

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 521 Session of  
2003

INTRODUCED BY BRIGHTBILL, PICCOLA, CONTI, JUBELIRER, MUSTO,  
LEMOND, WENGER, M. WHITE, DENT, TARTAGLIONE, RAFFERTY,  
COSTA, ERICKSON, TOMLINSON, WONDERLING, MOWERY, GREENLEAF,  
RHOADES, WAUGH, ORIE, BOSCOLA, STACK, C. WILLIAMS AND  
THOMPSON, MARCH 18, 2003

SENATOR THOMPSON, APPROPRIATIONS, RE-REPORTED AS AMENDED,  
JUNE 11, 2003

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, providing for assessment  
3 and commitment of sexually violent delinquent children and  
4 young adults.

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

7 Section 1. Title 42 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a section to read:

9 § 6358. Assessment of ~~sexually violent delinquent children~~ <—

10 DELINQUENT CHILDREN BY THE STATE SEXUAL <—

11 OFFENDERS ASSESSMENT BOARD.

12 (a) General rule.--A child who has been found to be  
13 delinquent for an act or acts of sexual violence which if  
14 committed by an adult would be a violation of 18 Pa.C.S. § 3121  
15 (relating to rape), 3123 (relating to involuntary deviate sexual  
16 intercourse), 3124.1 (relating to sexual assault), 3125

1 (relating to aggravated indecent assault), 3126 (RELATING TO <—  
2 INDECENT ASSAULT) or 4302 (relating to incest) who has been IS <—  
3 committed to an institution OR OTHER FACILITY pursuant to <—  
4 section 6352 (relating to disposition of delinquent child) AND <—  
5 WHO REMAINS IN SUCH FACILITY UPON ATTAINING 20 YEARS OF AGE  
6 shall be subject to an assessment by the State Sexual Offenders  
7 Assessment Board upon attaining 20 years of age. <—

8 (b) Duty of probation officer.--Thirty <—  
9 NINETY days prior to  
10 the 20th birthday of the child, the probation officer shall have  
11 the duty to notify the State Sexual Offenders Assessment Board  
12 of the status of the delinquent child and the institution OR <—  
13 OTHER FACILITY where the child is presently committed. The  
14 probation officer shall assist the board in obtaining access to  
15 the child and any information required by the board to perform  
16 the assessment.

17 (c) Report.--THE STATE SEXUAL OFFENDERS ASSESSMENT BOARD <—  
18 SHALL CONDUCT AN ASSESSMENT, WHICH SHALL INCLUDE THE BOARD'S  
19 DETERMINATION OF WHETHER OR NOT THE CHILD IS IN NEED OF  
20 COMMITMENT DUE TO A MENTAL ABNORMALITY, AS DEFINED IN § 6402  
21 (RELATING TO DEFINITIONS), OR A PERSONALITY DISORDER WHICH  
22 RESULTS IN SERIOUS DIFFICULTY IN CONTROLLING SEXUALLY VIOLENT  
23 BEHAVIOR. Upon the completion of the assessment pursuant to this  
24 section, the State Sexual Offenders Assessment Board shall  
25 provide the assessment to the court. In no case shall the board  
26 file the report later than 90 days after the offender's 20th  
27 birthday.

28 (d) Duty of court.--The court shall provide a copy of the  
29 assessment by the State Sexual Offenders Assessment Board to the  
30 probation officer, the district attorney and defense counsel, <—  
31 COUNTY SOLICITOR AND THE CHILD'S ATTORNEY.



1 6406. Duty of Department of Public Welfare.

2 6407. Regulations.

3 6408. Jurisdiction.

4 § 6401. Scope of chapter.

5 This chapter establishes rights and procedures for the civil  
6 commitment of sexually violent delinquent children and young  
7 adults who due to a mental abnormality or personality disorder  
8 have serious difficulty in controlling sexually violent behavior  
9 and thereby pose a danger to the public.

10 § 6402. Definitions.

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

14 "Department." The Department of Public Welfare of the  
15 Commonwealth.

16 "Mental abnormality." A congenital or acquired condition of  
17 a person affecting the emotional or volitional capacity which  
18 predisposes the person to commit sexually violent offenses to a  
19 degree making the person a menace to the health and safety of  
20 others.

21 "Sexually violent delinquent child OR YOUNG ADULT." A ~~CHILD~~ <—  
22 PERSON who has been found delinquent for an act or acts of <—  
23 sexual violence which if committed by an adult would be a  
24 violation of 18 Pa.C.S. § 3121 (relating to rape), 3123  
25 (relating to involuntary deviate sexual intercourse), 3124.1  
26 (relating to sexual assault), 3125 (relating to aggravated  
27 indecent assault), 3126 (RELATING TO INDECENT ASSAULT) or 4302 <—  
28 (relating to incest) AND WHO HAS BEEN DETERMINED TO BE IN NEED <—  
29 OF COMMITMENT UNDER THIS CHAPTER.

30 § 6403. Court-ordered involuntary commitment.

(a) Persons subject to commitment.--A person may be subject to court-ordered involuntary commitment under this chapter if the person:

(1) Has been adjudicated delinquent for an act or acts of sexual violence which if committed by an adult would be a violation of 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault), 3126 (RELATING TO INDECENT ASSAULT) or 4302 (relating to incest).

(2) Has been committed to an institution OR OTHER FACILITY pursuant to section 6352 (relating to disposition of delinquent child) and remains in the institution OR OTHER FACILITY upon attaining 20 years of age.

(3) Is in need of commitment due to a mental abnormality or personality disorder which results in serious difficulty in controlling sexually violent behavior.

(b) Procedures for initiating court-ordered involuntary commitment.--

~~(1) A petition shall be filed by the Juvenile Probation Office~~

(1) WHERE, PURSUANT TO THE PROVISIONS OF SECTION 6358(F) (RELATING TO ASSESSMENT OF DELINQUENT CHILDREN BY THE STATE SEXUAL OFFENDERS ASSESSMENT BOARD), THE COURT DETERMINES THAT A PRIMA FACIE CASE HAS BEEN PRESENTED THAT THE CHILD IS SUBJECT TO COMMITMENT UNDER THE PROVISIONS OF THIS CHAPTER, THE COURT SHALL ORDER THAT A PETITION BE FILED BY THE COUNTY SOLICITOR before the court having jurisdiction of the person pursuant to Chapter 63 (relating to juvenile matters).

(2) The petition shall be in writing in a form adopted

1 by the department and shall set forth the facts constituting  
2 reasonable grounds to believe the individual is within the  
3 criteria for court-ordered commitment as set forth in  
4 subsection (a). The petition shall include the ~~evaluation~~ <—  
5 ASSESSMENT of the person by the State Sexual Offenders <—  
6 Assessment Board as required in section 6358 ~~(relating to~~ <—  
7 ~~assessment of sexually violent delinquent children)~~.

8 (3) The court shall set a date for the hearing WHICH <—  
9 SHALL BE HELD WITHIN 30 DAYS OF THE FILING OF THE PETITION  
10 PURSUANT TO PARAGRAPH (1) and direct the person to appear for  
11 a THE hearing. A copy of the petition AND NOTICE OF THE <—  
12 HEARING DATE shall be served on the person ~~at least 30 days~~ <—  
13 ~~before the hearing together with a~~, THE ATTORNEY WHO <—  
14 REPRESENTED THE PERSON AT THE MOST RECENT DISPOSITIONAL  
15 REVIEW HEARING PURSUANT TO SECTION 6358(E), AND THE COUNTY  
16 SOLICITOR. THE PERSON AND THE ATTORNEY WHO REPRESENTED THE  
17 PERSON SHALL, ALONG WITH COPIES OF THE PETITION, ALSO BE  
18 PROVIDED WITH WRITTEN notice advising that the person has the  
19 right to counsel and that, if he cannot afford one, counsel  
20 shall be appointed for the person.

21 (4) The person shall be informed that the person has a  
22 right to be assisted in the proceedings by an independent  
23 expert in the field of sexually violent behavior. If the  
24 person cannot afford to engage such an expert, the court  
25 shall allow a reasonable fee for such purpose.

26 (c) Hearing.--A hearing pursuant to this chapter shall be  
27 conducted as follows:

28 (1) The person shall not be called as a witness without  
29 the person's consent.

30 (2) The person shall have the right to confront and

1 cross-examine all witnesses and to present evidence on the  
2 person's own behalf.

3 (3) The hearing shall be public.

4 (4) A stenographic or other sufficient record shall be  
5 made.

6 (5) The hearing shall be conducted by the court.

7 (6) A decision shall be rendered within five days after  
8 the conclusion of the hearing.

9 (d) Determination and order.--Upon a finding by clear and  
10 convincing evidence that the person has a mental abnormality or  
11 personality disorder which results in serious difficulty in  
12 controlling sexually violent behavior, an order shall be entered  
13 directing commitment of the person to an institution designated  
14 by the department. The order shall be in writing and shall be  
15 consistent with the protection of the public safety and the  
16 appropriate control, care and treatment of the person.

17 § 6404. Duration of commitment and review.

18 (a) Initial period of commitment.--The person shall be  
19 subject to a period of commitment for one year.

20 (b) Annual review.--

21 (1) Sixty days prior to the expiration of the one-year  
22 commitment period, the department ~~shall~~ AND THE STATE SEXUAL <—  
23 OFFENDERS ASSESSMENT BOARD SHALL EACH submit an evaluation of  
24 the person to the court.

25 (2) The court shall schedule a review hearing which  
26 shall be conducted pursuant to section 6403(c) (relating to  
27 court-ordered involuntary commitment) AND WHICH SHALL BE HELD <—  
28 NO LATER THAN 30 DAYS AFTER RECEIPT OF THE EVALUATIONS UNDER  
29 PARAGRAPH (1). Notice of the ~~petition and~~ review hearing <—  
30 shall be provided to the person, THE ATTORNEY WHO REPRESENTED <—

1 THE PERSON AT THE PREVIOUS HEARING HELD PURSUANT TO THIS  
2 SUBSECTION OR SECTION 6403, the juvenile probation office,  
3 the county administrator and the ~~district attorney~~. COUNTY <—  
4 SOLICITOR. THE PERSON AND THE PERSON'S ATTORNEY SHALL ALSO BE  
5 PROVIDED WITH WRITTEN NOTICE ADVISING THAT THE PERSON HAS THE  
6 RIGHT TO COUNSEL AND THAT, IF HE CANNOT AFFORD ONE, COUNSEL  
7 SHALL BE APPOINTED FOR THE PERSON. If the court determines by  
8 clear and convincing evidence that the person continues to  
9 have serious difficulty controlling sexually violent behavior  
10 due to a mental abnormality or personality disorder, the  
11 court may order an additional period of commitment of one  
12 year. The order shall be in writing and shall be consistent  
13 with the protection of the public safety and appropriate  
14 control, care and treatment of the person.

15 (c) Discharge.--

16 (1) If at any time the director of the facility to which  
17 the person was committed ~~concludes~~ AND THE STATE SEXUAL <—  
18 OFFENDERS ASSESSMENT BOARD CONCLUDE the person no longer has  
19 serious difficulty in controlling sexually violent behavior,  
20 the director shall petition the court for a hearing. Notice  
21 of the petition shall be given to the person, THE ATTORNEY <—  
22 WHO REPRESENTED THE PERSON AT THE PREVIOUS HEARING HELD  
23 PURSUANT TO SUBSECTION (B) OR SECTION 6403, the county  
24 administrator and the ~~district attorney~~. COUNTY SOLICITOR. <—  
25 THE PERSON AND THE PERSON'S ATTORNEY SHALL ALSO BE PROVIDED  
26 WITH WRITTEN NOTICE ADVISING THAT THE PERSON HAS THE RIGHT TO  
27 COUNSEL AND THAT, IF HE CANNOT AFFORD ONE, COUNSEL SHALL BE  
28 APPOINTED FOR THE PERSON.

29 (2) Within 15 days after the petition has been filed,  
30 the court shall hold a hearing pursuant to section 6403(c).



1 If the court determines the person no longer has serious  
2 difficulty controlling sexually violent behavior, the court  
3 shall order the discharge of the person. ~~but require the~~ <—  
4 ~~registration of the person pursuant to Subchapter H of~~  
5 ~~Chapter 97 (relating to registration of sexual offenders).~~ If  
6 the court denies the petition, the person shall be subject to  
7 the remainder of the original period of commitment.

8 (3) The department shall provide the person with notice  
9 of the person's right to petition the court for discharge  
10 over the objection of the department. The court, after review  
11 of the petition, may schedule a hearing pursuant to section  
12 6403(c).

13 (d) Limitation of total period of commitment.--In no case  
14 shall a person subject to additional one-year commitment periods  
15 be confined for more than ten years.

16 § 6405. Right to counsel.

17 At each proceeding conducted pursuant to the provisions of  
18 this chapter, the person who is the subject of the proceeding  
19 shall have the right to assistance of counsel.

20 § 6406. Duty of Department of Public Welfare.

21 The department shall have the duty to provide a secure  
22 facility SOLELY for the control, care and treatment IN <—  
23 CONSULTATION WITH THE JUVENILE COURT JUDGES' COMMISSION AND THE  
24 STATE SEXUAL OFFENDERS ASSESSMENT BOARD of persons committed  
25 pursuant to this chapter.

26 § 6407. Regulations.

27 The department shall adopt IN CONSULTATION WITH THE JUVENILE <—  
28 COURT JUDGES' COMMISSION AND THE STATE SEXUAL OFFENDERS  
29 ASSESSMENT BOARD such regulations as are necessary to effectuate  
30 the provisions of this chapter.

1 § 6408. Jurisdiction.

2 The court of common pleas for the county which entered the  
3 order for commitment of the person for a delinquent act pursuant  
4 to Chapter 63 (relating to juvenile matters) shall have  
5 jurisdiction for proceedings under this chapter including  
6 subsequent proceedings.

7 ~~Section 3. Section 9792 of Title 42 is amended by adding a~~ <—  
8 ~~definition to read:~~

9 ~~§ 9792. Definitions.~~

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

13 \* \* \*

14 ~~"Sexually violent delinquent child." A child who has been~~  
15 ~~found delinquent for an act or acts of sexual violence which if~~  
16 ~~committed by an adult would be a violation of 18 Pa.C.S. § 3121~~  
17 ~~(relating to rape), 3123 (relating to involuntary deviate sexual~~  
18 ~~intercourse), 3124.1 (relating to sexual assault), 3125~~  
19 ~~(relating to aggravated indecent assault) or 4302 (relating to~~  
20 ~~incest).~~

21 \* \* \*

22 ~~Section 4 3. Section 9795.4 of Title 42 is amended by adding~~ <—  
23 ~~a subsection to read:~~

24 § 9795.4. Assessments.

25 \* \* \*

26 ~~(h) Sexually violent delinquent children DELINQUENT CHILDREN~~ <—  
27 ~~OR YOUNG ADULTS.--The probation officer shall notify the board~~  
28 ~~30 90 days prior to the 20th birthday of the child of the status~~ <—  
29 ~~of the sexually violent delinquent child and the information~~ <—  
30 ~~where the delinquent child is presently committed. DELINQUENT~~ <—

1 CHILD WHO IS COMMITTED TO AN INSTITUTION OR OTHER FACILITY  
2 PURSUANT TO SECTION 6352 (RELATING TO DISPOSITION OF DELINQUENT  
3 CHILD) AFTER HAVING BEEN FOUND DELINQUENT FOR AN ACT OR ACTS OF  
4 SEXUAL VIOLENCE WHICH IF COMMITTED BY AN ADULT WOULD BE A  
5 VIOLATION OF 18 PA.C.S. § 3121 (RELATING TO RAPE), 3123  
6 (RELATING TO INVOLUNTARY DEVIATE SEXUAL INTERCOURSE), 3124.1  
7 (RELATING TO SEXUAL ASSAULT), 3125 (RELATING TO AGGRAVATED  
8 INDECENT ASSAULT), 3126 (RELATING TO INDECENT ASSAULT) OR 4302  
9 (RELATING TO INCEST) TOGETHER WITH THE LOCATION OF THE FACILITY  
10 WHERE THE CHILD IS COMMITTED. The board shall conduct an  
11 assessment of the child, WHICH SHALL INCLUDE THE BOARD'S <—  
12 DETERMINATION OF WHETHER OR NOT THE CHILD IS IN NEED OF  
13 COMMITMENT DUE TO A MENTAL ABNORMALITY, AS DEFINED IN § 6402  
14 (RELATING TO DEFINITIONS), OR A PERSONALITY DISORDER WHICH  
15 RESULTS IN SERIOUS DIFFICULTY IN CONTROLLING SEXUALLY VIOLENT  
16 BEHAVIOR, and provide a report to the court within 90 days after  
17 receiving notice of the child's 20th birthday. The probation  
18 officer shall assist the board in obtaining access to the child  
19 and any records or information as requested by the board in  
20 connection with the assessment. The assessment shall be  
21 conducted pursuant to subsection (b).

22 ~~Section 5. Section 9799.1(1) of Title 42 is amended to read:~~ <—  
23 ~~§ 9799.1. Duties of Pennsylvania State Police.~~

24 ~~The Pennsylvania State Police shall:~~

25 ~~(1) Create and maintain a State registry of offenders~~  
26 ~~[and], sexually violent predators and sexually violent~~  
27 ~~delinquent children.~~

28 ~~\* \* \*~~

29 ~~Section 6 4. This act shall take effect in 180 days. y~~ <—