

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 112 Special Session No. 1 of 1995

INTRODUCED BY VEON, STURLA, JOSEPHS, M. COHEN, BELARDI,
WASHINGTON, TIGUE, MUNDY, STABACK, MANDERINO, ROONEY,
READSHAW, MELIO, TRELLO, BATTISTO, LAUGHLIN, PETRARCA,
YOUNGBLOOD, PRESTON, OLASZ AND WOZNIAK, MAY 1, 1995

REFERRED TO COMMITTEE ON JUDICIARY, MAY 1, 1995

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 disposition of delinquent children and for limitations on and
4 changes in the place of confinement; establishing the
5 Delinquent Child Drug and Alcohol Fund; and making an
6 appropriation.

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

9 Section 1. Sections 6352 and 6353 of Title 42 of the
10 Pennsylvania Consolidated Statutes are amended to read:

11 § 6352. Disposition of delinquent child.

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

16 (1) Any order authorized by section 6351 (relating to
17 disposition of dependent child).

18 (2) Placing the child on probation under supervision of
19 the probation officer of the court or the court of another

1 state as provided in section 6363 (relating to ordering
2 foreign supervision), under conditions and limitations the
3 court prescribes.

4 (3) Committing the child to an institution, youth
5 development center, camp, or other facility for delinquent
6 children operated under the direction or supervision of the
7 court or other public authority and approved by the
8 Department of Public Welfare.

9 (4) If the child is 12 years of age or older, committing
10 the child to an institution operated by the Department of
11 Public Welfare.

12 (5) Ordering payment by the child of reasonable amounts
13 of money as fines, costs or restitution as deemed appropriate
14 as part of the plan of rehabilitation considering the nature
15 of the acts committed and the earning capacity of the child.

16 (6) An order of the terms of probation may include an
17 appropriate fine considering the nature of the act committed
18 or restitution not in excess of actual damages caused by the
19 child which shall be paid from the earnings of the child
20 received through participation in a constructive program of
21 service or education acceptable to the victim and the court
22 whereby, during the course of such service, the child shall
23 be paid not less than the minimum wage of this Commonwealth.
24 In ordering such service, the court shall take into
25 consideration the age, physical and mental capacity of the
26 child and the service shall be designed to impress upon the
27 child a sense of responsibility for the injuries caused to
28 the person or property of another. The order of the court
29 shall be limited in duration consistent with the limitations
30 in section 6353 (relating to limitation on and change in

1 place of commitment) and in the act of May 13, 1915 (P.L.286,
2 No.177), known as the "Child Labor Law." The court order
3 shall specify the nature of the work, the number of hours to
4 be spent performing the assigned tasks, and shall further
5 specify that as part of a plan of treatment and
6 rehabilitation that up to 75% of the earnings of the child be
7 used for restitution in order to provide positive
8 reinforcement for the work performed.

9 (7) An order that the juvenile be committed for
10 inpatient or outpatient treatment at a nonprofit facility
11 consistent with the level of care determination made in
12 subsection (c). Such facility shall be licensed by the Office
13 of Drug and Alcohol Programs in the Department of Health and
14 shall be certified by the Office of Drug and Alcohol Programs
15 to have sufficient experience in providing drug and alcohol
16 treatment to criminally involved juveniles.

17 (a.1) Criteria.--In selecting from the alternatives set
18 forth in [this section] subsection (a), the court shall follow
19 the general principle that the disposition imposed should
20 provide the means through which the provisions of this chapter
21 are executed and enforced consistent with section 6301(b)
22 (relating to purposes) and when confinement is necessary, the
23 court shall impose the minimum amount of confinement that is
24 consistent with the protection of the public and the
25 rehabilitation needs of the child.

26 (b) Limitation on place of commitment.--A child shall not be
27 committed or transferred to a penal institution or other
28 facility used primarily for the execution of sentences of adults
29 convicted of a crime.

30 (c) Drug and alcohol assessment.--Prior to adjudication the

child shall be subject to a simple preliminary screening for drug or alcohol abuse during the intake process. Preliminary screening tools shall be designated by the Delinquent Child Drug and Alcohol Advisory Panel. If warranted by the preliminary screening, the court shall order a drug and alcohol assessment which shall include a level of care determination to be performed by drug and alcohol counselors certified by the Pennsylvania Chemical Abuse Certification Board or who hold reciprocity level certification by the International Certification Reciprocity Consortium.

(d) Refusal by administrator to accept referrals.--Nothing in this section shall prevent a drug and alcohol treatment program from refusing to accept a referral under this section if the administrator deems the child to be inappropriate for admission to the program. The treatment program retains the right to immediately discharge any child who fails to comply with program rules and treatment expectations or who refuses to constructively engage in the treatment process. Prior to any discharge under this section, the court shall be immediately notified by the facility.

(e) Establishment of Delinquent Child Drug and Alcohol Fund.--

(1) The Delinquent Child Drug and Alcohol Fund is hereby established in the Office of Drug and Alcohol Programs in the Department of Health for the sole purpose of providing drug and alcohol treatment services to eligible juveniles in inpatient residential treatment programs of 90 days or more and partial hospitalization programs following inpatient treatment. A minimum of 90% of the funds shall be utilized on the direct provision of treatment services. Funds hereby

1 provided shall not be used to replace or supplant other
2 services under this chapter but may be used separately or in
3 conjunction with funding for this chapter to purchase these
4 specialty drug and alcohol treatment services.

5 (2) The Office of Drug and Alcohol Programs shall
6 establish a Delinquent Child Drug and Alcohol Treatment
7 Advisory Panel to review and develop policies and procedures
8 for the implementation of this section as it relates to drug
9 and alcohol treatment of criminally involved juveniles. The
10 panel shall be comprised of:

11 (i) two representatives from the Office of Drug and
12 Alcohol Programs in the Department of Health;

13 (ii) one representative from the Office of Children,
14 Youth and Families in the Department of Public Welfare;

15 (iii) one representative from the Juvenile Court
16 Judges' Commission;

17 (iv) two drug and alcohol treatment clinicians with
18 specific skills and experience in treating criminally
19 involved youth; and

20 (v) two representatives of the Pennsylvania Council
21 of Chief Juvenile Probation Officers.

22 § 6353. Limitation on and change in place of commitment.

23 (a) General rule.--No child shall initially be committed to
24 an institution for a period longer than four years or a period
25 longer than he could have been sentenced by the court if he had
26 been convicted of the same offense as an adult, whichever is
27 less. The initial commitment may be extended for a similar
28 period of time, or modified, if the court finds after hearing
29 that the extension or modification will effectuate the original
30 purpose for which the order was entered. The child shall have

1 notice of the extension or modification hearing and shall be
2 given an opportunity to be heard. The committing court shall
3 review each commitment every six months and shall hold a
4 disposition review hearing at least every nine months.

5 (b) Transfer to other institution.--After placement of the
6 child, and if his progress with the institution warrants it, the
7 institution may seek to transfer the child to a less secure
8 facility, including a group home or foster boarding home. The
9 institution shall give the committing court written notice of
10 all requests for transfer and shall give the attorney for the
11 Commonwealth written notice of a request for transfer from a
12 secure facility to another facility. If the court, or in the
13 case of a request to transfer from a secure facility, the
14 attorney for the Commonwealth, does not object to the request
15 for transfer within ten days after the receipt of such notice,
16 the transfer may be effectuated. If the court, or in the case of
17 a request to transfer from a secure facility, the attorney for
18 the Commonwealth, objects to the transfer, the court shall hold
19 a hearing within 20 days after objecting to the transfer for the
20 purpose of reviewing the commitment order. The institution shall
21 be notified of the scheduled hearing, at which hearing evidence
22 may be presented by any interested party on the issue of the
23 propriety of the transfer. If the institution seeks to transfer
24 to a more secure facility the child shall have a full hearing
25 before the committing court. At the hearing, the court may
26 reaffirm or modify its commitment order.

27 (c) Notice of available facilities and services.--
28 Immediately after the Commonwealth adopts its budget, the
29 Department of Public Welfare shall notify the courts and the
30 General Assembly, for each Department of Public Welfare region,

1 of the available:

2 (1) Secure beds for the serious juvenile offenders.

3 (2) General residential beds for the adjudicated
4 delinquent child.

5 (3) The community-based programs for the adjudicated
6 delinquent child.

7 (4) Drug and alcohol treatment programs for criminally
8 involved juveniles. The programs may include inpatient
9 residential treatment, partial hospitalization and outpatient
10 services following inpatient treatment.

11 If the population at a particular institution or program exceeds
12 110% of capacity, the department shall notify the courts and the
13 General Assembly that intake to that institution or program is
14 temporarily closed and shall make available equivalent services
15 to children in equivalent facilities.

16 Section 2. The sum of \$7,000,000, or as much thereof as may
17 be necessary, is hereby appropriated to the Delinquent Child
18 Drug and Alcohol Fund for the fiscal year July 1, 1995, to June
19 30, 1996, to carry out the provisions of this act.

20 Section 3. This act shall take effect in 60 days.