

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 sentencing guidelines, for community public service programs
4 and for the treatment of dangerous juvenile offenders.
5 The General Assembly of the Commonwealth of Pennsylvania

6 hereby enacts as follows:

7 Section 1. Section 1520 of Title 42 of the Pennsylvania
8 Consolidated Statutes, is repealed.

9 Section 2. Title 42 is amended by adding a section to read:

10 § 1521. Accelerated rehabilitative disposition for summary
11 offenders.

12 (a) General rule.-- Except for summary cases charging
13 offenses under Title 75 (relating to vehicles) and summary
14 offenses where a prior offense or conviction thereof may affect
15 the grading of a subsequent offense, a district justice may,
16 after institution of proceedings in a summary case, refer that
17 case to the district attorney for consideration for inclusion in
18 Accelerated Rehabilitative Disposition as provided by general
19 rules. The defendant shall not be required to plead guilty to be
20 accepted into this program.

21 (b) Public service programs.--An offender admitted to
22 Accelerated Rehabilitative Disposition for such summary offense
23 may be required to participate in a program in which an agency
24 or organization is willing to assume supervision or placement
25 responsibility for such offenders. The program in general shall
26 be approved by the court of common pleas of that district and
27 the district attorney. This program may include work,
28 counseling, public service, job training, education or other

1 appropriate community service or self-improvement. The
2 conditions of the program may include the imposition of costs
3 and restitution, the imposition of a reasonable charge relating
4 to the expense of administering the program and any other
5 conditions agreed to by the offender.

6 (c) Completion of program.--Upon successful completion of
7 the program, the summary charges shall be dismissed and the
8 offender shall not be obligated to pay any fine or serve any
9 sentence of imprisonment.

10 (d) Refusal to accept or complete program.--If the case is
11 not recommended or not accepted into the program or the person
12 refuses to accept the conditions of the program or, without good
13 cause, either fails to complete it, or violates any of its
14 conditions, the case shall be returned to the district justice
15 for proceedings on the charges as provided by law.

16 (e) Immunity.--A district justice, probation officer and any
17 public service or charitable organization supervising or
18 administering a public service program under this section shall
19 be immune from any civil action for damages brought by a person
20 admitted to this program. Nothing in this section shall be
21 construed to limit or otherwise affect or preclude liability
22 resulting from gross negligence or intentional misconduct.
23 Reckless, willful or wanton misconduct constitutes gross
24 negligence.

25 (f) Definition.--As used in this section the term "district
26 justice" includes a judge of the Pittsburgh Magistrates Court.

27 Section 3. Section 2154 of Title 42 is amended to read:

28 § 2154. Adoption of guidelines for sentencing.

29 (a) General rule.--The commission shall adopt guidelines for
30 sentencing within the limits established by law which shall be

1 considered by the sentencing court in determining the
2 appropriate sentence for [felonies and misdemeanors committed by
3 a defendant.] defendants who plead guilty or nolo contendere to,
4 or who were found guilty of, felonies and misdemeanors. The
5 guidelines shall:

6 (1) Specify the range of sentences applicable to crimes
7 of a given degree of gravity.

8 [(2) Specify a range of sentences of increased severity
9 for defendants previously convicted of a felony or felonies
10 or convicted of a crime involving the use of a deadly
11 weapon.]

12 (2) Specify a range of sentences of increased severity
13 for defendants previously convicted of or adjudicated
14 delinquent for one or more misdemeanor or felony offenses
15 committed prior to the current offense. For purposes of this
16 section "previously convicted or adjudicated delinquent"
17 shall include any finding of guilt or adjudication of
18 delinquency whether or not sentence has been imposed or
19 disposition ordered prior to the commission of the current
20 offense.

21 (3) Specify a range of sentences of increased severity
22 for defendants who possessed a deadly weapon during the
23 commission of the current conviction offense.

24 [(3)] (4) Prescribe variations from the range of
25 sentences applicable on account of aggravating or mitigating
26 circumstances.

27 (b) Definition.--As used in this section the term
28 "possessed" means on the defendant's person or within his
29 immediate physical control.

30 Section 4. The definition of "delinquent act" in section

1 6302 of Title 42 is amended and the section is amended by adding
2 a definition to read:

3 § 6302. Definitions.

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

7 * * *

8 "Dangerous juvenile offender." A child who has been
9 determined by the court to meet all of the following
10 requirements:

11 (1) Is 15 years of age or older.

12 (2) Has been adjudicated delinquent for one or more of
13 the following offenses:

14 (i) Attempted murder.

15 (ii) Voluntary manslaughter.

16 (iii) Rape.

17 (iv) Involuntary deviate sexual intercourse.

18 (v) Kidnapping.

19 (vi) Robbery as defined in 18 Pa.C.S. §
20 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

21 (vii) Felonious aggravated assault as defined in 18
22 Pa.C.S. § 2702 (relating to aggravated assault).

23 (viii) Aggravated assault with a deadly weapon.

24 (ix) Arson as defined in 18 Pa.C.S. § 3301(a)
25 (relating to arson and related offenses).

26 (3) Has been previously adjudicated delinquent
27 subsequent to the child's 12th birthday for one or more of
28 the following offenses:

29 (i) Attempted murder.

30 (ii) Voluntary manslaughter.

1 (iii) Rape.

2 (iv) Involuntary deviate sexual intercourse.

3 (v) Kidnapping.

4 (vi) Robbery as defined in 18 Pa.C.S. §

5 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

6 (vii) Felonious aggravated assault as defined in 18

7 Pa.C.S. § 2702 (relating to aggravated assault).

8 (viii) Aggravated assault with a deadly weapon.

9 (ix) Arson as defined in 18 Pa.C.S. § 3301(a)

10 (relating to arson and related offenses).

11 An adjudication for an offense arising from the same criminal
12 episode as the offense considered under paragraph (2) shall
13 not be considered an adjudication for the purpose of this
14 paragraph.

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
18 occurred in that state, or under Federal law, or under local
19 ordinances.

20 (2) The term shall not include:

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

22 (ii) [summary] Summary offenses, unless the child
23 fails [to pay a fine levied] to comply with a lawful
24 sentence imposed thereunder, in which event notice of
25 such fact shall be certified to the court.

26 (iii) A crime committed by a child who has been
27 found guilty in a criminal proceeding for other than a
28 summary offense.

29 * * *

30 Section 5. Section 6308 of Title 42 is amended to read:

1 § 6308. Law enforcement records.

2 (a) General rule.--[Law] Except as provided in section 6309
3 (relating to juvenile history record information), the law
4 enforcement records and files concerning a child shall be kept
5 separate from the records and files of arrests of adults. Unless
6 a charge of delinquency is transferred for criminal prosecution
7 under section 6355 (relating to transfer to criminal
8 proceedings), the interest of national security requires, or the
9 court otherwise orders in the interest of the child, the records
10 and files shall not be open to public inspection or their
11 contents disclosed to the public except as provided in
12 subsection (b); but inspection of the records and files is
13 permitted by:

14 (1) The court having the child before it in any
15 proceeding.

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

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

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

21 (5) A court in which the child is convicted of a
22 criminal offense for the purpose of a presentence report or
23 other dispositional proceeding, or by officials of penal
24 institutions and other penal facilities to which he is
25 committed, or by a parole board in considering his parole or
26 discharge or in exercising supervision over him.

27 (b) Public availability.--

28 (1) The contents of law enforcement records and files
29 concerning a child shall not be disclosed to the public
30 except if the child is 14 or more years of age at the time of

1 the alleged conduct and if:

2 (i) the child has been adjudicated delinquent by a
3 court as a result of an act or acts which include the
4 elements of rape, kidnapping, murder, robbery, arson,
5 burglary or other act involving the use of or threat of
6 serious bodily harm; [or]

7 (ii) a petition alleging delinquency has been filed
8 by a law enforcement agency alleging that the child has
9 committed an act or acts which include the elements of
10 rape, kidnapping, murder, robbery, arson, burglary or
11 other act involving the use of or threat of serious
12 bodily harm and the child previously has been adjudicated
13 delinquent by a court as a result of an act or acts which
14 included the elements of one of such crimes[.]; or

15 (iii) the child is a dangerous juvenile offender.

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

26 (c) Fingerprints and photographs.--

27 (1) Law enforcement officers shall have the authority to
28 take or cause to be taken the fingerprints or photographs, or
29 both, of any child [15 years of age and older] who is alleged
30 to have committed a delinquent act that, but for the

1 application of this chapter, would constitute a felony or a
2 violation of [Subchapter A of Chapter 61 of Title 18] 18
3 Pa.C.S. Ch. 61 Subch. A (relating to uniform firearms act).

4 (2) Fingerprint and photographic records [shall not] may
5 be disseminated to law enforcement officers of other
6 jurisdictions, the Pennsylvania State Police [or] and the
7 Federal Bureau of Investigation [unless so ordered by the
8 court] if a child has, on the basis of a felony or a
9 violation of 18 Pa.C.S. Ch. 61 Subch. A, been adjudicated
10 delinquent or found guilty in a criminal proceeding.

11 (3) Fingerprints and photographic records of children
12 shall be immediately destroyed by all persons and agencies
13 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 Section 6. Title 42 is amended by adding a section to read:
17 § 6309. Juvenile history record information.

18 (a) Applicability of Criminal History Record Information
19 Act.--Except for 18 Pa.C.S. §§ 9105 (relating to other criminal
20 justice information), 9112(a) and (b) (relating to mandatory
21 fingerprinting) and 9113 (relating to disposition reporting by
22 criminal justice agencies), the remaining provisions of 18
23 Pa.C.S. Ch. 91 (relating to criminal history record information)
24 shall apply to all dangerous juvenile offenders whose
25 fingerprints and photographs are taken pursuant to section
26 6308(c) (relating to law enforcement records) and to any
27 juvenile justice agency which collects, maintains, disseminates
28 or receives juvenile history record 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 dangerous
2 juvenile offenders whose fingerprints and photographs are taken
3 pursuant to section 6308(c). This repository may be combined
4 with a repository of similar information on adult offenders, as
5 provided in 18 Pa.C.S. Ch. 91.

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

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

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

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

28 "Juvenile history record information." Information collected
29 pursuant to this section concerning dangerous juvenile offenders
30 whose fingerprints and photographs are taken pursuant to section

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

14 Section 7. Section 6322 of Title 42 is amended to read:

15 § 6322. Transfer from criminal proceedings.

16 (a) General rule.--Except as provided in 75 Pa.C.S. § 6303
17 (relating to rights and liabilities of minors) or in the event
18 the child is charged with murder or has been found guilty in a
19 criminal proceeding, if it appears to the court in a criminal
20 proceeding [other than murder,] that the defendant is a child,
21 this chapter shall immediately become applicable, and the court
22 shall forthwith halt further criminal proceedings, and, where
23 appropriate, transfer the case to the division or a judge of the
24 court assigned to conduct juvenile hearings, together with a
25 copy of the accusatory pleading and other papers, documents, and
26 transcripts of testimony relating to the case. If it appears to
27 the court in a criminal proceeding charging murder, that the
28 defendant is a child, the case may similarly be transferred and
29 the provisions of this chapter applied. [The] In determining
30 whether to transfer a case charging murder, the court shall

1 apply the criteria in section 6355(a)(4)(iii)(A) (relating to
2 transfer to criminal proceedings). However, the child shall be
3 required to show the court that the child is amenable to
4 treatment, supervision or rehabilitation as a juvenile by
5 meeting the criteria listed in section 6355(a)(4)(iii)(A). If
6 the court orders the case to be transferred to the division or a
7 judge of the court assigned to conduct juvenile hearings, the
8 defendant shall be taken forthwith to the probation officer or
9 to a place of detention designated by the court or released to
10 the custody of his parent, guardian, custodian, or other person
11 legally responsible for him, to be brought before the court at a
12 time to be designated. The accusatory pleading may serve in lieu
13 of a petition otherwise required by this chapter, unless the
14 court directs the filing of a petition.

15 (b) Transfer of convicted criminal cases.--If in a criminal
16 proceeding charging murder the child is convicted of a crime
17 less than murder, the case may be transferred for disposition to
18 the division or a judge of the court assigned to conduct
19 juvenile hearings. If, in a criminal proceeding resulting from a
20 transfer under section 6355(a), the child is convicted of a
21 lesser charge which is classified as a misdemeanor, the case may
22 be transferred for disposition to the division or a judge of the
23 court assigned to conduct juvenile hearings.

24 Section 8. Section 6335(a) of Title 42 is amended and the
25 section is amended by adding a subsection to read:

26 § 6335. Release or holding of hearing.

27 (a) General rule.--After the petition has been filed the
28 court shall fix a time for hearing thereon, which, if the child
29 is in detention or shelter care shall not be later than ten days
30 after the filing of the petition. [If] Except as provided in

1 subsection (f), if the hearing is not held within such time, the
2 child shall be immediately released from detention or shelter
3 care. A child may be detained or kept in shelter care for an
4 additional single period not to exceed ten days where:

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

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

7 (ii) due diligence to obtain such evidence has been
8 exercised; and

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

11 (2) the court finds by clear and convincing evidence
12 that:

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

14 (ii) the community would be exposed to a specific
15 danger; or

16 (iii) the child will abscond or be removed from the
17 jurisdiction of the court.

18 The court shall direct the issuance of a summons to the parents,
19 guardian, or other custodian, a guardian ad litem, and any other
20 persons as appear to the court to be proper or necessary parties
21 to the proceeding, requiring them to appear before the court at
22 the time fixed to answer the allegations of the petition. The
23 summons shall also be directed to the child if he is 14 or more
24 years of age or is alleged to be a delinquent. A copy of the
25 petition shall accompany the summons.

26 * * *

27 (f) Limitations on release.--The child shall not be released
28 from detention or shelter care under authority of subsection (a)
29 if the failure to hold a hearing within ten days after the
30 filing of the petition is the result of delay caused by the

1 child. Delay shall be deemed to be caused by the child if it
2 results from any one of the following:

3 (1) The unavailability of the child or his attorney.

4 (2) Any continuance granted at the request of the child
5 or his attorney.

6 At the conclusion of any court proceeding in which the scheduled
7 hearing is not held, the court shall state on the record whether
8 the failure to hold the hearing resulted from delay caused by
9 the child.

10 Section 9. Sections 6336, 6340(b), 6353(a) and 9714(b)(2) of
11 Title 42 are amended to read:

12 § 6336. Conduct of hearings.

13 (a) General rule.--Hearings under this chapter shall be
14 conducted by the court without a jury, in an informal but
15 orderly manner, and separate from other proceedings not included
16 in section 6303 (relating to scope of chapter).

17 (b) Functions of district attorney.--The district attorney,
18 upon request of the court, shall present the evidence in support
19 of the petition and otherwise conduct the proceedings on behalf
20 of the Commonwealth.

21 (c) Record.--If requested by the party or ordered by the
22 court the proceedings shall be recorded by appropriate means. If
23 not so recorded, full minutes of the proceedings shall be kept
24 by the court.

25 (d) Proceeding in camera.--Except in hearings to declare a
26 person in contempt of court, the general public shall be
27 excluded from hearings under this chapter. Only the parties,
28 their counsel, witnesses, [and] the victim and counsel for the
29 victim, other persons accompanying a party or a victim for his
30 or her assistance, and any other person as the court finds have

1 a proper interest in the proceeding or in the work of the court
2 may be admitted by the court. The court may temporarily exclude
3 the child from the hearing except while allegations of his
4 delinquency are being heard.

5 § 6340. Consent decree.

6 * * *

7 (b) Objection.--Where the child or the district attorney
8 objects to a consent decree, the court shall proceed to
9 findings, adjudication and disposition. [Where the child does
10 not object, but an objection is made by the district attorney
11 after consultation with the probation services, the court shall,
12 after considering the objections and reasons therefor, proceed
13 to determine whether it is appropriate to enter a consent
14 decree.]

15 * * *

16 § 6353. Limitation on and change in place of commitment.

17 (a) General rule.--No child shall initially be committed to
18 an institution for a period longer than [three] four years or a
19 period longer than he could have been sentenced by the court if
20 he had been convicted of the same offense as an adult, whichever
21 is less. The initial commitment may be extended for a similar
22 period of time, or modified, if the court finds after hearing
23 that the extension or modification will effectuate the original
24 purpose for which the order was entered. The child shall have
25 notice of the extension or modification hearing and shall be
26 given an opportunity to be heard. The committing court shall
27 review each commitment every six months and shall hold a
28 disposition review hearing at least every nine months.

29 * * *

30 § 9714. Sentences for second and subsequent offenses.

1 * * *

2 (b) Prior convictions for crimes of violence.--For the
3 purposes of subsection (a), an offender shall be deemed to have
4 prior convictions for crimes of violence if both of the
5 following conditions hold:

6 * * *

7 (2) The previous conviction occurred within seven years
8 of the date of the commission of the instant offense, except
9 that any time during which the offender was incarcerated in
10 any penitentiary, prison or other place of detention shall
11 not be considered in computing the relevant seven-year
12 period. Convictions for other offenses arising from the same
13 criminal episode as the instant offense shall not be
14 considered previous convictions for the purpose of this
15 section. [A] For purposes of this section previous conviction
16 shall include any conviction, whether or not judgment of
17 sentence has been imposed or litigation is pending concerning
18 that conviction.

19 * * *

20 Section 10. The following acts are repealed:

21 Act of June 8, 1881 (P.L.63, No.68), entitled "A supplement
22 to an act, entitled 'An act to create a middle penitentiary
23 district in this state, and to provide for the erection of a
24 state penitentiary for the same,' approved the twelfth day of
25 June, Anno Domini one thousand eight hundred and seventy-eight."

26 Act of April 28, 1887 (P.L.63, No.30), entitled, as amended,
27 "An act in relation to the imprisonment, government and release
28 of inmates in the Pennsylvania Industrial School at Camp Hill,
29 Cumberland County, Pennsylvania."

30 Act of June 3, 1893 (P.L.280, No.245), entitled "An act to

1 provide for the payment of the cost and expense of trying
2 prisoners convicted in the courts of Huntingdon county for the
3 violation of law while inmates of the Pennsylvania Industrial
4 Reformatory, and for their maintenance in the county prison or
5 penitentiary after their conviction."

6 Act of June 6, 1893 (P.L.326, No.263), entitled "A supplement
7 to an act, entitled 'An act in relation to the imprisonment,
8 government and release of convicts in the Pennsylvania
9 Industrial Reformatory at Huntingdon,' approved the twenty-
10 eighth day of April, Anno Domini one thousand eight hundred and
11 eighty-seven."

12 Act of May 2, 1901 (P.L.126, No.92), entitled "An act to
13 provide for the sale of unserviceable machinery in the
14 Industrial Reformatory at Huntingdon, Pennsylvania, and the
15 other State Reformatories, when said machinery has been
16 purchased by appropriations made from the State Treasury for the
17 purpose."

18 Act of May 1, 1929 (P.L.1183, No.415), entitled "An act
19 relating to persons paroled from the Pennsylvania Industrial
20 Reformatory at Huntingdon; and regulating the procedure when
21 such persons violate the terms of paroles, and the effect of
22 such violations."

23 Section 11. (a) Section 1 (repealing section 1520) and
24 section 2 (adding section 1521) shall take effect immediately.

25 (b) The remainder of this act shall take effect in 60 days.