

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 10

Special Session No. 1 of
1995

INTRODUCED BY GERLACH, GREENLEAF, FISHER, O'PAKE, SHAFFER,
BRIGHTBILL, LEMMOND, HECKLER, WILLIAMS, ANDREZESKI, FUMO,
WAGNER, JUBELIRER, LOEPER, MELLOW, BODACK, SALVATORE, WENGER,
CORMAN, PETERSON, BELAN, STOUT, STAPLETON, BELL, HOLL, MUSTO,
TOMLINSON, ULIANA, DELP, SCHWARTZ, LAVALLE, BAKER, MOWERY,
ARMSTRONG, MADIGAN, PUNT, HART, SHUMAKER, RHOADES, ROBBINS,
PORTERFIELD, STEWART, DAWIDA, TARTAGLIONE AND KASUNIC,
JANUARY 24, 1995

REFERRED TO JUDICIARY, JANUARY 24, 1995

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for law
3 enforcement records, juvenile history record information and
4 adjudications involving certain children.

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

7 Section 1. Sections 6308, 6309 and 6341(a) of Title 42 of
8 the Pennsylvania Consolidated Statutes are amended to read:

9 § 6308. Law enforcement records.

10 (a) General rule.--[Except as provided in section 6309
11 (relating to juvenile history record information), the law] Law
12 enforcement records and files concerning a child shall be kept
13 separate from the records and files of arrests of adults. Unless
14 a charge of delinquency is transferred for criminal prosecution
15 under section 6355 (relating to transfer to criminal
16 proceedings), the interest of national security requires, or the

1 court otherwise orders in the interest of the child, the records
2 and files shall not be open to public inspection or their
3 contents disclosed to the public except as provided in
4 subsection (b); but inspection of the records and files is
5 permitted by:

6 (1) The court having the child before it in any
7 proceeding.

8 (2) Counsel for a party to the proceeding.

9 (3) The officers of institutions or agencies to whom the
10 child is committed.

11 (4) Law enforcement officers of other jurisdictions when
12 necessary for the discharge of their official duties.

13 (5) A court in which the child is convicted of a
14 criminal offense for the purpose of a presentence report or
15 other dispositional proceeding, or by officials of penal
16 institutions and other penal facilities to which he is
17 committed, or by a parole board in considering his parole or
18 discharge or in exercising supervision over him.

19 (b) Public availability.--

20 (1) The contents of law enforcement records and files
21 concerning a child shall not be disclosed to the public
22 except if the child is 14 or more years of age at the time of
23 the alleged conduct and if any of the following apply:

24 (i) The child has been adjudicated delinquent by a
25 court as a result of an act or acts which include the
26 elements of rape, kidnapping, murder, robbery, arson,
27 burglary, violation of section 13(a)(30) of the act of
28 April 14, 1972 (P.L.233, No.64), known as The Controlled
29 Substance, Drug, Device and Cosmetic Act, or other act
30 involving the use of or threat of serious bodily harm.

(ii) A petition alleging delinquency has been filed by a law enforcement agency alleging that the child has committed an act or acts which include the elements of rape, kidnapping, murder, robbery, arson, burglary, violation of section 13(a)(30) of The Controlled Substance, Drug, Device and Cosmetic Act, or other act involving the use of or threat of serious bodily harm and the child previously has been adjudicated delinquent by a court as a result of an act or acts which included the elements of one of such crimes.

[(iii) The child is a dangerous juvenile offender.]

(2) If the conduct of the child meets the requirements for disclosure as set forth in paragraph (1), then the court or law enforcement agency, as the case may be, shall disclose the name, age and address of the child, the offenses charged and the disposition of the case. The master or judge who adjudicates a child delinquent shall specify the particular offenses and counts thereof which the child is found to have committed and such information shall be inserted on any law enforcement records or files disclosed to the public as provided for in this section.

(c) Fingerprints and photographs.--

(1) Law enforcement officers shall have the authority to take or cause to be taken the fingerprints or photographs, or both, of any child who is alleged to have committed [a delinquent act that, but for the application of this chapter, would constitute a felony or a violation of 18 Pa.C.S. Ch. 61 Subch. A (relating to uniform firearms act).] an act designated as a misdemeanor or felony under the laws of this Commonwealth or of another state if the act occurred in that

1 state or under Federal law.

2 (2) Fingerprint and photographic records may be
3 disseminated to law enforcement officers of other
4 jurisdictions, the Pennsylvania State Police and the Federal
5 Bureau of Investigation [if a child has, on the basis of a
6 felony or a violation of 18 Pa.C.S. Ch. 61 Subch. A, been
7 adjudicated delinquent or found guilty in a criminal
8 proceeding.] and may be used for investigative purposes.

9 (3) Fingerprints and photographic records of children
10 shall be kept separately from adults and shall be immediately
11 destroyed upon notice of the court as provided under section
12 6341(a) (relating to adjudication) by all persons and
13 agencies having these records if the child is not adjudicated
14 delinquent or not found guilty in a criminal proceeding for
15 reason of the alleged acts.

16 § 6309. Juvenile history record information.

17 (a) Applicability of Criminal History Record Information
18 Act.--Except for 18 Pa.C.S. §§ 9105 (relating to other criminal
19 justice information), 9112(a) and (b) (relating to mandatory
20 fingerprinting) and 9113 (relating to disposition reporting by
21 criminal justice agencies), the remaining provisions of 18
22 Pa.C.S. Ch. 91 (relating to criminal history record information)
23 shall apply to all [dangerous juvenile offenders] alleged
24 delinquents whose fingerprints and photographs are taken
25 pursuant to section 6308(c) (relating to law enforcement
26 records) and to any juvenile justice agency which collects,
27 maintains, disseminates or receives juvenile history record
28 information.

29 (b) Central repository.--The Pennsylvania State Police shall
30 establish a Statewide central repository of fingerprints,

1 photographs and juvenile history record information of
2 [dangerous juvenile offenders] alleged delinquents whose
3 fingerprints and photographs are taken pursuant to section
4 6308(c). [This repository may be combined with a repository of
5 similar information on adult offenders, as provided in 18
6 Pa.C.S. Ch. 91.]

7 (c) Fingerprints and photographs.--The [court of proper
8 jurisdiction] arresting authority shall ensure that the
9 fingerprints and photographs of a [dangerous juvenile offender]
10 alleged delinquent whose fingerprints and photographs which have
11 been taken by an arresting authority pursuant to section 6308(c)
12 are forwarded to the central repository. [within 48 hours after
13 a dangerous juvenile offender has been adjudicated delinquent.

14 (d) Disposition reporting.--The division or judge of the
15 court assigned to conduct juvenile hearings shall collect and
16 submit juvenile history record information to the central
17 repository within 90 days of an adjudication of delinquency. The
18 division or judge of the court assigned to conduct juvenile
19 hearings shall continually update juvenile history record
20 information as required by the Juvenile Court Judges'
21 Commission.]

22 (e) Definitions.--As used in this section the following
23 words and phrases shall have the meanings given to them in this
24 subsection:

25 "Criminal history record information." In addition to the
26 meaning in 18 Pa.C.S. § 9102 (relating to definitions), the term
27 includes the meaning of juvenile history record information as
28 defined in this subsection.

29 "Juvenile history record information." Information collected
30 pursuant to this section concerning [dangerous juvenile

1 offenders] alleged delinquents whose fingerprints and
2 photographs are taken pursuant to section 6308(c) and arising
3 from the filing of a petition of delinquency, consisting of
4 identifiable descriptions, dates and notations of arrests,
5 indictments, information or other delinquency charges and any
6 adjudication of delinquency, informal adjustment, consent decree
7 or preadjudication disposition other than dismissal arising
8 therefrom. Juvenile history record information shall not include
9 intelligence information, investigative information, treatment
10 information, including medical and psychiatric information,
11 caution indicator information, modus operandi information,
12 wanted persons information, stolen property information, missing
13 persons information, employment history information, personal
14 history information or presentence investigation information.

15 § 6341. Adjudication.

16 (a) General rule.--After hearing the evidence on the
17 petition the court shall make and file its findings as to
18 whether the child is a dependent child, or if the petition
19 alleges that the child is delinquent, whether the acts ascribed
20 to the child were committed by him. If the court finds that the
21 child is not a dependent child or that the allegations of
22 delinquency have not been established it shall dismiss the
23 petition and order the child discharged from any detention or
24 other restriction theretofore ordered in the proceeding. For
25 cases involving allegations of delinquency where fingerprints or
26 photographs, or both, have been taken by a law enforcement
27 agency and where it is determined that acts ascribed to the
28 child were not committed by him, the court, upon motion, shall
29 direct that those records be immediately destroyed by law
30 enforcement agencies.

1 * * *

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