

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 750

Session of
1981

INTRODUCED BY FREIND, J. L. WRIGHT, CIMINI, BROWN, PITTS,
MADIGAN, HALUSKA, ALDEN, HORGOS, E. Z. TAYLOR, L. E. SMITH,
JOHNSON, CALTAGIRONE, PERZEL, GALLAGHER, BLAUM, VROON,
TRELLO, SEVENTY, MILLER, RAPPAPORT, GANNON, PETERSON, NOYE,
ROCKS, MACKOWSKI, GRAY, MRKONIC, FISCHER, PRATT, KANUCK,
MICOZZIE, CUNNINGHAM, GEIST, ARTY, LETTERMAN, SPITZ, DAVIES,
HOEFFEL, MCINTYRE AND CIVERA, MARCH 9, 1981

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 9, 1981

AN ACT

1 Reenacting and amending the act of July 27, 1967 (P.L.186,
2 No.58), entitled "An act imposing liability upon parents for
3 personal injury, or theft, destruction, or loss of property
4 caused by the wilful, tortious acts of children under
5 eighteen years of age, setting forth limitations, and
6 providing procedure for recovery," further providing for the
7 liability of parents.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The act of July 27, 1967 (P.L.186, No.58),
11 entitled "An act imposing liability upon parents for personal
12 injury, or theft, destruction, or loss of property caused by the
13 wilful, tortious acts of children under eighteen years of age,
14 setting forth limitations, and providing procedure for
15 recovery," is reenacted and amended to read:

16 Section 1. As used in this act:

17 (1) "Person" includes natural persons, partnerships,
18 associations, private and public corporations, authorities,

1 fiduciaries, the United States and any governmental agency
2 thereof, and the Commonwealth of Pennsylvania and any agency or
3 political subdivision thereof.

4 (2) "Parent" includes natural or adoptive parents.

5 (3) "Court" includes the minor judiciary and the courts of
6 common pleas.

7 (4) "Proceeding of a criminal nature" includes a prosecution
8 for murder or any felony, misdemeanor or summary offense.

9 Section 2. Any parent whose child under the age of eighteen
10 years is found liable or is adjudged guilty or adjudicated
11 delinquent by a court of competent jurisdiction of a wilful,
12 tortious act resulting in injury to the person, or theft,
13 destruction or loss of property of another, shall be liable to
14 the Commonwealth for the payment of any fines and penalties
15 assessed in a criminal or juvenile proceeding and to the person
16 who suffers the injury, theft, destruction or loss, to the
17 extent hereinafter set forth.

18 Section 3. (a) In any proceeding of a criminal nature
19 against a child under the age of eighteen years and in any
20 delinquency proceeding against a child [in a juvenile court]
21 brought pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile
22 matters), the court:

23 (1) shall ascertain the amount sufficient to fully reimburse
24 any person who has suffered injury to the person, or theft,
25 destruction or loss of property because of the wilful, tortious
26 act of the child, and direct the parents or either of them to
27 make payment in the amount not to exceed the limitations set
28 forth in section 4 hereof. If the parents fail to comply with
29 the direction of the court, the amount may be recovered in an
30 action of assumpsit against the parents or either of them[.];

1 and

2 (2) may order any fines and penalties assessed against the
3 child to be paid by the child's parents or either of them for
4 acts attributable to the child if the court is otherwise
5 authorized to impose fines and penalties against the child
6 individually. The legal responsibility for payment of the fines
7 and penalties imposed against the parents shall not exceed the
8 limitations set forth in section 4. At the time any fines and
9 penalties are assessed against the parents of a child pursuant
10 to this paragraph, the court shall give notice to the parents of
11 their liability for the fines and penalties and of their right
12 to a hearing within thirty days on any unlitigated facts
13 relating to their liability. If there is no dispute as to any
14 unlitigated facts and if the fines and penalties have not been
15 paid within the thirty-day period, the court shall authorize the
16 entry of a judgment against the parents. If there is a dispute
17 as to any unlitigated facts, the case shall be set down for
18 trial.

19 (b) If a judgment has been rendered against the child for
20 injury to the person, or theft, destruction, or loss of property
21 because of the wilful, tortious act of the child in a civil
22 proceeding and such judgment has not been satisfied within a
23 period of thirty days, the injured person may petition the court
24 for a rule to show cause why judgment should not be entered
25 against the parent. A parent shall have the right to file an
26 answer to said petition and if there is any dispute as to
27 unlitigated facts, the case shall be set down for trial. If
28 there is no dispute as to the unlitigated facts, the court shall
29 authorize the entry of a judgment against the parent. In no case
30 shall the judgment against the parent exceed the limitations set

1 forth in section 4 hereof.

2 (c) For the purposes of actions brought against parents
3 pursuant to this section, the court shall, upon request, release
4 to any person who suffered the injury, theft, destruction or
5 loss, or to the attorney for the Commonwealth, as the case may
6 be, the names and addresses of the parents of the child and the
7 record of the criminal or juvenile proceedings pertinent to the
8 civil action being brought, notwithstanding the provisions of 42
9 Pa.C.S. § 6308 (relating to law enforcement records) or any
10 other statute restricting access to and use of such records,
11 criminal and juvenile records.

12 (d) In no event shall any restitution ordered or civil
13 judgment entered against any parent pursuant to this section
14 exceed, in the aggregate, the limitations set forth in section
15 4.

16 Section 4. (a) Liability of the parents shall be limited to
17 [three hundred dollars (\$300)] one thousand five hundred dollars
18 (\$1,500) for injuries to the person, or theft, destruction, or
19 loss of property suffered by any one person as a result of one
20 wilful, tortious act or continuous series of wilful, tortious
21 acts.

22 (b) Liability of the parents shall be limited to [one
23 thousand dollars (\$1000)] five thousand dollars (\$5,000)
24 regardless of the number of persons who suffer injury to the
25 person, or theft, destruction, or loss of property as a result
26 of one wilful, tortious act or continuous series of wilful,
27 tortious acts. In the event that actual loss as ascertained by
28 the court or the judgment against the child exceeds [one
29 thousand dollars (\$1000)] five thousand dollars (\$5,000), the
30 parents shall be discharged from further liability by the

1 payment of [one thousand dollars (\$1000)] five thousand dollars
2 (\$5,000) into court. The court shall cause all aggrieved parties
3 to submit itemized statements of loss in writing and shall make
4 distribution proportionately, whether the claims be for injuries
5 to the person, or theft, destruction, or loss of property. The
6 court shall have the power to take testimony to assist it in
7 making proper distribution and may appoint a master to
8 accomplish this purpose. All costs and fees thus incurred shall
9 be paid from the [one thousand dollars (\$1000)] five thousand
10 dollars (\$5,000) paid into court.

11 (c) Liability of the parents shall be limited to one
12 thousand dollars (\$1,000) in fines and penalties for any
13 criminal act, including summary offenses, or any continuous
14 series of related criminal acts, of a child.

15 [(c)] (d) The limitations on liability set forth in
16 subsections (a) [and], (b) and (c) of this section shall be
17 applicable when two or more children of the same parent engage
18 jointly in the commission of any criminal act or related
19 continuous series of criminal acts or engage jointly in the
20 commission of one wilful, tortious act or series of wilful,
21 tortious acts.

22 (e) (1) In addition to the restitution and damages,
23 authorized by this act to be imposed against parents, any victim
24 who is successful in an action or proceeding to recover
25 restitution or damages which were ordered to be paid by or
26 entered as a judgment against parents or either of them for acts
27 committed by the parent's child, shall be entitled to the award
28 of reasonable attorney's fees from the parents or either of them
29 in the action or proceeding.

30 (2) In addition to the penalties and fines authorized by

1 this act to be imposed against parents, an attorney for the
2 Commonwealth who is successful in an action or proceeding to
3 recover fines and penalties which were ordered to be paid by
4 parents or either of them for acts committed by the parents'
5 child, shall be entitled to the award of reasonable costs which
6 shall be payable to the office of the attorney for the
7 Commonwealth, and which shall not exceed two hundred fifty
8 dollars (\$250).

9 (3) Any attorney's fees or costs awarded pursuant to this
10 subsection shall not be subject to the limitations on liability
11 set forth in subsections (a), (b) and (c).

12 Section 5. The liability imposed upon parents by this act
13 shall not limit the common law liability of parents for damages
14 caused by a child and shall be separate and apart from any
15 liability which may be imposed upon the child. No liability
16 shall be imposed upon a parent by this act if at the time of
17 commission of the wilful, tortious act, such parent has neither
18 custody of the child, nor is entitled to custody of the child,
19 or if the child is institutionalized or emancipated. No parent
20 shall be absolved of liability due to the parents' desertion of
21 a child. Any judgment against a child resulting from a wilful,
22 tortious act for which a parent makes payment under this act
23 shall be reduced by the amount paid by the parent. The parent
24 shall have no right of indemnity or contribution against the
25 child. In no case shall there be a double recovery for one
26 injury.

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