

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 825

Session of
1977

INTRODUCED BY MR. GREENLEAF, MARCH 29, 1977

SENATOR HILL, JUDICIARY, IN SENATE, AS AMENDED, OCTOBER 25, 1977

~~AN ACT~~ A SUPPLEMENT

<—

1 ~~Authorizing the use of certain medical testimony by depositions~~ <—
2 ~~at trial in open court.~~

3 TO THE ACT OF JULY 9, 1976 (P.L.586, NO.142), ENTITLED "AN ACT <—
4 AMENDING TITLES 42 (JUDICIARY AND JUDICIAL PROCEDURE), 15
5 (CORPORATIONS AND UNINCORPORATED ASSOCIATIONS), 18 (CRIMES
6 AND OFFENSES) AND 71 (STATE GOVERNMENT) OF THE PENNSYLVANIA
7 CONSOLIDATED STATUTES; ADDING REVISED, CODIFIED AND COMPILED
8 PROVISIONS RELATING TO JUDICIARY AND JUDICIAL PROCEDURE,
9 INCLUDING CERTAIN JUDICIALLY ENFORCEABLE RIGHTS, DUTIES,
10 IMMUNITIES AND LIABILITIES AND SEPARATELY ENACTING CERTAIN
11 RELATED PROVISIONS OF LAW," ADDING CERTAIN PROVISIONS OF
12 EXISTING LAW TO AND MAKING CONFORMING AND EDITORIAL CHANGES
13 IN CERTAIN PROVISIONS OF THE PENNSYLVANIA CONSOLIDATED
14 STATUTES, SEPARATELY REENACTING CERTAIN RELATED PROVISIONS OF
15 LAW AND REPEALING CERTAIN ACTS AND PARTS OF ACTS SUPPLIED BY
16 THE ACT AS SUPPLEMENTED HEREBY.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 ~~Section 1. (a) The testimony of any physician licensed to~~ <—
20 ~~practice medicine may be taken by oral interrogation in the~~
21 ~~manner prescribed by rules of court for the taking of~~
22 ~~depositions.~~

23 ~~(b) The depositions shall be admissible in a civil~~ <—
24 ~~proceeding.~~

25 SECTION 1. SECTION 5104 OF TITLE 42, ACT OF NOVEMBER 25, <—

1 1970 (P.L.707, NO.230), KNOWN AS THE PENNSYLVANIA CONSOLIDATED
2 STATUTES, ADDED JULY 9, 1976 (P.L.586, NO.142), IS AMENDED BY
3 ADDING A SUBSECTION TO READ:

4 § 5104. TRIAL BY JURY.

5 * * *

6 (C) CRIMINAL MATTERS.--IN CRIMINAL CASES THE COMMONWEALTH
7 SHALL HAVE THE SAME RIGHT TO TRIAL BY JURY AS DOES THE ACCUSED.

8 SECTION 2. SECTIONS 6302, 6303, 6304(A), 6308, 6321(B),
9 6323(A) AND 6327(A) OF TITLE 42, ADDED JULY 9, 1976 (P.L.586,
10 NO.142), ARE AMENDED TO READ:

11 § 6302. DEFINITIONS.

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

15 "CHILD." AN INDIVIDUAL WHO [IS]:

16 (1) IS UNDER THE AGE OF 18 YEARS; [OR]

17 (2) IS UNDER THE AGE OF 21 YEARS WHO COMMITTED AN ACT OF
18 DELINQUENCY BEFORE REACHING THE AGE OF 18 YEARS; OR

19 (3) WAS ADJUDICATED DEPENDENT BEFORE REACHING THE AGE OF
20 18 YEARS AND WHO, WHILE ENGAGED IN A COURSE OF INSTRUCTION OR
21 TREATMENT, REQUESTS THE COURT TO RETAIN JURISDICTION UNTIL
22 THE COURSE HAS BEEN COMPLETED, BUT IN NO EVENT SHALL A CHILD
23 REMAIN IN A COURSE OF INSTRUCTION OR TREATMENT PAST THE AGE
24 OF 21 YEARS.

25 "COURT." THE COURT OF COMMON PLEAS.

26 "CUSTODIAN." A PERSON OTHER THAN A PARENT OR LEGAL GUARDIAN,
27 WHO STANDS IN LOCO PARENTIS TO THE CHILD, OR A PERSON TO WHOM
28 LEGAL CUSTODY OF THE CHILD HAS BEEN GIVEN BY ORDER OF A COURT.

29 "DELINQUENT ACT."

30 (1) THE TERM MEANS[:]

(I)] AN ACT DESIGNATED A CRIME UNDER THE LAW OF THIS
COMMONWEALTH, OR OF ANOTHER STATE IF THE ACT OCCURRED IN
THAT STATE, OR UNDER FEDERAL LAW, OR UNDER LOCAL
ORDINANCES.[; OR

(II) A SPECIFIC ACT OR ACTS OF HABITUAL DISOBEDIENCE
OF THE REASONABLE AND LAWFUL COMMANDS OF HIS PARENT,
GUARDIAN, OR OTHER CUSTODIAN COMMITTED BY A CHILD WHO IS
UNGOVERNABLE.]

(2) THE TERM SHALL NOT INCLUDE:

(I) THE CRIME OF MURDER; OR

(II) SUMMARY OFFENSES, UNLESS THE CHILD FAILS TO PAY
A FINE LEVIED THEREUNDER, IN WHICH EVENT NOTICE OF SUCH
FACT SHALL BE CERTIFIED TO THE COURT.

"DELINQUENT CHILD." A CHILD TEN YEARS OF AGE OR OLDER WHOM
THE COURT HAS FOUND TO HAVE COMMITTED A DELINQUENT ACT AND IS IN
NEED OF TREATMENT, SUPERVISION OR REHABILITATION.

"[DEPRIVED] DEPENDENT CHILD." A CHILD WHO:

(1) IS WITHOUT PROPER PARENTAL CARE OR CONTROL,
SUBSISTENCE, EDUCATION AS REQUIRED BY LAW, OR OTHER CARE OR
CONTROL NECESSARY FOR HIS PHYSICAL, MENTAL, OR EMOTIONAL
HEALTH, OR MORALS;

(2) HAS BEEN PLACED FOR CARE OR ADOPTION IN VIOLATION OF
LAW;

(3) HAS BEEN ABANDONED BY HIS PARENTS, GUARDIAN, OR
OTHER CUSTODIAN;

(4) IS WITHOUT A PARENT, GUARDIAN, OR LEGAL CUSTODIAN;
[OR]

(5) WHILE SUBJECT TO COMPULSORY SCHOOL ATTENDANCE IS
HABITUALLY AND WITHOUT JUSTIFICATION TRUANT FROM SCHOOL;

(6) HAS COMMITTED A SPECIFIC ACT OR ACTS OF HABITUAL

DISOBEDIENCE OF THE REASONABLE AND LAWFUL COMMANDS OF HIS
PARENT, GUARDIAN OR OTHER CUSTODIAN AND WHO IS UNGOVERNABLE
AND FOUND TO BE IN NEED OF CARE, TREATMENT OR SUPERVISION;

(7) IS UNDER THE AGE OF TEN YEARS AND HAS COMMITTED A
DELINQUENT ACT;

(8) HAS BEEN FORMERLY ADJUDICATED DEPENDENT, AND IS
UNDER THE JURISDICTION OF THE COURT, SUBJECT TO ITS
CONDITIONS OR PLACEMENTS AND WHO COMMITS AN ACT WHICH IS
DEFINED AS UNGOVERNABLE IN PARAGRAPH (6); OR

(9) HAS BEEN REFERRED PURSUANT TO SECTION 6323 (RELATING
TO INFORMAL ADJUSTMENT), AND WHO COMMITS AN ACT WHICH IS
DEFINED AS UNGOVERNABLE IN PARAGRAPH (6).

"PROTECTIVE SUPERVISION." SUPERVISION ORDERED BY THE COURT
OF CHILDREN FOUND TO BE [DEPRIVED] DEPENDENT.

"SHELTER CARE." TEMPORARY CARE OF A CHILD IN PHYSICALLY
UNRESTRICTED FACILITIES.

§ 6303. SCOPE OF CHAPTER.

(A) GENERAL RULE.--THIS CHAPTER SHALL APPLY EXCLUSIVELY TO
THE FOLLOWING:

(1) PROCEEDINGS IN WHICH A CHILD IS ALLEGED TO BE
DELINQUENT OR [DEPRIVED] DEPENDENT.

(2) TRANSFERS UNDER SECTION 6322 (RELATING TO TRANSFER
FROM CRIMINAL PROCEEDINGS).

(3) PROCEEDINGS ARISING UNDER SUBCHAPTER E (RELATING TO
DISPOSITIONS AFFECTING OTHER JURISDICTIONS).

(4) PROCEEDINGS UNDER THE INTERSTATE COMPACT ON
JUVENILES, AS SET FORTH IN SECTION 731 OF THE ACT OF JUNE 13,
1967 (P.L.31, NO.21), KNOWN AS THE "PUBLIC WELFARE CODE."

(B) MINOR JUDICIARY.--NO CHILD SHALL BE DETAINED, COMMITTED
OR SENTENCED TO IMPRISONMENT BY A DISTRICT JUSTICE OR A JUDGE OF

1 THE MINOR JUDICIARY.

2 § 6304. POWERS AND DUTIES OF PROBATION OFFICERS.

3 (A) GENERAL RULE.--FOR THE PURPOSE OF CARRYING OUT THE
4 OBJECTIVES AND PURPOSES OF THIS CHAPTER, AND SUBJECT TO THE
5 LIMITATIONS OF THIS CHAPTER OR IMPOSED BY THE COURT, A PROBATION
6 OFFICER SHALL:

7 (1) MAKE INVESTIGATIONS, REPORTS, AND RECOMMENDATIONS TO
8 THE COURT.

9 (2) RECEIVE AND EXAMINE COMPLAINTS AND CHARGES OF
10 DELINQUENCY OR [DEPRIVATION] DEPENDENCY OF A CHILD FOR THE
11 PURPOSE OF CONSIDERING THE COMMENCEMENT OF PROCEEDINGS UNDER
12 THIS CHAPTER.

13 (3) SUPERVISE AND ASSIST A CHILD PLACED ON PROBATION OR
14 IN HIS PROTECTIVE SUPERVISION OR CARE BY ORDER OF THE COURT
15 OR OTHER AUTHORITY OF LAW.

16 (4) MAKE APPROPRIATE REFERRALS TO OTHER PRIVATE OR
17 PUBLIC AGENCIES OF THE COMMUNITY IF THEIR ASSISTANCE APPEARS
18 TO BE NEEDED OR DESIRABLE.

19 (5) TAKE INTO CUSTODY AND DETAIN A CHILD WHO IS UNDER
20 HIS SUPERVISION OR CARE AS A DELINQUENT OR [DEPRIVED]
21 DEPENDENT CHILD IF THE PROBATION OFFICER HAS REASONABLE CAUSE
22 TO BELIEVE THAT THE HEALTH OR SAFETY OF THE CHILD IS IN
23 IMMINENT DANGER, OR THAT HE MAY ABSCOND OR BE REMOVED FROM
24 THE JURISDICTION OF THE COURT, OR WHEN ORDERED BY THE COURT
25 PURSUANT TO THIS CHAPTER OR THAT HE VIOLATED THE CONDITIONS
26 OF HIS PROBATION.

27 (6) PERFORM ALL OTHER FUNCTIONS DESIGNATED BY THIS
28 CHAPTER OR BY ORDER OF THE COURT PURSUANT THERETO.

29 * * *

30 § 6308. LAW ENFORCEMENT RECORDS.

1 (A) GENERAL RULE.--LAW ENFORCEMENT RECORDS AND FILES
2 CONCERNING A CHILD SHALL BE KEPT SEPARATE FROM THE RECORDS AND
3 FILES OF ARRESTS OF ADULTS. UNLESS A CHARGE OF DELINQUENCY IS
4 TRANSFERRED FOR CRIMINAL PROSECUTION UNDER SECTION 6355
5 (RELATING TO TRANSFER TO CRIMINAL PROCEEDINGS), THE INTEREST OF
6 NATIONAL SECURITY REQUIRES, OR THE COURT OTHERWISE ORDERS IN THE
7 INTEREST OF THE CHILD, THE RECORDS AND FILES SHALL NOT BE OPEN
8 TO PUBLIC INSPECTION OR THEIR CONTENTS DISCLOSED TO THE PUBLIC
9 EXCEPT AS PROVIDED IN SUBSECTION (B); BUT INSPECTION OF THE
10 RECORDS AND FILES IS PERMITTED BY:

11 (1) THE COURT HAVING THE CHILD BEFORE IT IN ANY
12 PROCEEDING.

13 (2) COUNSEL FOR A PARTY TO THE PROCEEDING.

14 (3) THE OFFICERS OF INSTITUTIONS OR AGENCIES TO WHOM THE
15 CHILD IS COMMITTED.

16 (4) LAW ENFORCEMENT OFFICERS OF OTHER JURISDICTIONS WHEN
17 NECESSARY FOR THE DISCHARGE OF THEIR OFFICIAL DUTIES.

18 (5) A COURT IN WHICH THE CHILD IS CONVICTED OF A
19 CRIMINAL OFFENSE FOR THE PURPOSE OF A PRESENTENCE REPORT OR
20 OTHER DISPOSITIONAL PROCEEDING, OR BY OFFICIALS OF PENAL
21 INSTITUTIONS AND OTHER PENAL FACILITIES TO WHICH HE IS
22 COMMITTED, OR BY A PAROLE BOARD IN CONSIDERING HIS PAROLE OR
23 DISCHARGE OR IN EXERCISING SUPERVISION OVER HIM.

24 (B) PUBLIC AVAILABILITY.--

25 (1) THE CONTENTS OF LAW ENFORCEMENT RECORDS AND FILES
26 CONCERNING A CHILD SHALL NOT BE DISCLOSED TO THE PUBLIC
27 EXCEPT IF THE CHILD IS 14 OR MORE YEARS OF AGE AT THE TIME OF
28 THE ALLEGED CONDUCT AND IF:

29 (I) THE CHILD HAS BEEN ADJUDICATED DELINQUENT BY A
30 COURT AS A RESULT OF AN ACT OR ACTS WHICH INCLUDE THE

ELEMENTS OF RAPE, KIDNAPPING, MURDER, ROBBERY, ARSON,
BURGLARY OR OTHER ACT INVOLVING THE USE OF OR THREAT OF
SERIOUS BODILY HARM; OR

(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 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.

(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 OF THE CHILD AND THE NATURE OF THE CONDUCT IN
QUESTION.

§ 6321. COMMENCEMENT OF PROCEEDINGS.

* * *

(B) VENUE.--A PROCEEDING UNDER THIS CHAPTER MAY BE
COMMENCED:

(1) IN THE COUNTY IN WHICH THE CHILD RESIDES.

(2) IF DELINQUENCY IS ALLEGED, IN THE COUNTY IN WHICH
THE ACTS CONSTITUTING THE ALLEGED DELINQUENCY OCCURRED.

(3) IF [DEPRIVATION] DEPENDENCY IS ALLEGED, IN THE
COUNTY IN WHICH THE CHILD IS PRESENT WHEN IT IS COMMENCED.

* * *

§ 6323. INFORMAL ADJUSTMENT.

(A) GENERAL RULE.--

(1) BEFORE A PETITION IS FILED, THE PROBATION OFFICER OR
OTHER OFFICER OF THE COURT DESIGNATED BY IT, SUBJECT TO ITS

1 DIRECTION, [MAY IN THE CASE OF A DELINQUENT CHILD TO BE
2 CHARGED WITH A DELINQUENT ACT DESIGNATED A CRIME, AND] SHALL,
3 IN THE CASE OF A [DEPRIVED] DEPENDENT CHILD [OR, IN THE CASE
4 OF A DELINQUENT CHILD TO BE CHARGED WITH ANY OTHER DELINQUENT
5 ACT, WHERE COMMITMENT IS CLEARLY NOT APPROPRIATE] WHERE THE
6 JURISDICTION OF THE COURT IS PREMISED UPON THE PROVISIONS OF
7 PARAGRAPH (1), (2), (3), (4), (5) OR (7) OF THE DEFINITION OF
8 "DEPENDENT CHILD" IN SECTION 6302 (RELATING TO DEFINITIONS)
9 AND IF OTHERWISE APPROPRIATE, REFER THE CHILD AND HIS PARENTS
10 TO ANY PUBLIC OR PRIVATE SOCIAL AGENCY AVAILABLE FOR
11 ASSISTING IN THE MATTER. UPON REFERRAL, THE AGENCY SHALL
12 INDICATE ITS WILLINGNESS TO ACCEPT THE CHILD AND SHALL REPORT
13 BACK TO THE REFERRING OFFICER WITHIN THREE MONTHS CONCERNING
14 THE STATUS OF THE REFERRAL.

15 (2) SIMILARLY, THE PROBATION OFFICER MAY IN THE CASE OF
16 A DELINQUENT CHILD, OR A DEPENDENT CHILD WHERE THE
17 JURISDICTION OF THE COURT IS PERMITTED UNDER PARAGRAPH (6) OF
18 THE DEFINITION OF "DEPENDENT CHILD" IN SECTION 6302, REFER
19 THE CHILD AND HIS PARENTS TO AN AGENCY FOR ASSISTING IN THE
20 MATTER.

21 (3) THE AGENCY MAY RETURN THE REFERRAL TO THE PROBATION
22 OFFICER OR OTHER OFFICER FOR FURTHER INFORMAL ADJUSTMENT IF
23 IT IS IN THE BEST INTERESTS OF THE CHILD.

24 * * *

25 § 6327. PLACE OF DETENTION.

26 (A) GENERAL RULE.--A CHILD ALLEGED TO BE DELINQUENT MAY BE
27 DETAINED ONLY IN:

28 (1) A LICENSED FOSTER HOME OR A HOME APPROVED BY THE
29 COURT.

30 (2) A FACILITY OPERATED BY A LICENSED CHILD WELFARE

1 AGENCY OR ONE APPROVED BY THE COURT.

2 (3) A DETENTION HOME, CAMP, CENTER OR OTHER FACILITY FOR
3 DELINQUENT CHILDREN WHICH IS UNDER THE DIRECTION OR
4 SUPERVISION OF THE COURT OR OTHER PUBLIC AUTHORITY OR PRIVATE
5 AGENCY, AND IS APPROVED BY THE DEPARTMENT OF PUBLIC WELFARE.

6 (4) ANY OTHER SUITABLE PLACE OR FACILITY, DESIGNATED OR
7 OPERATED BY THE COURT AND APPROVED BY THE DEPARTMENT OF
8 PUBLIC WELFARE.

9 UNDER NO CIRCUMSTANCES SHALL A CHILD BE DETAINED[, PLACED, OR
10 COMMITTED] IN ANY FACILITY WITH ADULTS, OR WHERE [HE] THE CHILD
11 IS APT TO BE ABUSED BY OTHER CHILDREN. [UNLESS THERE IS NO
12 APPROPRIATE FACILITY AVAILABLE, IN WHICH CASE THE CHILD SHALL BE
13 KEPT SEPARATE AND APART FROM SUCH ADULTS AT ALL TIMES AND SHALL
14 BE DETAINED, PLACED, OR COMMITTED UNDER SUCH CIRCUMSTANCES FOR
15 NOT MORE THAN FIVE DAYS.]

16 * * *

17 SECTION 3. CONFINEMENT OF CHILDREN WITH ADULTS.

18 UNTIL DECEMBER 31, 1979, A CHILD MAY BE DETAINED IN A
19 FACILITY WITH ADULTS IF THERE IS NO APPROPRIATE FACILITY
20 AVAILABLE WITHIN A REASONABLE DISTANCE OR A CONTIGUOUS COUNTY,
21 WHICHEVER IS NEARER, FOR THE DETENTION OF THE CHILD IN WHICH
22 CASE THE CHILD SHALL BE KEPT SEPARATE AND APART FROM SUCH ADULTS
23 AT ALL TIMES AND SHALL BE DETAINED UNDER SUCH CIRCUMSTANCES FOR
24 NOT MORE THAN FIVE DAYS.

25 SECTION 4. SECTION 6327 OF TITLE 42, ADDED JULY 9, 1976
26 (P.L.586, NO.142), IS AMENDED BY ADDING A SUBSECTION TO READ:
27 § 6327. PLACE OF DETENTION.

28 * * *

29 (C) DETENTION IN JAIL PROHIBITED.--IT IS UNLAWFUL FOR ANY
30 PERSON IN CHARGE OF OR EMPLOYED BY A JAIL KNOWINGLY TO RECEIVE

1 FOR DETENTION OR TO DETAIN IN THE JAIL ANY PERSON WHOM HE HAS OR
2 SHOULD HAVE REASON TO BELIEVE IS A CHILD.

3 * * *

4 SECTION 5. CONFINEMENT OF CHILDREN IN JAILS.

5 UNTIL DECEMBER 31, 1979, A JAIL MAY BE USED FOR THE DETENTION
6 OF A CHILD WHO IS ALLEGED TO BE DELINQUENT BUT ONLY IF THE
7 DETENTION IS NECESSARY FOR THE SAFETY OF THE PUBLIC AND IF THE
8 JAIL HAS BEEN APPROVED FOR THE DETENTION OF THE CHILD BY THE
9 DEPARTMENT OF PUBLIC WELFARE IN GOOD FAITH AND THE DETENTION HAS
10 BEEN ORDERED BY THE COURT PURSUANT TO CHAPTER 63 OF TITLE 42 OF
11 THE PENNSYLVANIA CONSOLIDATED STATUTES (RELATING TO JUVENILE
12 MATTERS). THE DEPARTMENT OF PUBLIC WELFARE SHALL APPROVE FOR USE
13 FOR PURPOSES OF AND IN ACCORDANCE WITH THE PROVISIONS OF THIS
14 SECTION ANY JAIL WHICH IT FINDS MAINTAINS, FOR THE DETENTION OF
15 THE CHILD, AN APPROPRIATE ROOM UNDER ADEQUATE SUPERVISION:
16 PROVIDED, THAT THE DEPARTMENT OF PUBLIC WELFARE SHALL HAVE, NO
17 LATER THAN OCTOBER 2, 1977, BY REGULATION PROMULGATED STANDARDS
18 GOVERNING THE OPERATIONS OF SUCH PORTIONS OF SUCH JAILS AS ARE
19 USED FOR THE DETENTION OF CHILDREN PURSUANT TO THIS SECTION AND
20 SHALL CAUSE THE JAILS TO BE INSPECTED BY THE DEPARTMENT OF
21 PUBLIC WELFARE AT LEAST ONCE EVERY SIX MONTHS UNTIL THIS
22 CONFINEMENT IS TERMINATED IN ACCORDANCE WITH PROVISIONS IN THIS
23 ACT.

24 SECTION 6. SECTION 6327(C) AND (D) OF TITLE 42, ADDED JULY
25 9, 1976 (P.L.586, NO.142), ARE AMENDED AND A SUBSECTION IS ADDED
26 TO READ:

27 § 6327. PLACE OF DETENTION.

28 * * *

29 [(C)] (D) TRANSFER OF CHILD SUBJECT TO CRIMINAL
30 PROCEEDINGS.--IF A CASE IS TRANSFERRED FOR CRIMINAL PROSECUTION

1 THE CHILD MAY BE TRANSFERRED TO THE APPROPRIATE OFFICER OR
2 DETENTION FACILITY IN ACCORDANCE WITH THE LAW GOVERNING THE
3 DETENTION OF PERSONS CHARGED WITH CRIME. THE COURT IN MAKING THE
4 TRANSFER MAY ORDER CONTINUED DETENTION AS A JUVENILE PENDING
5 TRIAL IF THE CHILD IS UNABLE TO PROVIDE BAIL.

6 [(D)] (E) DETENTION OF [DEPRIVED CHILDREN] DEPENDENT
7 CHILD.--A CHILD ALLEGED TO BE [DEPRIVED] DEPENDENT MAY BE
8 DETAINED OR PLACED [IN SHELTER CARE ONLY IN ONE OF THE
9 FACILITIES] ONLY IN A DEPARTMENT OF PUBLIC WELFARE APPROVED
10 SHELTER CARE FACILITY AS STATED IN SUBSECTION (A)(1), (2) AND
11 (4), AND SHALL NOT BE DETAINED IN A JAIL OR OTHER FACILITY
12 INTENDED OR USED FOR THE DETENTION OF ADULTS CHARGED WITH
13 CRIMINAL OFFENSES [OR OF CHILDREN ALLEGED TO BE DELINQUENT], BUT
14 MAY BE DETAINED IN THE SAME SHELTER CARE FACILITIES WITH ALLEGED
15 DELINQUENT CHILDREN.

16 (F) DEVELOPMENT OF APPROVED SHELTER CARE PROGRAMS.--THE
17 DEPARTMENT OF PUBLIC WELFARE SHALL DEVELOP OR ASSIST IN THE
18 DEVELOPMENT IN EACH COUNTY OF THIS COMMONWEALTH APPROVED
19 PROGRAMS FOR THE PROVISION OF SHELTER CARE FOR CHILDREN REFERRED
20 TO OR UNDER THE JURISDICTION OF THE COURT.

21 SECTION 7. REQUIRED COUNTY DETENTION SERVICES.

22 (A) GENERAL RULE.--EACH COUNTY, ACTING ALONE OR IN
23 CONJUNCTION WITH OTHER COUNTIES AS PROVIDED IN SECTION 8, SHALL
24 BY DECEMBER 31, 1978, SUBMIT TO THE DEPARTMENT OF PUBLIC WELFARE
25 FOR APPROVAL A PLAN FOR THE REMOVAL OF CHILDREN FROM ADULT
26 FACILITIES. IF NO SUCH PLAN IS SUBMITTED OR ACCEPTED BY THE
27 DEPARTMENT WITHIN THE ALLOCATED PERIOD, THE DEPARTMENT, AFTER
28 DETERMINING THE DETENTION NEEDS OF INDIVIDUAL COUNTIES, SHALL
29 THEREAFTER TAKE WHATEVER STEPS IT DEEMS NECESSARY TO PROVIDE THE
30 REQUIRED DETENTION SERVICES FOR ANY SUCH COUNTY OR COUNTIES;

1 INCLUDING THE CONSTRUCTION OF A REGIONAL DETENTION FACILITY TO
2 MEET THE NEEDS OF THE COUNTIES INSOFAR AS IS CONSISTENT WITH
3 PROHIBITIONS AGAINST THE USE OF ADULT FACILITIES FOR JUVENILE
4 OFFENDERS AS PROVIDED IN CHAPTER 63 OF TITLE 42 OF THE
5 PENNSYLVANIA CONSOLIDATED STATUTES (RELATING TO JUVENILE
6 MATTERS). THE DEPARTMENT, AFTER EXHAUSTING ALL OTHER AVAILABLE
7 FUNDS INCLUDING LAW ENFORCEMENT ASSISTANCE ADMINISTRATION FUNDS
8 AND ANY OTHER FEDERAL OR STATE FUNDS AVAILABLE FOR SUCH PURPOSE,
9 SHALL CHARGE THE COST OF ESTABLISHING THE NECESSARY REGIONAL
10 DETENTION FACILITIES TO THE COUNTIES THAT WILL UTILIZE ITS
11 SERVICES.

12 (B) CHARGES IMPOSED UPON COUNTIES.--THE AMOUNT DUE THE
13 COMMONWEALTH FOR THE SERVICES OR FACILITIES PROVIDED PURSUANT TO
14 SUBSECTION (A) SHALL BE PAID BY THE COUNTY WITHIN 15 MONTHS
15 AFTER RECEIPT OF NOTICE OF THE AMOUNT DUE. IN DETERMINING THE
16 AMOUNT WHICH EACH COUNTY SHALL BE CHARGED FOR THE ESTABLISHMENT
17 OF A REGIONAL DETENTION FACILITY, THE DEPARTMENT SHALL TAKE INTO
18 ACCOUNT THE EXTENT TO WHICH THE PARTICIPATING COUNTIES SHALL
19 UTILIZE THE FACILITIES.

20 (C) LIMITATION ON CHARGES.--EXCEPT AS PROVIDED IN SUBSECTION
21 (D), THE CHARGES MADE BY THE DEPARTMENT AGAINST ANY COUNTY
22 PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED \$50,000.

23 (D) ADDITIONAL CHARGES.--IN ADDITION TO THE CHARGES
24 AUTHORIZED FOR THE PROVIDING OF REGIONAL DETENTION FACILITIES
25 AND NOTWITHSTANDING THE LIMITATIONS ON SUCH CHARGES SET FORTH IN
26 SUBSECTION (C), THE COMMONWEALTH SHALL BE ENTITLED TO AN
27 ADDITIONAL AMOUNT FOR PROVIDING SUCH FACILITIES EQUIVALENT TO 7%
28 OF THE COSTS IMPOSED ON THE COUNTY.

29 (E) DISPOSITION OF CHARGES.--ALL SUMS COLLECTED FROM THE
30 COUNTIES PURSUANT TO THIS SUBSECTION SHALL BE PAID INTO THE

1 GENERAL FUND AND CREDITED TO THE DEPARTMENT OF PUBLIC WELFARE.

2 SECTION 8. REGIONAL DETENTION FACILITIES.

3 (A) GENERAL RULE.--WHERE THE OPERATION OF AN APPROVED
4 DETENTION FACILITY BY A SINGLE COUNTY WOULD NOT BE FEASIBLE,
5 ECONOMICAL OR CONDUCIVE TO THE BEST INTEREST OF A CHILD NEEDING
6 DETENTION CARE, THE DEPARTMENT OF PUBLIC WELFARE SHALL:

7 (1) MAKE PROVISIONS DIRECTLY OR BY CONTRACT WITH A
8 SINGLE COUNTY FOR THE IMPLEMENTATION AND OPERATION, IN
9 ACCORDANCE WITH THE REGULATIONS PROMULGATED BY THE DEPARTMENT
10 OF PUBLIC WELFARE, OF REGIONAL DETENTION FACILITIES SERVING
11 THE NEEDS OF TWO OR MORE COUNTIES.

12 (2) ARRIVE AT MUTUALLY AGREEABLE ARRANGEMENTS WITH
13 COUNTIES PARTICIPATING IN THE USE OF SUCH REGIONAL DETENTION
14 FACILITIES FOR THE EQUITABLE SHARING IN THE COSTS OF
15 CONSTRUCTING AND OPERATING SUCH REGIONAL DETENTION
16 FACILITIES, INCLUDING NECESSARY EXPENDITURES TO TRANSPORT
17 CHILDREN AND, IF FINANCIALLY INDIGENT, THEIR PARENTS,
18 GUARDIANS, OR CUSTODIANS TO AND FROM SUCH REGIONAL DETENTION
19 FACILITIES WITH FUNDS CONTRIBUTED BY THE STATE AND BY SUCH
20 COUNTIES. THE DEPARTMENT SHALL ONLY OPERATE A REGIONAL
21 DETENTION FACILITY, ESTABLISHED UNDER SECTION 7(A), UPON
22 REFUSAL OF THE COUNTIES PARTICIPATING IN ITS USE TO OPERATE
23 THE FACILITY PURSUANT TO DEPARTMENT REGULATIONS.

24 (B) USE OF COMMONWEALTH FACILITIES.--THE DEPARTMENT OF
25 GENERAL SERVICES SHALL MAKE AVAILABLE ANY VACANT COMMONWEALTH
26 BUILDING WHICH THE DEPARTMENT OF PUBLIC WELFARE CERTIFIES AS
27 APPROPRIATE FOR RENOVATION AS A REGIONAL DETENTION FACILITY.

28 SECTION 9. SECTIONS 6331, 6332(A), 6335(A), 6339(A),
29 6340(C), 6341(A), (B) AND (C), 6351, 6352 AND 6353 OF TITLE 42,
30 ADDED JULY 9, 1976 (P.L.586, NO.142), ARE AMENDED TO READ:

§ 6331. RELEASE FROM DETENTION OR COMMENCEMENT OF PROCEEDINGS.

IF A CHILD IS BROUGHT BEFORE THE COURT OR DELIVERED TO A DETENTION OR SHELTER CARE FACILITY DESIGNATED BY THE COURT, THE INTAKE OR OTHER AUTHORIZED OFFICER OF THE COURT SHALL IMMEDIATELY MAKE AN INVESTIGATION AND RELEASE THE CHILD UNLESS IT APPEARS THAT HIS DETENTION OR SHELTER CARE IS WARRANTED OR REQUIRED UNDER SECTION 6325 (RELATING TO DETENTION OF CHILD). THE RELEASE OF THE CHILD SHALL NOT PREVENT THE SUBSEQUENT FILING OF A PETITION AS PROVIDED IN THIS CHAPTER. IF HE IS NOT SO RELEASED, A PETITION SHALL BE PROMPTLY MADE AND PRESENTED TO THE COURT WITHIN 24 HOURS OR THE NEXT COURT BUSINESS DAY OF THE ADMISSION OF THE CHILD TO DETENTION OR SHELTER CARE.

§ 6332. INFORMAL [DETENTION] HEARING.

(A) GENERAL RULE.--AN INFORMAL [DETENTION] HEARING SHALL BE HELD PROMPTLY BY THE COURT OR MASTER AND NOT LATER THAN 72 HOURS AFTER THE CHILD IS PLACED IN DETENTION OR SHELTER CARE TO DETERMINE WHETHER HIS DETENTION OR SHELTER CARE IS REQUIRED UNDER SECTION 6325 (RELATING TO DETENTION OF CHILD) AND IF THE CHILD IS ALLEGED TO BE DELINQUENT, THAT PROBABLE CAUSE EXISTS THAT THE CHILD HAS COMMITTED A DELINQUENT ACT. REASONABLE NOTICE THEREOF, EITHER ORAL OR WRITTEN, STATING THE TIME, PLACE, AND PURPOSE OF THE [DETENTION] HEARING SHALL BE GIVEN TO THE CHILD AND IF THEY CAN BE FOUND, TO HIS PARENTS, GUARDIAN, OR OTHER CUSTODIAN. PRIOR TO THE COMMENCEMENT OF THE HEARING THE COURT OR MASTER SHALL INFORM THE PARTIES OF THEIR RIGHT TO COUNSEL AND TO APPOINTED COUNSEL IF THEY ARE NEEDY PERSONS, AND OF THE RIGHT OF THE CHILD TO REMAIN SILENT WITH RESPECT TO ANY ALLEGATIONS OF DELINQUENCY.

* * *

§ 6335. [SUMMONS.] RELEASE OR HOLDING OF HEARING.

1 (A) GENERAL RULE.--AFTER THE PETITION HAS BEEN FILED THE
2 COURT SHALL FIX A TIME FOR HEARING THEREON, WHICH, IF THE CHILD
3 IS IN DETENTION OR SHELTER CARE SHALL NOT BE LATER THAN TEN DAYS
4 AFTER THE FILING OF THE PETITION. IF THE HEARING IS NOT HELD
5 WITHIN SUCH TIME, THE CHILD SHALL BE IMMEDIATELY RELEASED FROM
6 DETENTION OR SHELTER CARE. A CHILD MAY BE DETAINED OR KEPT IN
7 SHELTER CARE FOR AN ADDITIONAL SINGLE PERIOD NOT TO EXCEED TEN
8 DAYS WHERE:

9 (1) THE COURT DETERMINES AT A HEARING THAT:

10 (I) EVIDENCE MATERIAL TO THE CASE IS UNAVAILABLE;

11 (II) DUE DILIGENCE TO OBTAIN SUCH EVIDENCE HAS BEEN
12 EXERCISED; AND

13 (III) THERE ARE REASONABLE GROUNDS TO BELIEVE THAT
14 SUCH EVIDENCE WILL BE AVAILABLE AT A LATER DATE; AND

15 (2) THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE
16 THAT:

17 (I) THE LIFE OF THE CHILD WOULD BE IN DANGER;

18 (II) THE COMMUNITY WOULD BE EXPOSED TO A SPECIFIC
19 DANGER; OR

20 (III) THE CHILD WILL ABSCOND OR BE REMOVED FROM THE
21 JURISDICTION OF THE COURT.

22 THE COURT SHALL DIRECT THE ISSUANCE OF A SUMMONS TO THE PARENTS,
23 GUARDIAN, OR OTHER CUSTODIAN, A GUARDIAN AD LITEM, AND ANY OTHER
24 PERSONS AS APPEAR TO THE COURT TO BE PROPER OR NECESSARY PARTIES
25 TO THE PROCEEDING, REQUIRING THEM TO APPEAR BEFORE THE COURT AT
26 THE TIME FIXED TO ANSWER THE ALLEGATIONS OF THE PETITION. THE
27 SUMMONS SHALL ALSO BE DIRECTED TO THE CHILD IF HE IS 14 OR MORE
28 YEARS OF AGE OR IS ALLEGED TO BE A DELINQUENT. A COPY OF THE
29 PETITION SHALL ACCOMPANY THE SUMMONS.

30 * * *

1 § 6339. INVESTIGATION AND REPORT.

2 (A) GENERAL RULE.--IF THE ALLEGATIONS OF A PETITION ARE
3 ADMITTED BY A PARTY OR NOTICE OF HEARING UNDER SECTION 6355
4 (RELATING TO TRANSFER TO CRIMINAL PROCEEDINGS) HAS BEEN GIVEN,
5 THE COURT, PRIOR TO THE HEARING ON NEED FOR TREATMENT OR
6 DISPOSITION, MAY DIRECT THAT A SOCIAL STUDY AND REPORT IN
7 WRITING TO THE COURT BE MADE BY AN OFFICER OF THE COURT OR OTHER
8 PERSON DESIGNATED BY THE COURT, CONCERNING THE CHILD, HIS
9 FAMILY, HIS ENVIRONMENT, AND OTHER MATTERS RELEVANT TO
10 DISPOSITION OF THE CASE. IF THE ALLEGATIONS OF THE PETITION ARE
11 NOT ADMITTED AND NOTICE OF A HEARING UNDER SECTION 6355 HAS NOT
12 BEEN GIVEN, THE COURT SHALL NOT DIRECT THE MAKING OF THE STUDY
13 AND REPORT UNTIL AFTER THE COURT HAS [HEARD] HELD A HEARING ON
14 THE PETITION UPON NOTICE OF HEARING GIVEN PURSUANT TO THIS
15 CHAPTER AND THE COURT HAS FOUND THAT THE CHILD COMMITTED A
16 DELINQUENT ACT OR IS A [DEPRIVED] DEPENDENT CHILD.

17 * * *

18 § 6340. CONSENT DECREE.

19 * * *

20 (C) DURATION OF DECREE.--A CONSENT DECREE SHALL REMAIN IN
21 FORCE FOR SIX MONTHS UNLESS THE CHILD IS DISCHARGED SOONER BY
22 PROBATION SERVICES WITH THE APPROVAL OF THE COURT. UPON
23 APPLICATION OF THE PROBATION SERVICES OR OTHER AGENCY
24 SUPERVISING THE CHILD, MADE BEFORE EXPIRATION OF THE SIX-MONTH
25 PERIOD, A CONSENT DECREE MAY BE EXTENDED BY THE COURT FOR AN
26 ADDITIONAL SIX MONTHS.

27 * * *

28 § 6341. ADJUDICATION.

29 (A) GENERAL RULE.--AFTER HEARING THE EVIDENCE ON THE
30 PETITION THE COURT SHALL MAKE AND FILE ITS FINDINGS AS TO

1 WHETHER THE CHILD IS A [DEPRIVED] DEPENDENT CHILD, OR IF THE
2 PETITION ALLEGES THAT THE CHILD IS DELINQUENT, WHETHER THE ACTS
3 ASCRIBED TO THE CHILD WERE COMMITTED BY HIM. IF THE COURT FINDS
4 THAT THE CHILD IS NOT A [DEPRIVED] 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.

9 (B) FINDING OF DELINQUENCY.--IF THE COURT FINDS ON PROOF
10 BEYOND A REASONABLE DOUBT THAT THE CHILD COMMITTED THE ACTS BY
11 REASON OF WHICH HE IS ALLEGED TO BE DELINQUENT IT SHALL ENTER
12 SUCH FINDING ON THE RECORD AND IT SHALL THEN PROCEED IMMEDIATELY
13 OR AT A POSTPONED HEARING, WHICH SHALL OCCUR NOT LATER THAN 20
14 DAYS AFTER ADJUDICATION IF THE CHILD IS IN DETENTION, TO HEAR
15 EVIDENCE AS TO WHETHER THE CHILD IS IN NEED OF TREATMENT,
16 SUPERVISION OR REHABILITATION AND TO MAKE AND FILE ITS FINDINGS
17 THEREON. IN THE ABSENCE OF EVIDENCE TO THE CONTRARY, EVIDENCE OF
18 THE COMMISSION OF ACTS WHICH CONSTITUTE A FELONY SHALL BE
19 SUFFICIENT TO SUSTAIN A FINDING THAT THE CHILD IS IN NEED OF
20 TREATMENT, SUPERVISION OR REHABILITATION. IF THE COURT FINDS
21 THAT THE CHILD IS NOT IN NEED OF TREATMENT, SUPERVISION OR
22 REHABILITATION IT SHALL DISMISS THE PROCEEDING AND DISCHARGE THE
23 CHILD FROM ANY DETENTION OR OTHER RESTRICTION THERETOFORE
24 ORDERED.

25 (C) FINDING OF [DEPRIVATION] DEPENDENCY.--IF THE COURT FINDS
26 FROM CLEAR AND CONVINCING EVIDENCE THAT THE CHILD IS [DEPRIVED]
27 DEPENDENT, THE COURT SHALL PROCEED IMMEDIATELY OR AT A POSTPONED
28 HEARING, WHICH SHALL OCCUR NOT LATER THAN 20 DAYS AFTER
29 ADJUDICATION IF THE CHILD HAS BEEN REMOVED FROM HIS HOME, TO
30 MAKE A PROPER DISPOSITION OF THE CASE.

* * *

§ 6351. DISPOSITION OF [DEPRIVED] DEPENDENT CHILD.

(A) GENERAL RULE.--IF THE CHILD IS FOUND TO BE A [DEPRIVED] DEPENDENT CHILD THE COURT MAY MAKE ANY OF THE FOLLOWING ORDERS OF DISPOSITION BEST SUITED TO THE PROTECTION AND PHYSICAL, MENTAL, AND MORAL WELFARE OF THE CHILD:

(1) PERMIT THE CHILD TO REMAIN WITH HIS PARENTS, GUARDIAN, OR OTHER CUSTODIAN, SUBJECT TO CONDITIONS AND LIMITATIONS AS THE COURT PRESCRIBES, INCLUDING SUPERVISION AS DIRECTED BY THE COURT FOR THE PROTECTION OF THE CHILD.

(2) SUBJECT TO CONDITIONS AND LIMITATIONS AS THE COURT PRESCRIBES TRANSFER TEMPORARY LEGAL CUSTODY TO ANY OF THE FOLLOWING:

(I) ANY INDIVIDUAL RESIDENT WITHIN OR WITHOUT THIS COMMONWEALTH WHO, AFTER STUDY BY THE PROBATION OFFICER OR OTHER PERSON OR AGENCY DESIGNATED BY THE COURT, IS FOUND BY THE COURT TO BE QUALIFIED TO RECEIVE AND CARE FOR THE CHILD.

(II) AN AGENCY OR OTHER PRIVATE ORGANIZATION LICENSED OR OTHERWISE AUTHORIZED BY LAW TO RECEIVE AND PROVIDE CARE FOR THE CHILD.

(III) A PUBLIC AGENCY AUTHORIZED BY LAW TO RECEIVE AND PROVIDE CARE FOR THE CHILD.

(3) WITHOUT MAKING ANY OF THE FOREGOING ORDERS TRANSFER CUSTODY OF THE CHILD TO THE JUVENILE COURT OF ANOTHER STATE IF AUTHORIZED BY AND IN ACCORDANCE WITH SECTION 6363 (RELATING TO ORDERING FOREIGN SUPERVISION).

(B) LIMITATION ON CONFINEMENT.--UNLESS A CHILD FOUND TO BE [DEPRIVED] DEPENDENT IS FOUND ALSO TO BE DELINQUENT HE SHALL NOT BE COMMITTED TO OR CONFINED IN AN INSTITUTION OR OTHER FACILITY

DESIGNED OR OPERATED FOR THE BENEFIT OF DELINQUENT CHILDREN.

(C) COUNTY PROGRAMS.--EVERY COUNTY OF THIS COMMONWEALTH SHALL DEVELOP PROGRAMS FOR CHILDREN UNDER PARAGRAPH (5) OR (6) OF THE DEFINITION OF "DEPENDENT CHILD" IN SECTION 6302 (RELATING TO DEFINITIONS).

§ 6352. DISPOSITION OF DELINQUENT CHILD.

(A) GENERAL RULE.--IF THE CHILD IS FOUND TO BE A DELINQUENT CHILD THE COURT MAY MAKE ANY OF THE FOLLOWING ORDERS OF DISPOSITION BEST SUITED TO HIS TREATMENT, SUPERVISION, REHABILITATION, AND WELFARE:

(1) ANY ORDER AUTHORIZED BY SECTION 6351 (RELATING TO DISPOSITION OF [DEPRIVED] DEPENDENT CHILD).

(2) PLACING THE CHILD ON PROBATION UNDER SUPERVISION OF THE PROBATION OFFICER OF THE COURT OR THE COURT OF ANOTHER STATE AS PROVIDED IN SECTION 6363 (RELATING TO ORDERING FOREIGN SUPERVISION), UNDER CONDITIONS AND LIMITATIONS THE COURT PRESCRIBES.

(3) COMMITTING THE CHILD TO AN INSTITUTION, YOUTH DEVELOPMENT CENTER, CAMP, OR OTHER FACILITY FOR DELINQUENT CHILDREN OPERATED UNDER THE DIRECTION OR SUPERVISION OF THE COURT OR OTHER PUBLIC AUTHORITY AND APPROVED BY THE DEPARTMENT OF PUBLIC WELFARE.

(4) [COMMITTING] IF THE CHILD IS 12 YEARS OF AGE OR OLDER, COMMITTING THE CHILD TO AN INSTITUTION OPERATED BY THE DEPARTMENT OF PUBLIC WELFARE. [OR SPECIAL FACILITY FOR CHILDREN OPERATED BY THE DEPARTMENT OF JUSTICE.]

(5) ORDERING PAYMENT BY THE CHILD OF REASONABLE AMOUNTS OF MONEY AS FINES, COSTS OR RESTITUTION AS DEEMED APPROPRIATE AS PART OF THE PLAN OF REHABILITATION CONSIDERING THE NATURE OF THE ACTS COMMITTED AND THE EARNING CAPACITY OF THE CHILD.

1 (6) AN ORDER OF THE TERMS OF PROBATION MAY INCLUDE AN
2 APPROPRIATE FINE CONSIDERING THE NATURE OF THE ACT COMMITTED
3 OR RESTITUTION NOT IN EXCESS OF ACTUAL DAMAGES CAUSED BY THE
4 CHILD WHICH SHALL BE PAID FROM THE EARNINGS OF THE CHILD
5 RECEIVED THROUGH PARTICIPATION IN A CONSTRUCTIVE PROGRAM OF
6 SERVICE OR EDUCATION ACCEPTABLE TO THE VICTIM AND THE COURT
7 WHEREBY, DURING THE COURSE OF SUCH SERVICE, THE CHILD SHALL
8 BE PAID NOT LESS THAN THE MINIMUM WAGE OF THIS COMMONWEALTH.
9 IN ORDERING SUCH SERVICE, THE COURT SHALL TAKE INTO
10 CONSIDERATION THE AGE, PHYSICAL AND MENTAL CAPACITY OF THE
11 CHILD AND THE SERVICE SHALL BE DESIGNED TO IMPRESS UPON THE
12 CHILD A SENSE OF RESPONSIBILITY FOR THE INJURIES CAUSED TO
13 THE PERSON OR PROPERTY OF ANOTHER. THE ORDER OF THE COURT
14 SHALL BE LIMITED IN DURATION CONSISTENT WITH THE LIMITATIONS
15 IN SECTION 6353 (RELATING TO LIMITATION ON AND CHANGE IN
16 PLACE OF COMMITMENT) AND IN THE ACT OF MAY 13, 1915 (P.L.286,
17 NO.177), KNOWN AS THE "CHILD LABOR LAW." THE COURT ORDER
18 SHALL SPECIFY THE NATURE OF THE WORK, THE NUMBER OF HOURS TO
19 BE SPENT PERFORMING THE ASSIGNED TASKS, AND SHALL FURTHER
20 SPECIFY THAT AS PART OF A PLAN OF TREATMENT AND
21 REHABILITATION THAT UP TO 75% OF THE EARNINGS OF THE CHILD BE
22 USED FOR RESTITUTION IN ORDER TO PROVIDE POSITIVE
23 REINFORCEMENT FOR THE WORK PERFORMED.
24 IN SELECTING FROM THE ALTERNATIVES SET FORTH IN THIS SECTION,
25 THE COURT SHALL FOLLOW THE GENERAL PRINCIPLE THAT THE
26 DISPOSITION IMPOSED SHOULD PROVIDE THE MEANS THROUGH WHICH THE
27 PROVISIONS OF THIS CHAPTER ARE EXECUTED AND ENFORCED CONSISTENT
28 WITH SECTION 6301(B) (RELATING TO PURPOSES) AND WHEN CONFINEMENT
29 IS NECESSARY, THE COURT SHALL IMPOSE THE MINIMUM AMOUNT OF
30 CONFINEMENT THAT IS CONSISTENT WITH THE PROTECTION OF THE PUBLIC

1 AND THE REHABILITATION NEEDS OF THE CHILD.

2 (B) LIMITATION ON PLACE OF COMMITMENT.--A CHILD SHALL NOT BE
3 COMMITTED OR TRANSFERRED TO A PENAL INSTITUTION OR OTHER
4 FACILITY USED PRIMARILY FOR THE EXECUTION OF SENTENCES OF ADULTS
5 CONVICTED OF A CRIME. [UNLESS THERE IS NO OTHER APPROPRIATE
6 FACILITY AVAILABLE, IN WHICH CASE THE CHILD SHALL BE KEPT
7 SEPARATE AND APART FROM SUCH ADULTS AT ALL TIMES.]

8 § 6353. LIMITATION ON [LENGTH] AND CHANGE IN PLACE
9 OF COMMITMENT.

10 (A) GENERAL RULE.--NO CHILD SHALL INITIALLY BE COMMITTED TO
11 AN INSTITUTION FOR A PERIOD LONGER THAN THREE YEARS OR A PERIOD
12 LONGER THAN HE COULD HAVE BEEN SENTENCED BY THE COURT IF HE HAD
13 BEEN CONVICTED OF THE SAME OFFENSE AS AN ADULT, WHICHEVER IS
14 LESS. THE INITIAL COMMITMENT MAY BE EXTENDED FOR A SIMILAR
15 PERIOD OF TIME, OR MODIFIED, IF THE COURT FINDS AFTER HEARING
16 THAT THE EXTENSION OR MODIFICATION WILL EFFECTUATE THE ORIGINAL
17 PURPOSE FOR WHICH THE ORDER WAS ENTERED. THE CHILD SHALL HAVE
18 NOTICE OF THE EXTENSION OR MODIFICATION HEARING AND SHALL BE
19 GIVEN AN OPPORTUNITY TO BE HEARD. THE COMMITTING COURT SHALL
20 REVIEW EACH COMMITMENT EVERY SIX MONTHS AND SHALL HOLD A
21 DISPOSITION REVIEW HEARING AT LEAST EVERY [12] NINE MONTHS.

22 (B) TRANSFER TO OTHER INSTITUTION.--AFTER PLACEMENT OF THE
23 CHILD, AND IF HIS PROGRESS WITH THE INSTITUTION WARRANTS IT, THE
24 INSTITUTION MAY SEEK TO TRANSFER THE CHILD TO A LESS SECURE
25 FACILITY, INCLUDING A GROUP HOME OR FOSTER BOARDING HOME. THE
26 INSTITUTION SHALL GIVE THE COMMITTING COURT WRITTEN NOTICE OF
27 THE TRANSFER. IF THE COURT DOES NOT OBJECT TO SUCH TRANSFER
28 WITHIN TEN DAYS AFTER RECEIPT OF THE NOTICE, THE TRANSFER MAY BE
29 EFFECTUATED. IF THE COURT OBJECTS TO THE TRANSFER, IT SHALL HOLD
30 A HEARING WITHIN 20 DAYS AFTER OBJECTING TO THE TRANSFER FOR THE

1 PURPOSE OF REVIEWING ITS COMMITMENT ORDER. IF THE INSTITUTION
2 SEEKS TO TRANSFER TO A MORE SECURE FACILITY THE CHILD SHALL HAVE
3 A FULL HEARING BEFORE THE COMMITTING COURT. AT THE HEARING, THE
4 COURT MAY REAFFIRM OR MODIFY ITS COMMITMENT ORDER.

5 (C) NOTICE OF AVAILABLE FACILITIES AND SERVICES.--
6 IMMEDIATELY AFTER THE COMMONWEALTH ADOPTS ITS BUDGET, THE
7 DEPARTMENT OF PUBLIC WELFARE SHALL NOTIFY THE COURTS AND THE
8 GENERAL ASSEMBLY, FOR EACH DEPARTMENT OF PUBLIC WELFARE REGION,
9 OF THE AVAILABLE:

10 (1) SECURE BEDS FOR THE SERIOUS JUVENILE OFFENDERS.

11 (2) GENERAL RESIDENTIAL BEDS FOR THE ADJUDICATED
12 DELINQUENT CHILD.

13 (3) THE COMMUNITY-BASED PROGRAMS FOR THE ADJUDICATED
14 DELINQUENT CHILD.

15 IF THE POPULATION AT A PARTICULAR INSTITUTION OR PROGRAM EXCEEDS
16 110% OF CAPACITY, THE DEPARTMENT SHALL NOTIFY THE COURTS AND THE
17 GENERAL ASSEMBLY THAT INTAKE TO THAT INSTITUTION OR PROGRAM IS
18 TEMPORARILY CLOSED AND SHALL MAKE AVAILABLE EQUIVALENT SERVICES
19 TO CHILDREN IN EQUIVALENT FACILITIES.

20 SECTION 10. SECTIONS 6355(A), 6361(A) AND (C) AND 6362 OF
21 TITLE 42, ADDED JULY 9, 1976 (P.L.586, NO.142), ARE AMENDED TO
22 READ:

23 § 6355. TRANSFER TO CRIMINAL PROCEEDINGS.

24 (A) GENERAL RULE.--AFTER A PETITION HAS BEEN FILED ALLEGING
25 DELINQUENCY BASED ON CONDUCT WHICH IS DESIGNATED A CRIME OR
26 PUBLIC OFFENSE UNDER THE LAWS, INCLUDING LOCAL ORDINANCES, OF
27 THIS COMMONWEALTH, THE COURT BEFORE HEARING THE PETITION ON ITS
28 MERITS MAY RULE THAT THIS CHAPTER IS NOT APPLICABLE AND THAT THE
29 OFFENSE SHOULD BE PROSECUTED, AND TRANSFER THE OFFENSE, WHERE
30 APPROPRIATE, TO THE DIVISION OR A JUDGE OF THE COURT ASSIGNED TO

1 CONDUCT CRIMINAL PROCEEDINGS, FOR PROSECUTION OF THE OFFENSE IF
2 ALL OF THE FOLLOWING EXIST:

3 (1) THE CHILD WAS 14 OR MORE YEARS OF AGE AT THE TIME OF
4 THE ALLEGED CONDUCT.

5 (2) A HEARING ON WHETHER THE TRANSFER SHOULD BE MADE IS
6 HELD IN CONFORMITY WITH THIS CHAPTER.

7 (3) NOTICE IN WRITING OF THE TIME, PLACE, AND PURPOSE OF
8 THE HEARING IS GIVEN TO THE CHILD AND HIS PARENTS, GUARDIAN,
9 OR OTHER CUSTODIAN AT LEAST THREE DAYS BEFORE THE HEARING.

10 (4) THE COURT FINDS:

11 (I) THAT THERE IS A PRIMA FACIE CASE THAT THE CHILD
12 COMMITTED THE DELINQUENT ACT ALLEGED; [AND THE COURT
13 FINDS]

14 (II) THAT THE DELINQUENT ACT WOULD BE CONSIDERED A
15 FELONY IF COMMITTED BY AN ADULT; AND

16 (III) THAT THERE ARE REASONABLE GROUNDS TO BELIEVE
17 ALL OF THE FOLLOWING:

18 [(I)](A) THAT THE CHILD IS NOT AMENABLE TO
19 TREATMENT, SUPERVISION OR REHABILITATION AS A
20 JUVENILE THROUGH AVAILABLE FACILITIES. IN DETERMINING
21 THIS THE COURT MAY CONSIDER AGE, MENTAL CAPACITY,
22 MATURITY, PREVIOUS RECORDS AND PROBATION OR
23 INSTITUTIONAL REPORTS.

24 [(II)](B) THAT THE CHILD IS NOT COMMITTABLE TO
25 AN INSTITUTION FOR THE MENTALLY RETARDED OR MENTALLY
26 ILL.

27 [(III)](C) THAT THE INTERESTS OF THE COMMUNITY
28 REQUIRE THAT THE CHILD BE PLACED UNDER LEGAL
29 RESTRAINT OR DISCIPLINE OR THAT THE OFFENSE IS ONE
30 WHICH WOULD CARRY A SENTENCE OF MORE THAN THREE YEARS

1 IF COMMITTED AS AN ADULT.

2 * * *

3 § 6361. DISPOSITION OF NONRESIDENT CHILD.

4 (A) GENERAL RULE.--IF THE COURT FINDS THAT A CHILD WHO HAS
5 BEEN ADJUDGED TO HAVE COMMITTED A DELINQUENT ACT OR TO BE
6 [DEPRIVED] DEPENDENT IS OR IS ABOUT TO BECOME A RESIDENT OF
7 ANOTHER STATE WHICH HAS ADOPTED THE UNIFORM JUVENILE COURT ACT,
8 OR A SUBSTANTIALLY SIMILAR LAW WHICH INCLUDES PROVISIONS
9 CORRESPONDING TO THIS SECTION AND SECTION 6362 (RELATING TO
10 DISPOSITION OF RESIDENT CHILD RECEIVED FROM ANOTHER STATE), THE
11 COURT MAY DEFER HEARING ON NEED OF TREATMENT AND DISPOSITION AND
12 REQUEST BY ANY APPROPRIATE MEANS THE APPROPRIATE COURT OF THE
13 COUNTY OR PARISH OF THE RESIDENCE OR PROSPECTIVE RESIDENCE OF
14 THE CHILD TO ACCEPT JURISDICTION OF THE CHILD.

15 * * *

16 (C) PROCEDURE FOR TRANSFER.--UPON RECEIPT AND FILING OF AN
17 ACCEPTANCE THE COURT OF THIS COMMONWEALTH SHALL TRANSFER CUSTODY
18 OF THE CHILD TO THE ACCEPTING COURT AND CAUSE HIM TO BE
19 DELIVERED TO THE PERSON DESIGNATED BY THAT COURT TO RECEIVE HIS
20 CUSTODY. IT ALSO SHALL PROVIDE THE ACCEPTING COURT WITH
21 CERTIFIED COPIES OF THE ORDER ADJUDGING THE CHILD TO BE A
22 DELINQUENT, OR [DEPRIVED] DEPENDENT CHILD, OF THE ORDER OF
23 TRANSFER, AND IF THE CHILD IS ON PROBATION OR UNDER PROTECTIVE
24 SUPERVISION UNDER ORDER OF THE COURT, OF THE ORDER OF
25 DISPOSITION. IT ALSO SHALL PROVIDE THE ACCEPTING COURT WITH A
26 STATEMENT OF THE FACTS FOUND BY THE COURT OF THIS COMMONWEALTH
27 AND ANY RECOMMENDATIONS AND OTHER INFORMATION OR DOCUMENTS IT
28 CONSIDERS OF ASSISTANCE TO THAT COURT IN MAKING A DISPOSITION OF
29 THE CASE OR IN SUPERVISING THE CHILD ON PROBATION OR OTHERWISE.

30 * * *

§ 6362. DISPOSITION OF RESIDENT CHILD RECEIVED FROM ANOTHER
STATE.

(A) GENERAL RULE.--IF A JUVENILE COURT OF ANOTHER STATE
WHICH HAS ADOPTED THE UNIFORM JUVENILE COURT ACT, OR A
SUBSTANTIALLY SIMILAR LAW WHICH INCLUDES PROVISIONS
CORRESPONDING TO SECTION 6361 (RELATING TO DISPOSITION OF
NONRESIDENT CHILD) AND THIS SECTION, REQUESTS A COURT OF THIS
COMMONWEALTH TO ACCEPT JURISDICTION OF A CHILD FOUND BY THE
REQUESTING COURT TO HAVE COMMITTED A DELINQUENT ACT OR TO BE AN
UNRULY OR [DEPRIVED] DEPENDENT CHILD, AND THE COURT OF THIS
COMMONWEALTH FINDS, AFTER INVESTIGATION THAT THE CHILD IS, OR IS
ABOUT TO BECOME, A RESIDENT OF A COUNTY FOR WHICH THE COURT IS
ESTABLISHED, THE COURT SHALL PROMPTLY AND NOT LATER THAN 14 DAYS
AFTER RECEIVING THE REQUEST ISSUE ITS ACCEPTANCE IN WRITING TO
THE REQUESTING COURT AND DIRECT ITS PROBATION OFFICER OR OTHER
PERSON DESIGNATED BY IT TO TAKE PHYSICAL CUSTODY OF THE CHILD
FROM THE REQUESTING COURT AND BRING HIM BEFORE THE COURT OF THIS
COMMONWEALTH OR MAKE OTHER APPROPRIATE PROVISIONS FOR HIS
APPEARANCE BEFORE THE COURT.

(B) HEARING ON FURTHER DISPOSITION.--UPON THE FILING OF
CERTIFIED COPIES OF THE ORDERS OF THE REQUESTING COURT:

(1) DETERMINING THAT THE CHILD COMMITTED A DELINQUENT
ACT OR IS AN UNRULY OR [DEPRIVED] DEPENDENT CHILD; AND

(2) COMMITTING THE CHILD TO THE JURISDICTION OF THE
COURT OF THIS COMMONWEALTH;

THE COURT OF THIS COMMONWEALTH SHALL IMMEDIATELY FIX A TIME FOR
A HEARING ON THE NEED FOR TREATMENT, SUPERVISION OR
REHABILITATION AND DISPOSITION OF THE CHILD OR ON THE
CONTINUANCE OF ANY PROBATION OR PROTECTIVE SUPERVISION.

(C) FURTHER PROCEEDINGS.--THE HEARING AND NOTICE THEREOF AND

1 ALL SUBSEQUENT PROCEEDINGS ARE GOVERNED BY THIS CHAPTER. THE
2 COURT MAY MAKE ANY ORDER OF DISPOSITION PERMITTED BY THE FACTS
3 AND THIS CHAPTER. THE ORDERS OF THE REQUESTING COURT ARE
4 CONCLUSIVE THAT THE CHILD COMMITTED THE DELINQUENT ACT OR IS AN
5 UNRULY OR [DEPRIVED] DEPENDENT CHILD AND OF THE FACTS FOUND BY
6 THE COURT IN MAKING THE ORDERS. IF THE REQUESTING COURT HAS MADE
7 AN ORDER PLACING THE CHILD ON PROBATION OR UNDER PROTECTIVE
8 SUPERVISION, A LIKE ORDER SHALL BE ENTERED BY THE COURT OF THIS
9 COMMONWEALTH.

10 SECTION 11. COUNTY LIABILITY FOR NEW SHELTER CARE PROGRAM
11 OPERATING COSTS.

12 EXCLUDING PROBATION SERVICES, NO COUNTY SHALL BE REQUIRED TO
13 PAY MORE THAN 10% OF THE COSTS OF OPERATING NEW SHELTER CARE
14 PROGRAMS REQUIRED TO IMPLEMENT THE RECLASSIFICATION PROVIDED FOR
15 IN PARAGRAPH (6) OF THE DEFINITION OF "DEPENDENT CHILD" IN 42
16 PA.C.S. § 6302, (RELATING TO DEFINITIONS) PROVIDED THAT:

17 (1) THE COUNTY HAS APPLIED FOR EXISTING FEDERAL FUNDS TO
18 IMPLEMENT PARAGRAPH (6) OF THE DEFINITION OF "DEPENDENT
19 CHILD" IN 42 PA.C.S. § 6302;

20 (2) THE COUNTY HAS NOT BEEN DEEMED INELIGIBLE FOR THESE
21 FEDERAL FUNDS; AND

22 (3) THE PROGRAMS ARE APPROVED AS NECESSARY BY THE
23 DEPARTMENT OF PUBLIC WELFARE TO IMPLEMENT PARAGRAPH (6) OF
24 THE DEFINITION OF "DEPENDENT CHILD" IN 42 PA.C.S. § 6302.
25 FOR THE PURPOSES OF THIS SECTION, SHELTER CARE SHALL NOT INCLUDE
26 INSTITUTIONAL FACILITIES.

27 SECTION 12. APPLICABILITY OF STATUTORY CONSTRUCTION ACT.

28 THE PROVISIONS OF 1 PA.C.S. § 1952 (RELATING TO EFFECT OF
29 SEPARATE AMENDMENTS ON CODE PROVISIONS ENACTED BY SAME GENERAL
30 ASSEMBLY) AND 1 PA.C.S. § 1974 (RELATING TO EFFECT OF SEPARATE

1 REPEALS ON CODE PROVISIONS BY SAME GENERAL ASSEMBLY) SHALL BE
2 APPLICABLE TO THIS ACT.

3 SECTION 13. REPEALS.

4 (A) GENERAL RULE.--EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN
5 THIS SUBSECTION, THE FOLLOWING ACTS AND PARTS OF ACTS ARE HEREBY
6 REPEALED ABSOLUTELY:

7 SECOND SENTENCE OF SECTION 3, ACT OF AUGUST 3, 1977
8 (NO.41), ENTITLED "AN ACT AMENDING THE ACT OF DECEMBER 6,
9 1972 (P.L.1464, NO.333), ENTITLED 'AN ACT RELATING TO THE
10 CARE, GUIDANCE, CONTROL, TRIAL, PLACEMENT AND COMMITMENT OF
11 DELINQUENT AND DEPRIVED CHILDREN,' FURTHER DEFINING "CHILD,"
12 "DELINQUENT ACT," AND "DEPRIVED CHILD," FURTHER DEFINING
13 CERTAIN WORDS, CHANGING CERTAIN REFERENCES FROM "DEPRIVED" TO
14 "DEPENDENT," FURTHER PROVIDING FOR INFORMAL ADJUSTMENT AND
15 CONSENT DECREES, FURTHER REGULATING DETENTION AND SHELTER
16 CARE AND IMPOSING CERTAIN DUTIES ON COUNTIES AND THE
17 DEPARTMENT OF PUBLIC WELFARE, FURTHER PROVIDING FOR TRANSFERS
18 AND FOR THE DISCLOSURE OF CERTAIN RECORDS, MAKING RELATED
19 CHANGES AND MAKING CERTAIN REPEALS AND PROVIDING AN
20 APPROPRIATION."

21 ACT OF AUGUST 8, 1977 (NO.50), ENTITLED "AN ACT PROVIDING
22 THE COMMONWEALTH WITH THE RIGHT TO JURY TRIALS IN CRIMINAL
23 CASES."

24 (B) CONSTRUCTION OF SECTION.--THE REPEALS SET FORTH IN
25 SUBSECTION (A) ARE INTENDED AS A CONTINUATION OF THE REPEALS
26 CONTAINED IN SECTION 2 OF SENATE BILL NO. 767, KNOWN AS THE
27 "JUDICIARY ACT REPEALER ACT OF 1977," AND SHALL BE CONSTRUED IN
28 PARI MATERIA THEREWITH.

29 Section ~~2~~ 14. This act shall take effect immediately.

<—