
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 839 Session of
1999

INTRODUCED BY GREENLEAF, O'PAKE, HART, WHITE AND SALVATORE,
APRIL 26, 1999

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, MAY 11, 1999

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for the
3 powers and duties of probation officers concerning juveniles.

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

6 Section 1. Section 6304 of Title 42 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 6304. Powers and duties of probation officers.

9 (a) General rule.--For the purpose of carrying out the
10 objectives and purposes of this chapter, and subject to the
11 limitations of this chapter or imposed by the court, a probation
12 officer shall:

13 (1) Make investigations, reports, and recommendations to
14 the court.

15 (2) Receive and examine complaints and charges of
16 delinquency or dependency of a child for the purpose of
17 considering the commencement of proceedings under this
18 chapter.

1 (3) Supervise and assist a child placed on probation or
2 in his protective supervision or care by order of the court
3 or other authority of law.

4 (4) Make appropriate referrals to other private or
5 public agencies of the community if their assistance appears
6 to be needed or desirable.

7 (5) Take into custody and detain a child who is under
8 his supervision or care as a delinquent or dependent child if
9 the probation officer has reasonable cause to believe that
10 the health or safety of the child is in imminent danger, or
11 that he may abscond or be removed from the jurisdiction of
12 the court, or when ordered by the court pursuant to this
13 chapter or that he violated the conditions of his probation.

14 (6) Perform all other functions designated by this
15 chapter or by order of the court pursuant thereto.

16 (a.1) Authority to search.--

17 (1) Probation officers may search the person and
18 property of children:

19 (i) under their supervision as delinquent children
20 or pursuant to a consent decree in accordance with this
21 section;

22 (ii) taken into custody pursuant to subsection (a)
23 and section 6324 (relating to taking into custody); and

24 (iii) detained pursuant to subsection (a) and
25 section 6325 (relating to detention of child) or during
26 the intake process pursuant to subsection (a) and section
27 6331 (relating to release from detention or commencement
28 of proceedings), and in accordance with this section.

29 (2) Nothing in this section shall be construed to permit
30 searches or seizures in violation of the Constitution of the

1 United States or section 8 of Article I of the Constitution
2 of Pennsylvania.

3 (3) No violation of this section shall constitute an
4 independent ground for suppression of evidence in any
5 proceeding.

6 (4) (i) A personal search of a child may be conducted
7 by any probation officer:

8 (A) If there is a reasonable suspicion to
9 believe that the child possesses contraband or other
10 evidence of violations of the conditions of
11 supervision.

12 (B) When a child is transported or taken into
13 custody.

14 (C) When a child enters or leaves a detention
15 center, institution or other facility for alleged or
16 adjudicated delinquent children.

17 (ii) A property search may be conducted by any
18 probation officer if there is reasonable suspicion to
19 believe that the real or other property in the possession
20 of or under the control of the child contains contraband
21 or other evidence of violations of the conditions of
22 supervision.

23 (iii) Prior approval of a supervisor shall be
24 obtained for a property search absent exigent
25 circumstances, or unless the search is being conducted by
26 a supervisor. No prior approval shall be required for a
27 personal search.

28 (iv) A written report of every property search
29 conducted without prior approval shall be prepared by the
30 probation officer who conducted the search and filed in

1 the child's case record. The exigent circumstances shall
2 be stated in the report.

3 (v) The child may be detained if he is present
4 during a property search. If the child is not present
5 during a property search, the probation officer in charge
6 of the search shall make a reasonable effort to provide
7 the child with notice of the search, including a list of
8 the items seized, after the search is completed.

9 (vi) The existence of reasonable suspicion to search
10 shall be determined in accordance with constitutional
11 search and seizure provisions as applied by judicial
12 decision. In accordance with that case law, the following
13 factors, where applicable, may be taken into account:

14 (A) The observations of officers.

15 (B) Information provided by others.

16 (C) The activities of the child.

17 (D) Information provided by the child.

18 (E) The experience of the probation officer with
19 the child.

20 (F) The experience of probation officers in
21 similar circumstances.

22 (G) The prior delinquent and supervisory history
23 of the offender.

24 (H) The need to verify compliance with the
25 conditions of supervision.

26 (b) Foreign jurisdictions.--Any of the functions specified
27 in subsection (a) may be performed in another jurisdiction if
28 authorized by the court of this Commonwealth and permitted by
29 the laws of the other jurisdiction.

30 (c) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this
2 subsection:

3 "Conditions of supervision." A term or condition of a
4 child's supervision, whether imposed by the court or a probation
5 officer, including compliance with all requirements of Federal,
6 State and local law.

7 "Contraband." An item that a child is not permitted to
8 possess under the conditions of supervision, including an item
9 whose possession is forbidden by any Federal, State or local
10 law.

11 "Court." The court of common pleas or a judge thereof.

12 "Exigent circumstances." The term includes, but is not
13 limited to, reasonable suspicion that contraband or other
14 evidence of violations of the conditions of supervision might be
15 destroyed or suspicion that a weapon might be used.

16 "Personal search." A warrantless search of a child's person,
17 including, but not limited to, the child's clothing and any
18 personal property which is ~~on the person or~~ IN THE POSSESSION, <—
19 within the reach OR UNDER THE CONTROL of the child. <—

20 "Probation officer." A probation officer appointed or
21 employed by a court or by a county probation department.

22 "Property search." A warrantless search of real property,
23 vehicle or personal property which is in the possession or under
24 the control of a child.

25 "Supervisor." An individual acting in a supervisory or
26 administrative capacity.

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