
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 816

Session of
1983

INTRODUCED BY MAIALE, SALVATORE, HARPER, CIMINI, ROBBINS,
MORRIS, NOYE, BELFANTI, KLINGAMAN, SAURMAN, VROON, O'BRIEN,
KOSINSKI, WOGAN, GANNON, DURHAM, PERZEL, SCHEETZ, PISTELLA,
KASUNIC, DALEY, DONATUCCI, BELOFF, PUNT, FISCHER, MERRY,
BURD, JOHNSON, HERSHEY, DeLUCA, TIGUE, CIVERA, BLAUM, BALDWIN
AND MRKONIC, APRIL 19, 1983

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 19, 1983

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further defining
3 "delinquent act"; and further providing for procedure
4 relating to juveniles.

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

7 Section 1. The definition of "delinquent act" in section
8 6302 of Title 42 of the Pennsylvania Consolidated Statutes is
9 amended to read:

10 § 6302. Definitions.

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

14 * * *

15 "Delinquent act."

16 (1) The term means an act designated a crime under the
17 law of this Commonwealth, or of another state if the act

1 occurred in that state, or under Federal law, or under local
2 ordinances.

3 (2) The term shall not include:

4 (i) [the] The crime of murder[; or

5 (ii) summary offenses, unless the child fails to pay
6 a fine levied thereunder, in which event notice of such
7 fact shall be certified to the court].

8 (ii) The crimes of rape, kidnapping, robbery as
9 defined in 18 Pa.C.S. § 3701(a)(1)(i) and (ii) (relating
10 to robbery), arson, involuntary deviate sexual
11 intercourse, felonious aggravated assault, aggravated
12 assault with a deadly weapon, voluntary manslaughter or
13 attempted murder where the accused is 15 years of age or
14 older and has previously been adjudicated delinquent of
15 any of these offenses subsequent to his 14th birthday.

16 (iii) Any crime committed by a person under 18 years
17 of age who has been convicted of a crime, other than a
18 summary offense, in the adult courts or who is awaiting
19 trial in the adult courts on a crime other than a summary
20 offense.

21 (iv) Summary offenses, unless the child fails to
22 comply with the lawful sentence imposed for the offense.

23 * * *

24 Section 2. Sections 6303(b), 6322, 6335(a), 6336(d),
25 6352(a)(6) and 6355(e) of Title 42 are amended to read:
26 § 6303. Scope of chapter.

27 * * *

28 (b) Minor judiciary.--No child shall be detained, committed
29 or sentenced to imprisonment by a district justice or a judge of
30 the minor judiciary. A law-trained member of the minor judiciary

1 may, upon finding a juvenile guilty of a summary offense, impose
2 a sentence of a fine, restitution or participation in a
3 community service work program which has been previously
4 approved by the family court.

5 § 6322. Transfer from criminal proceedings.

6 (a) General rule.--Except as provided in 75 Pa.C.S. § 6303
7 (relating to rights and liabilities of minors), if it appears to
8 the court in [a] criminal [proceeding] proceedings other than
9 [murder,] those which fall under the jurisdictional exclusions
10 to the definition of "delinquent act" in section 6302(2)(i),
11 (ii) or (iii) (relating to definitions) that the defendant is a
12 child, this chapter shall immediately become applicable, and the
13 court shall forthwith halt further criminal proceedings, and,
14 where appropriate, transfer the case to the division or a judge
15 of the court assigned to conduct juvenile hearings, together
16 with a copy of the accusatory pleading and other papers,
17 documents, and transcripts of testimony relating to the case. If
18 it appears to the court in a criminal proceeding charging
19 murder, that the defendant is a child, the case may similarly be
20 transferred and the provisions of this chapter applied. In
21 determining whether the defendant should be treated as a child,
22 the standards for amenability set forth in section
23 6355(a)(4)(iii) (relating to transfer to criminal proceedings)
24 shall be applied. The defendant shall be taken forthwith to the
25 probation officer or to a place of detention designated by the
26 court or released to the custody of his parent, guardian,
27 custodian, or other person legally responsible for him, to be
28 brought before the court at a time to be designated. The
29 accusatory pleading may serve in lieu of a petition otherwise
30 required by this chapter, unless the court directs the filing of

1 a petition.

2 (b) Transfer of convicted criminal cases.--If in a criminal
3 proceeding charging murder the child is convicted of a crime
4 less than murder, the case may be transferred for disposition to
5 the division or a judge of the court assigned to conduct
6 juvenile hearings.

7 § 6335. Release or holding of hearing.

8 (a) General rule.--After the petition has been filed the
9 court shall fix a time for hearing thereon, which, if the child
10 is in detention or shelter care shall not be later than ten days
11 after the filing of the petition. If the hearing is not held
12 within such time, the child shall be immediately released from
13 detention or shelter care. A child may be detained or kept in
14 shelter care for an additional single period not to exceed ten
15 days where:

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

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

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

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

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

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

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

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

29 Any delay in the hearing which results from continuances
30 requested or caused by defense counsel shall not be included in

1 determining the period of time during which a child may be
2 detained or kept in shelter care. The court shall direct the
3 issuance of a summons to the parents, guardian, or other
4 custodian, a guardian ad litem, and any other persons as appear
5 to the court to be proper or necessary parties to the
6 proceeding, requiring them to appear before the court at the
7 time fixed to answer the allegations of the petition. The
8 summons shall also be directed to the child if he is 14 or more
9 years of age or is alleged to be a delinquent. A copy of the
10 petition shall accompany the summons.

11 * * *

12 § 6336. Conduct of hearings.

13 * * *

14 (d) [Proceeding in camera.--Except in hearings to declare a
15 person in contempt of court, the] Proceedings.--The general
16 public shall not be excluded from [hearings under this chapter.
17 Only the parties, their counsel, witnesses, and other persons
18 accompanying a party for his assistance, and any other person as
19 the court finds have a proper interest in the proceeding or in
20 the work of the court may be admitted by the court. The court
21 may temporarily exclude the child from the hearing except while
22 allegations of his delinquency are being heard] proceedings
23 under delinquency petitions charging conduct which, if committed
24 by an adult, would constitute a felony.

25 § 6352. Disposition of delinquent child.

26 (a) General rule.--If the child is found to be a delinquent
27 child the court may make any of the following orders of
28 disposition best suited to his treatment, supervision,
29 rehabilitation, and welfare:

30 * * *

(6) An order of the terms of probation may include an appropriate fine considering the nature of the act committed or restitution not in excess of actual damages caused by the child which shall be paid from the earnings of the child received through participation in a constructive program of service or education acceptable to the victim and the court [whereby, during the course of such service, the child shall be paid not less than the minimum wage of this Commonwealth]. In ordering such restitution or service, the court shall take into consideration the age, physical and mental capacity of the child and the service shall be designed to impress upon the child a sense of responsibility for the injuries caused to the person or property of another. The order of the court shall be limited in duration consistent with the limitations in section 6353 (relating to limitation on and change in place of commitment) and in the act of May 13, 1915 (P.L.286, No.177), known as the "Child Labor Law." The court order shall specify the nature of the work[,] and the number of hours to be spent performing the assigned tasks[, and shall further specify that as part of a plan of treatment and rehabilitation that up to 75% of the earnings of the child be used for restitution in order to provide positive reinforcement for the work performed].

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

1 and the rehabilitation needs of the child.

2 * * *

3 § 6355. Transfer to criminal proceedings.

4 * * *

5 (e) Murder or other designated felonies.--Where the petition
6 alleges conduct which if proven would [constitute murder] fall
7 under the jurisdictional exclusions to the definition of
8 "delinquent act" in section 6302 (relating to definitions), the
9 court shall require the offense to be prosecuted under the
10 criminal law and procedures, except where the case has been
11 transferred pursuant to section 6322 (relating to transfer from
12 criminal proceedings) from the division or a judge of the court
13 assigned to conduct criminal proceedings.

14 * * *

15 Section 3. This act shall apply to crimes and delinquent
16 acts committed on and after the effective date of this act.

17 Section 4. This act shall take effect in 60 days.