the
26 supervision of adult offenders).

27 Section 9. This act shall take effect in 60 days.