
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 853 Session of
1989

INTRODUCED BY HAGARTY, BLAUM, STUBAN, STAIRS, LaGROTTA, SEMMEL,
JAROLIN, S. H. SMITH, LEVDANSKY, BISHOP, HECKLER, KOSINSKI,
LASHINGER, RITTER, McVERRY, CALTAGIRONE, VEON, MORRIS,
DISTLER, TIGUE, FARMER, YANDRISEVITS, FOX, RYBAK, COLAIZZO,
MELIO, NAHILL, MARSICO, CHADWICK, D. W. SNYDER, CAPPABIANCA,
COWELL, J. L. WRIGHT, DeLUCA, SAURMAN, ACOSTA, SCHEETZ,
G. SNYDER, WILSON, DIETTERICK, GODSHALL, WAMBACH, ROBINSON,
HASAY, GRUPPO, BUNT, SALOOM, COY, SERAFINI, RAYMOND, HERMAN,
TANGRETTI, DORR, MRKONIC, MICHLOVIC, ADOLPH, LANGTRY, ARGALL,
VROON, NOYE, FLICK, ANGSTADT, GEIST, TRICH, BELARDI, DEMPSEY,
MICOZZIE, DURHAM, DALEY, E. Z. TAYLOR, MILLER, WESTON,
CIVERA, GIGLIOTTI, ITKIN, STABACK, HARPER, BUSH, HOWLETT AND
J. H. CLARK, APRIL 3, 1989

AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,
NOVEMBER 20, 1990

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 juror qualification, for jurisdiction and venue of juvenile
4 matters; AND for limitation of actions relating to conversion <—
5 and theft of timber.; ~~for access to and disclosure of certain~~ <—
6 ~~confidential information and for confidential communications~~
7 ~~with sexual assault counselors; providing for the disposition~~
8 ~~of a delinquent child, including driver's license suspension,~~
9 ~~for an offense involving a motor vehicle; granting immunity~~
10 ~~to the owners, tenants or lessees of agricultural property~~
11 ~~from certain claims involving individuals picking their own~~
12 ~~agricultural products; and further providing for the~~
13 ~~liability of corporate directors.~~

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Sections 1515(a)(1) and 4502 of Title 42 of the
17 Pennsylvania Consolidated Statutes are amended to read:

1 § 1515. Jurisdiction and venue.

2 (a) Jurisdiction.--Except as otherwise prescribed by general
3 rule adopted pursuant to section 503 (relating to reassignment
4 of matters), district justices shall, under procedures
5 prescribed by general rule, have jurisdiction of all of the
6 following matters:

7 (1) Summary offenses, except those within the
8 jurisdiction of an established and open traffic court and
9 except those arising out of the same episode or transaction
10 involving a delinquent act for which a child is charged as a
11 delinquent child under Chapter 63 (relating to juvenile
12 matters).

13 * * *

14 § 4502. Qualifications of jurors.

15 Every citizen of this Commonwealth who is of the required
16 minimum age for voting for State or local officials and who
17 resides in the county shall be qualified to serve as a juror
18 therein unless such citizen:

19 (1) is unable to read, write, speak and understand the
20 English language;

21 (2) is incapable, by reason of mental or physical
22 infirmity, to render efficient jury service; or

23 (3) has been convicted of or has a charge pending
24 against him for a crime punishable by imprisonment for more
25 than one year and has not been granted a pardon or amnesty
26 therefor.

27 Section 2. Section 5526 of Title 42 is amended by adding a
28 paragraph to read:

29 § 5526. Five year limitation.

30 The following actions and proceedings must be commenced

1 within five years:

2 * * *

3 (5) An action for conversion of timber.

4 Section 3. ~~Sections 5945.1 and 6303 of Title 42 are~~ SECTION <—
5 6303 OF TITLE 42 IS amended to read:

6 ~~§ 5945.1. Confidential communications [to] with sexual assault~~ <—
7 ~~counselors.~~

8 ~~(a) Definitions. As used in this section, the following~~
9 ~~words and phrases shall have the meanings given to them in this~~
10 ~~subsection:~~

11 ~~"Coparticipant." A victim participating in group counseling.~~

12 ~~"Rape crisis center." Any office, institution or center~~
13 ~~offering assistance to victims of sexual assault and their~~
14 ~~families through crisis intervention, medical and legal~~
15 ~~accompaniment and follow up counseling.~~

16 ~~"Sexual assault counselor." A person who is engaged in any~~
17 ~~office, institution or center defined as a rape crisis center~~
18 ~~under this section, who has undergone 40 hours of sexual assault~~
19 ~~training and is under the control of a direct services~~
20 ~~supervisor of a rape crisis center, whose primary purpose is the~~
21 ~~rendering of advice, counseling or assistance to victims of~~
22 ~~sexual assault.~~

23 ~~"Victim." A person who consults a sexual assault counselor~~
24 ~~for the purpose of securing advice, counseling or assistance~~
25 ~~concerning a mental, physical or emotional condition caused or~~
26 ~~reasonably believed to be caused by a sexual assault. The term~~
27 ~~shall also include those persons who have a significant~~
28 ~~relationship with a victim of sexual assault and who seek~~
29 ~~advice, counseling or assistance from a sexual assault counselor~~
30 ~~concerning a mental, physical or emotional condition caused or~~

1 ~~reasonably believed to be caused by a sexual assault of a~~
2 ~~victim.~~

3 ~~"Confidential communication." [Information] All information,~~
4 ~~oral or written, transmitted between a victim of sexual assault~~
5 ~~and a sexual assault counselor in the course of [that] their~~
6 ~~relationship [and in confidence by a means which, so far as the~~
7 ~~victim is aware, does not disclose the information to a third~~
8 ~~person other than those who are present to further the interests~~
9 ~~of the victim in the consultation or those to whom disclosure is~~
10 ~~reasonably necessary for the transmission of the information or~~
11 ~~an accomplishment of the purposes for which the sexual assault~~
12 ~~counselor is consulted. The term includes all information~~
13 ~~received by the sexual assault counselor in the course of that~~
14 ~~relationship] including, but not limited to, any advice,~~
15 ~~reports, statistical data, memoranda, working papers, records or~~
16 ~~the like, given or made during that relationship.~~

17 ~~(b) Privilege. [A sexual assault counselor has a privilege~~
18 ~~not to be examined as a witness in any civil or criminal~~
19 ~~proceeding without the prior written consent of the victim being~~
20 ~~counseled by the counselor as to any confidential communication~~
21 ~~made by the victim to the counselor or as to any advice, report~~
22 ~~or working paper given or made in the course of the~~
23 ~~consultation.]~~

24 ~~(1) No sexual assault counselor may, without the written~~
25 ~~consent of the victim, disclose the victim's confidential~~
26 ~~oral or written communications to the counselor nor consent~~
27 ~~to be examined in any court or criminal proceeding.~~

28 ~~(2) No coparticipant who is present during counseling~~
29 ~~may disclose a victim's confidential communication made~~
30 ~~during the counseling session nor consent to be examined in~~

~~any civil or criminal proceeding without the written consent
of the victim.~~

§ 6303. Scope of chapter.

(a) General rule.--This chapter shall apply exclusively to the following:

(1) Proceedings in which a child is alleged to be delinquent or dependent.

(2) Transfers under section 6322 (relating to transfer from criminal proceedings).

(3) Proceedings arising under Subchapter E (relating to dispositions affecting other jurisdictions).

(4) Proceedings under the Interstate Compact on Juveniles, as set forth in section 731 of the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code."

(5) Proceedings in which a child is charged with a summary offense arising out of the same episode or transaction involving a delinquent act for which a child is charged as a delinquent child. Such summary offenses shall be included in any petition regarding the ancillary delinquent act. Upon finding a child to have committed a summary offense, the court may utilize any disposition available to the minor judiciary where a child is found to have committed a summary offense.

(b) Minor judiciary.--No child shall be detained, committed or sentenced to imprisonment by a district justice or a judge of the minor judiciary.

~~Section 4. Section 6352 of Title 42 is amended by adding a subsection to read:~~

~~§ 6352. Disposition of delinquent child.~~

~~* * *~~

<—

~~(c) Delinquent act involving motor vehicle. In addition to a disposition made under this section, the court shall order the operating privilege of a delinquent child to be suspended by the Department of Transportation for a period established in this subsection, when, while committing an act for which he was adjudicated delinquent or during flight therefrom, a motor vehicle was used. When the court orders a suspension of the operating privilege, which shall include a suspension of the privilege of operating a motorized pedalcycle, of a person under this subsection, the duration of the suspension shall be as follows:~~

~~(1) For a first offense, a period of 180 days from the date of disposition.~~

~~(2) For a second offense, a period of one year from the date of disposition.~~

~~(3) For a third offense, and any offense thereafter, a period of two years from the date of disposition. Suspensions resulting from offenses which do not arise from the same criminal episode shall be imposed consecutively.~~

~~A person whose record is received by the Department of Transportation under this subsection and who does not have a driver's license shall be ineligible to apply for a learner's permit under 75 Pa.C.S. §§ 1505 (relating to learners' permits) and 1507 (relating to application for driver's license or learner's permit by minor) for the time periods specified in this subsection. If the person is under 16 years of age when he is adjudicated delinquent, the suspension of his operating privilege shall commence upon his 16th birthday for the time periods specified in this subsection.~~

~~Section 5. Title 42 is amended by adding a section to read:~~

~~§ 8339. Agricultural immunity.~~

~~(a) General rule. No cause of action shall arise against the owner, tenant or lessee of land or premises for injuries to any person, other than an employee or contractor of the owner, tenant or lessee, who is on the land or premises for the purpose of picking and purchasing agricultural or farm products at a farm or "u pick" operation, unless the person's injuries were caused by a condition which involved an unreasonable risk of harm and all of the following apply:~~

~~(1) The owner, tenant or lessee knew or had reason to know of the condition or risk.~~

~~(2) The owner, tenant or lessee failed to exercise reasonable care to make the condition safe, or to warn the person of the condition or risk.~~

~~(b) Definitions. As used in this section, the term "agricultural or farm products" means the natural products of the farm, nursery, grove, orchard, vineyard, garden and apiary, including, but not limited to, trees and firewood.~~

~~Section 6. The definition of "business corporation" in section 8362 of Title 42 is amended to read:~~

~~§ 8362. Definitions of subchapter.~~

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

~~"Business corporation." Any corporation subject to the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965, the act of December 14, 1967 (P.L.746, No.345), known as the Savings Association Code of 1967, [or] 15 Pa.C.S. Pt. II Subpt. B (relating to~~

1 ~~business corporations), or any association subject to the act of~~
2 ~~June 12, 1968 (P.L.173, No.94), known as the Cooperative~~
3 ~~Agricultural Association Act.~~

4 * * *

5 Section 7 4. The amendment to 42 Pa.C.S. § 5526 shall apply <—
6 to actions that are commenced on or after the effective date of
7 this act.

8 ~~Section 8. Section 6 (section 8362) shall be retroactive to~~ <—
9 ~~January 27, 1984.~~

10 Section 9 5. This act shall take effect as follows: <—

11 (1) ~~Section 1 (section 4502), section 2 (section 5526)~~ <—
12 ~~and section 4 (section 6352)~~ SECTIONS 1 (SECTION 4502) AND 2 <—
13 (SECTION 5526) of this act shall take effect in 60 days.

14 (2) The remainder of this act shall take effect
15 immediately.