

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2297 Session of 2010

INTRODUCED BY BISHOP, D. O'BRIEN, MURPHY, HARPER, WATERS, QUINN, SIPTROTH, KORTZ, MUNDY, PALLONE, YOUNGBLOOD, COHEN, MOUL, HARKINS, SEIP, KULA, BRIGGS, BELFANTI, VULAKOVICH, REICHLEY, HICKERNELL, PARKER, HENNESSEY, TRUE, MURT, DONATUCCI, HESS, SWANGER AND THOMAS, MARCH 9, 2010

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, MARCH 9, 2010

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in juvenile matters,
3 further providing for definitions and for disposition of
4 dependent child; and providing for termination of
5 jurisdiction.

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

8 Section 1. The definition of "child" in section 6302 of
9 Title 42 of the Pennsylvania Consolidated Statutes is amended
10 and the section is amended by adding a definition to read:

11 § 6302. Definitions.

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

15 * * *

16 "Child." An individual who:

17 (1) is under the age of 18 years;

18 (2) is under the age of 21 years who committed an act of

delinquency before reaching the age of 18 years; or

(3) is under the age of 21 years, was adjudicated dependent before reaching the age of 18 years and [who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event shall a child remain in a course of instruction or treatment past the age of 21 years] for whom court jurisdiction has been continued or resumed pursuant to this chapter.

* * *

"Transition plan." A plan that is prepared by a county agency in accordance with section 6351.2(b) (relating to termination of jurisdiction) and that is developed by a county agency in cooperation with the child and other individuals identified by the county agency, the child and the child's guardian ad litem or legal counsel to assist the child in making a transition to independence.

Section 2. Section 6351(e)(3), (f) and (g) of Title 42 are amended and subsections (e) and (f.1) are amended by adding paragraphs to read:

§ 6351. Disposition of dependent child.

* * *

(e) Permanency hearings.--

* * *

(3) The court shall conduct permanency hearings as follows:

(i) Within six months of:

(A) the date of the child's removal from the child's parent, guardian or custodian for placement under section 6324 (relating to taking into custody)

1 or 6332 or pursuant to a transfer of temporary legal
2 custody or other disposition under subsection (a) (2),
3 whichever is the earliest; [or]

4 (B) each previous permanency hearing until the
5 child is returned to the child's parent, guardian or
6 custodian or removed from the jurisdiction of the
7 court[.]; or

8 (C) the date on which the child reaches 18 years
9 of age.

10 (ii) Within 30 days of:

11 (A) an adjudication of dependency at which the
12 court determined that aggravated circumstances exist
13 and that reasonable efforts to prevent or eliminate
14 the need to remove the child from the child's parent,
15 guardian or custodian or to preserve and reunify the
16 family need not be made or continue to be made;

17 (B) a permanency hearing at which the court
18 determined that aggravated circumstances exist and
19 that reasonable efforts to prevent or eliminate the
20 need to remove the child from the child's parent,
21 guardian or custodian or to preserve and reunify the
22 family need not be made or continue to be made and
23 the permanency plan for the child is incomplete or
24 inconsistent with the court's determination;

25 (C) an allegation that aggravated circumstances
26 exist regarding a child who has been adjudicated
27 dependent, filed under section 6334(b) (relating to
28 petition); or

29 (D) a petition alleging that the hearing is
30 necessary to protect the safety or physical, mental

1 or moral welfare of a dependent child.

2 (4) If the court determines that the conditions for
3 extension of court jurisdiction enumerated in subsection
4 (f.1)(6) are met, the court shall continue to schedule
5 permanency hearings in accordance with this section until
6 court jurisdiction is terminated, but no later than when the
7 child reaches 21 years of age.

8 (f) Matters to be determined at permanency hearing.--At each
9 permanency hearing, a court shall determine all of the
10 following:

11 (1) The continuing necessity for and appropriateness of
12 the placement.

13 (2) The appropriateness, feasibility and extent of
14 compliance with the permanency plan developed for the child.

15 (3) The extent of progress made toward alleviating the
16 circumstances which necessitated the original placement.

17 (4) The appropriateness and feasibility of the current
18 placement goal for the child.

19 (5) The likely date by which the placement goal for the
20 child might be achieved.

21 (5.1) Whether reasonable efforts were made to finalize
22 the permanency plan in effect.

23 (6) Whether the child is safe.

24 (7) If the child has been placed outside the
25 Commonwealth, whether the placement continues to be best
26 suited to the safety, protection and physical, mental and
27 moral welfare of the child.

28 (8) The services needed to assist a child who is 16
29 years of age or older to make the transition to independent
30 living, including a transition plan if one is required.

1 (9) If the child has been in placement for at least 15
2 of the last 22 months or the court has determined that
3 aggravated circumstances exist and that reasonable efforts to
4 prevent or eliminate the need to remove the child from the
5 child's parent, guardian or custodian or to preserve and
6 reunify the family need not be made or continue to be made,
7 whether the county agency has filed or sought to join a
8 petition to terminate parental rights and to identify,
9 recruit, process and approve a qualified family to adopt the
10 child unless:

11 (i) the child is being cared for by a relative best
12 suited to the physical, mental and moral welfare of the
13 child;

14 (ii) the county agency has documented a compelling
15 reason for determining that filing a petition to
16 terminate parental rights would not serve the needs and
17 welfare of the child; or

18 (iii) the child's family has not been provided with
19 necessary services to achieve the safe return to the
20 child's parent, guardian or custodian within the time
21 frames set forth in the permanency plan.

22 (10) If the child has:

23 (i) (A) been informed that the child may request
24 the court to continue jurisdiction after the child
25 reaches 18 years of age and that the child may
26 request the court resume jurisdiction any time prior
27 to when the child reaches 21 years of age if
28 discharged from the court's jurisdiction; and

29 (B) requested that the court's jurisdiction be
30 continued after the child reaches 18 years of age,

1 but in no circumstances beyond 21 years of age, on
2 the basis that the child meets any of the conditions
3 set forth in subsection (f.1)(6).

4 (ii) been informed of services available to the
5 child if the child remains under the jurisdiction of the
6 court.

7 For children placed in foster care on or before November 19,
8 1997, the county agency shall file or join a petition for
9 termination of parental rights under this subsection in
10 accordance with section 103(c)(2) of the Adoption and Safe
11 Families Act of 1997 (Public Law 105-89, 111 Stat. 2119).

12 (f.1) Additional determination.--Based upon the
13 determinations made under subsection (f) and all relevant
14 evidence presented at the hearing, the court shall determine one
15 of the following:

16 * * *

17 (6) Whether the child will remain under the jurisdiction
18 of the court after the child reaches 18 years of age and the
19 duration of the court's jurisdiction, which in no case shall
20 continue once the child reaches 21 years of age, based on a
21 determination by the court that the child meets any of the
22 following conditions:

23 (i) is completing a secondary education program or a
24 program leading to an equivalent credential;

25 (ii) is enrolled in an institution that provides
26 postsecondary or vocation education;

27 (iii) is participating in a program or activity
28 designed to promote employment or remove barriers to
29 employment;

30 (iv) is employed for at least 80 hours per month; or

1 (v) is incapable of doing any of the activities
2 described in subparagraph (i), (ii), (iii) or (iv) due to
3 a medical or behavioral health condition, which
4 incapability is supported by regularly updated
5 information in the case plan of the child.

6 * * *

7 (g) Court order.--On the basis of the determination made
8 under subsection (f.1), the court shall order the continuation,
9 modification or termination of placement or other disposition
10 which is best suited to the safety, protection and physical,
11 mental and moral welfare of the child, including continuation of
12 jurisdiction over a child who is determined to meet one of the
13 conditions enumerated in subsection (f.1)(6).

14 * * *

15 Section 3. Title 42 is amended by adding a section to read:
16 § 6351.2. Termination of jurisdiction.

17 (a) Court hearing.--A court hearing shall be held to
18 terminate the court's jurisdiction over a dependent child who is
19 18 years of age or older. At the hearing, the court shall
20 determine if the county agency did the following:

21 (1) held a transition plan meeting to develop a
22 transition plan; and

23 (2) prepared a transition plan.

24 (b) Transition plan.--A transition plan shall be
25 personalized at the direction of the child and shall include
26 specific plans for housing, health insurance, education,
27 opportunities for mentors and continuing support services, work
28 force supports and employment services. The plan shall be
29 prepared at least 180 days immediately prior to the date on
30 which the child will reach 18 years of age or, if the court has

extended jurisdiction for a child who is 18 years of age or older, then 180 days immediately prior to the anticipated termination of jurisdiction. It shall verify that the following information, documents and services have been provided to the child:

(1) Written information concerning the child's dependency plan, including:

(i) the child's family history and placement history;

(ii) the whereabouts of any siblings under the jurisdiction of the juvenile court, unless the court determines that sibling contact would jeopardize the safety or welfare of the child or sibling; and

(iii) the date on which the jurisdiction of the juvenile court would be terminated.

(2) The following documents:

(i) Social Security card.

(ii) Certified birth certificate.

(iii) Immunization and health records.

(iv) Education records.

(v) Documentation of the dates that the child was under the jurisdiction of the court.

(vi) If applicable, proof of citizenship or residence.

(vii) Driver's license or State identification card.

(3) Evidence that the child has received assistance in completing an application for medical assistance or other health insurance.

(4) In cases where the county agency is aware that the child has or may need behavioral health services,

1 documentation that:

2 (i) The child has been referred to the county mental
3 health program established pursuant to the act of October
4 20, 1966 (3rd Sp.Sess., P.L.96, No.6), known as the
5 Mental Health and Mental Retardation Act of 1966.

6 (ii) An assessment of current mental health needs
7 has been completed by a mental health professional.

8 (iii) If appropriate, a case manager through the
9 county mental health program has been assigned to the
10 child.

11 (iv) If the assessment reveals a need for services,
12 an interagency meeting has occurred among the child, any
13 family members or individuals identified as important to
14 the child, the child's county agency caseworker, the
15 child's county mental health case manager, if any, a
16 representative of the county adult mental health system,
17 any service providers and other individuals with
18 expertise on relevant systems who can assist in
19 developing a written plan that identifies appropriate
20 services for the child's transition from the court's
21 jurisdiction.

22 (v) Services recommended through the assessment and
23 agreed upon during the interagency meeting described in
24 subparagraph (iv), and included in the written plan, were
25 made available on or before the planned discharge date,
26 unless the services were applied for in a timely manner
27 and there is an explanation as to why services could not
28 be made available before discharge.

29 (5) In cases where the child has been identified as
30 having mental retardation, documentation that:

1 (i) The child has been registered with the county
2 mental retardation program established by the Mental
3 Health and Mental Retardation Act of 1966.

4 (ii) A service coordinator has been assigned to the
5 child by the county mental retardation program.

6 (iii) A Supports Intensity Scale (SIS) or similar
7 tool has been completed as developed by the Department of
8 Public Welfare.

9 (iv) A current Prioritization of Urgency of Need for
10 Services (PUNS) or successor form has been completed as
11 developed by the Department of Public Welfare.

12 (v) An interagency meeting to plan for the child's
13 transition from the jurisdiction of the court occurred at
14 least one year before the planned date of discharge, or
15 at the earliest time possible if the child's discharge
16 date is set for less than one year from the date it is
17 recorded in the child's permanency plan, and that the
18 meeting included the child, any family members or
19 individuals identified as important to the child, the
20 county agency caseworker, a provider of mental
21 retardation services familiar with the child, the child's
22 caseworker from the county mental retardation program,
23 the child's supports coordinator, a representative from
24 the Department of Public Welfare's developmental programs
25 and representatives from appropriate educational
26 programs.

27 (6) In cases where the child has autism, documentation
28 that:

29 (i) The Bureau of Autism Services in the Department
30 of Public Welfare was notified of the planned discharge

1 at least one year prior to the child's planned discharge
2 date recorded on the child's permanency plan or at the
3 earliest time possible if the child's discharge date is
4 set for less than one year from the date it is recorded
5 in the child's permanency plan.

6 (ii) The child's needs have been assessed and all
7 appropriate services and waivers have been applied for.

8 (iii) An interagency meeting to plan for the child's
9 transition from the jurisdiction of the court occurred at
10 least one year before the planned date of discharge, or
11 at the earliest time possible if the child's discharge
12 date is set for less than one year from the date it is
13 recorded in the child's permanency plan, and that the
14 meeting included the child, any family members or
15 individuals identified as important to the child, the
16 county agency caseworker, a representative from the
17 Department of Public Welfare responsible for
18 developmental programs and representatives from
19 appropriate educational programs.

20 (7) In cases where the child has a physical disability,
21 documentation that the county agency has notified appropriate
22 agencies that administer home-based and community-based
23 waivers under the medical assistance program for adults with
24 disabilities of the child's planned discharge and that an
25 assessment has been made whether the child may be eligible
26 for any waiver by the county agency and that an appropriate
27 application has been submitted at least six months prior to
28 the planned discharge recorded in the child's permanency plan
29 or the earliest time possible if the child's discharge date
30 is set for less than six months from the date it is recorded

1 in the child's permanency plan.

2 (8) A description of the child's suitable housing plan.

3 (9) Documentation that the child has a source of income
4 through employment or other legitimate means, which shall not
5 include public benefits unless the child has been determined
6 to be unable to work due to a disability.

7 (10) Documentation of the child's education plan and
8 that assistance has been provided in applying for admission
9 to college, a vocational training program or other
10 educational institution and in obtaining financial aid.

11 (11) Documentation that the county agency assisted the
12 child in identifying individuals who can support the child in
13 the child's transition to adulthood, including the child's
14 biological parents and relatives, especially where
15 appropriate, and adults who can serve as mentors.

16 (12) Documentation that the county agency has made
17 reasonable efforts to achieve permanency for the child,
18 including arranging for all available services and resources.

19 (13) Documentation that an application for Supplemental
20 Security Income (SSI) benefits has been submitted for any
21 child with a disability 90 days prior to the child's
22 discharge from the court's jurisdiction.

23 (14) Documentation that the child has been informed by
24 the county agency that the child may request the court to
25 continue jurisdiction and that the child may request that the
26 court resume jurisdiction prior to when the child attains 21
27 years of age in accordance with this chapter.

28 (c) Continued jurisdiction related to plan.--The court shall
29 continue jurisdiction if the court determines that the county
30 agency has not met the requirements of subsection (b), in which

1 case the court shall order continued jurisdiction for a period
2 of time in order that the county agency meet said requirements.

3 (d) Petition to resume jurisdiction.--

4 (1) At any time prior to a child reaching 21 years of
5 age, a child for whom dependency jurisdiction was terminated
6 when the child was 18 years of age or older may request that
7 the court resume dependency jurisdiction if the child meets
8 any one of the conditions enumerated in section 6351(f.1.) (6)
9 (relating to disposition of dependent child).

10 (2) A petition can be filed in the county wherein the
11 child was formerly adjudicated dependent as follows:

12 (i) Upon the child's request to the county agency to
13 resume dependency jurisdiction, the county agency shall
14 file a petition with the court pursuant to section 6334
15 (relating to petition) for an adjudication that court
16 jurisdiction shall be resumed.

17 (ii) The child's guardian ad litem or legal counsel
18 appointed prior to the child's discharge from the
19 jurisdiction of the court may file a petition at the
20 request of the child.

21 (iii) If the child contacts the court directly and
22 requests that a petition to resume court jurisdiction be
23 filed, the court shall make available sample petitions to
24 the child.

25 (3) A hearing on the petition shall be scheduled in
26 accordance with section 6335 (relating to release or holding
27 of hearing).

28 (4) The court shall appoint a guardian ad litem or legal
29 counsel for the child pursuant to section 6311 (relating to
30 guardian ad litem for child in court proceedings) and section

1 6337 (relating to right to counsel) in any proceeding under
2 this chapter. If possible, the court shall appoint the
3 guardian ad litem or legal counsel who represented the child
4 in a prior dependency proceeding.

5 (5) If the court resumes jurisdiction of the child,
6 permanency review hearings shall be scheduled in accordance
7 with section 6351 until court jurisdiction is terminated, but
8 no later than when the child attains 21 years of age.

9 Section 4. This act shall take effect in one year.