

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 748

Session of  
1975

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INTRODUCED BY MESSRS. RHODES, HAMMOCK, IRVIS, W. D. HUTCHINSON,  
LEDERER AND RICHARDSON, MARCH 17, 1975

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 3, 1976

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## AN ACT

1 Amending the act of December 6, 1972 (P.L.1464, No.333),  
2 entitled "An act relating to the care, guidance, control,  
3 trial, placement and commitment of delinquent and deprived  
4 children," further defining "child," "delinquent act," and  
5 "deprived child," making editorial changes, placing certain  
6 duties on courts and the Department of Justice, further  
7 providing for detention under certain circumstances, for  
8 regional detention facilities and for certain shelter care  
9 situations.

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

12 Section 1. Clauses (1), (2) and (4) of section 2, subsection  
13 (a) of section 8, subsection (c) of section 8.1, sections 14 and  
14 14.1, subsection (b) of section 15, subsection (a) of section 18  
15 and sections 24 and 26, act of December 6, 1972 (P.L.1464,  
16 No.333), known as the "Juvenile Act," are amended or added to  
17 read:

18 Section 2. Definitions.--As used in this act:

19 (1) "Child" means an individual who is: (i) under the age of  
20 eighteen years; or (ii) under the age of twenty-one years who  
21 committed an act of delinquency before reaching the age of

1 eighteen years; or who was adjudicated deprived before reaching  
2 the age of eighteen years and who, while engaged in a course of  
3 instruction or treatment, requests the court to retain  
4 jurisdiction until the course has been completed.

5 (2) "Delinquent act" [means: (i)] means an act designated a  
6 crime under the law of this State, or of another state if the  
7 act occurred in that state, or under Federal law, or under local  
8 ordinances[; or (ii) a specific act or acts of habitual  
9 disobedience of the reasonable and lawful commands of his  
10 parent, guardian, or other custodian committed by a child who is  
11 ungovernable]. "Delinquent act" shall not include the crime of  
12 murder nor shall it include summary offenses unless the child  
13 fails to pay a fine levied thereunder, in which event notice of  
14 such fact shall be certified to the court. No child shall be  
15 detained, committed or sentenced to imprisonment by a district  
16 justice of the peace, municipal court judge, or traffic court  
17 judge.

18 \* \* \*

19 (4) "Deprived child" means a child who: (i) is without  
20 proper parental care or control, subsistence, education as  
21 required by law, or other care or control necessary for his  
22 physical, mental, or emotional health, or morals; or (ii) has  
23 been placed for care or adoption in violation of law; or (iii)  
24 has been abandoned by his parents, guardian, or other custodian;  
25 or (iv) is without a parent, guardian, or legal custodian able  
26 to provide protection, supervision or care for him; or (v) while  
27 subject to compulsory school attendance is habitually and  
28 without justification truant from school; or (vi) is  
29 ungovernable and habitually disobeyed the reasonable and lawful  
30 commands of his parent, guardian or other custodian; or is

1 living in a condition or environment such as to be injurious or  
2 to endanger the child's welfare.

3 \* \* \*

4 Section 8. Informal Adjustment.--(a) Before a petition is  
5 filed, the probation officer or other officer of the court  
6 designated by it, subject to its direction, shall, in the case  
7 of a deprived child [or in the case of a delinquent child to be  
8 charged under section 2(2) (ii),] and may, in the case of a  
9 delinquent child [to be charged under section 2(2) (i) of this  
10 act,] where commitment is clearly not appropriate and if  
11 otherwise appropriate, refer the child and his parents to any  
12 public or private social agency available for assisting in the  
13 matter. Upon referral, the agency shall indicate its willingness  
14 to accept the child and shall report back to the referring  
15 officer within three months concerning the status of the  
16 referral. The agency may return the referral to the probation  
17 officer or other officer for further informal adjustment if it  
18 is in the best interests of the child.

19 \* \* \*

20 Section 8.1. Consent Decree.--\* \* \*

21 (c) A consent decree shall remain in force for six months  
22 unless the child is discharged sooner by probation services with  
23 the approval of the court. Upon application of probation  
24 services or other agency supervising the child, made before  
25 expiration of the six-month period, a consent decree may be  
26 extended by the court for an additional six months.

27 \* \* \*

28 Section 14. Place of Detention.--(a) A child alleged to be  
29 delinquent may be detained only in:

30 (1) A licensed foster home or a home approved by the court;

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

(3) A detention home, camp, center or other facility for delinquent children which is under the direction or supervision of the court or other public authority or private agency, and is approved by the Department of Public Welfare; or

(4) Any other suitable place or facility, designated or operated by the court and approved by the Department of Public Welfare. Under no circumstances shall a child be detained, placed, or committed in any facility with adults, or where he or she is apt to be abused by other children unless there is no appropriate facility available within a reasonable distance or a contiguous county, whichever is nearer, for the detention of the child, in which case the child shall be kept separate and apart from such adults at all times and shall be detained, placed, or committed under such circumstances for not more than five days.

(b) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under the age of eighteen years is received at the facility and shall bring him before the court upon request or deliver him to a detention or shelter care facility designated by the court.

(b.1) After December 31, 1977 it shall be unlawful for any person in charge of or employed by a jail knowingly to receive for detention or to detain in such jail any person whom he has or should have reason to believe is a child. Until December 31, 1977 a jail may be used for the detention of a child who is alleged to be delinquent only if such detention is necessary for the safety of the public and if such jail has been approved for

1 the detention of such child by the Department of Public Welfare.  
2 The Department of Public Welfare shall approve for use for  
3 purposes of and in accordance with the provisions of this  
4 section any jail which it finds maintains, for the detention of  
5 any such child, an appropriate room under adequate supervision:  
6 Provided, That the Department of Public Welfare shall, no later  
7 than sixty days after the effective date of the act, by  
8 regulation promulgate standards governing the operations of such  
9 provisions of such jails as are used for the detention of  
10 children pursuant to this section and shall cause such jails to  
11 be inspected by the Department of Justice at least once every  
12 six months until December 31, 1977, whereupon this confinement  
13 is terminated in accordance with provisions in this act.

14 (c) If a case is transferred for criminal prosecution the  
15 child may be transferred to the appropriate officer or detention  
16 facility in accordance with the law governing the detention of  
17 persons charged with crime. The court in making the transfer may  
18 order continued detention as a juvenile pending trial if the  
19 child is unable to provide bail.

20 (d) A child alleged to be deprived may be detained or placed  
21 [in shelter care only in the facilities] only in a shelter care  
22 facility as stated in clauses (1), (2) and (4) of subsection  
23 (a), and shall not be detained in a jail or other facility  
24 intended or used for the detention of adults charged with  
25 criminal offenses [or of children alleged to be delinquent.],  
26 but may be detained or placed in the same shelter care  
27 facilities with alleged delinquent children.

28 (e) The Department of Public Welfare shall develop or assist  
29 in the development in each county of the Commonwealth approved  
30 programs for the provision of shelter care for children referred

1 to or under the jurisdiction of the court.

2 Section 14.1. Regional Detention Facilities.--(A) Where the <—  
3 operation of an approved detention facility by a single county  
4 would not be feasible, economical or conducive to the best  
5 interest of a child needing detention care, the Department of  
6 Public Welfare shall:

7 (1) Make provisions directly or by contract with a single  
8 county for the implementation and operation, in accordance with  
9 the regulations promulgated by the Department of Public Welfare  
10 of regional detention facilities serving the needs of two or  
11 more counties.

12 (2) Arrive at mutually agreeable arrangements with counties  
13 participating in the use of such regional detention facilities  
14 for the equitable sharing in the costs of operating such  
15 regional detention facilities, including necessary expenditures  
16 to transport children and their parents, guardians, or  
17 custodians to and from such regional detention facilities with  
18 funds contributed by the State and by such counties.

19 (B) THE DEPARTMENT OF PUBLIC WELFARE SHALL USE ANY BUILDING <—  
20 WHICH IS OWNED BY THE COMMONWEALTH AND IS VACANT AND AVAILABLE  
21 AS A REGIONAL DETENTION FACILITY.

22 Section 15. Release from Detention or Shelter Care; Hearing;  
23 Conditions of Release.--\* \* \*

24 (b) An informal [detention] hearing shall be held promptly  
25 by the court or the master and not later than seventy-two hours  
26 after [he] the child is placed in detention or shelter care to  
27 determine whether his detention or shelter care is required  
28 under section 12. Reasonable notice thereof, either oral or  
29 written, stating the time, place, and purpose of the [detention]  
30 hearing shall be given to the child and if they can be found, to

1 his parents, guardian, or other custodian. Prior to the  
2 commencement of the hearing the court or master shall inform the  
3 parties of their right to counsel and to appointed counsel if  
4 they are needy persons, and of the child's right to remain  
5 silent with respect to any allegations of delinquency.

6 \* \* \*

7 Section 18. Summons.--(a) After the petition has been filed  
8 the court shall fix a time for hearing thereon, which, if the  
9 child is in detention, shall not be later than ten days after  
10 the filing of the petition. if the hearing is not held within  
11 such time, the child shall be immediately released from  
12 detention. A child may be detained for an additional single  
13 period not to exceed ten days where the court determines at a  
14 hearing that evidence material to the case is unavailable and  
15 due diligence to obtain such evidence has been exercised and  
16 there are reasonable grounds to believe that such evidence will  
17 be available at a later date and the court finds by clear and  
18 convincing evidence that the child's life would be in danger,  
19 the community would be exposed to a specific danger or that the  
20 child will abscond or be removed from the jurisdiction of the  
21 court. The court shall direct the issuance of a summons to the  
22 parents, guardian, or other custodian, a guardian ad litem, and  
23 any other persons as appear to the court to be proper or  
24 necessary parties to the proceeding, requiring them to appear  
25 before the court at the time fixed to answer the allegations of  
26 the petition. The summons shall also be directed to the child if  
27 he is fourteen or more years of age or is alleged to be a  
28 delinquent. A copy of the petition shall accompany the summons.

29 \* \* \*

30 Section 24. Disposition of Deprived Child.--(a) If the child

1 is found to be a deprived child the court may make any of the  
2 following orders of disposition best suited to the protection  
3 and physical, mental, and moral welfare of the child:

4 (1) Permit the child to remain with his parents, guardian,  
5 or other custodian, subject to conditions and limitations as the  
6 court prescribes, including supervision as directed by the court  
7 for the protection of the child.

8 (2) Subject to conditions and limitations as the court  
9 prescribes transfer temporary legal custody to any of the  
10 following: (i) any individual in or outside Pennsylvania who,  
11 after study by the probation officer or other person or agency  
12 designated by the court, is found by the court to be qualified  
13 to receive and care for the child; (ii) an agency or other  
14 private organization licensed or otherwise authorized by law to  
15 receive and provide care for the child or (iii) a public agency  
16 authorized by law to receive and provide care for the child.

17 (3) Without making any of the foregoing orders transfer  
18 custody of the child to the juvenile court of another state if  
19 authorized by and in accordance with section 32.

20 (b) Unless a child found to be deprived is found also to be  
21 delinquent he shall not be committed to or confined in an  
22 institution or other facility designed or operated for the  
23 benefit of delinquent children but deprived and delinquent  
24 children may be placed in the same shelter care facilities.

25 Section 26. Limitation on Length of Commitment.--No child  
26 shall initially be committed to an institution for a period  
27 longer than three years or a period longer than he could have  
28 been sentenced by the court if he had been convicted of the same  
29 offense as an adult, whichever is less. The initial commitment  
30 may be extended for a similar period of time, or modified, if



1 the court finds after hearing that the extension or modification  
2 will effectuate the original purpose for which the order was  
3 entered. The child shall have notice of the extension or  
4 modification hearing and shall be given an opportunity to be  
5 heard. The committing court shall review each commitment every  
6 six months and shall hold a disposition review hearing at least  
7 every [twelve] nine months.

8 Section 2. This act shall take effect immediately, but the  
9 jurisdictional changes contained in clauses (2) and (4) of  
10 section 2 shall apply only to proceedings instituted after the  
11 effective date.