

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1986 Session of
1993

INTRODUCED BY ROONEY, STETLER, LaGROTTA, TRELLO, VEON, BELFANTI,
BUTKOVITZ, TOMLINSON, DALEY, FAJT, KIRKLAND, CAPPABIANCA,
MASLAND, JOSEPHS, COY, FREEMAN AND BATTISTO,
SEPTEMBER 29, 1993

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 29, 1993

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 transfer to criminal proceedings.

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

6 Section 1. Section 6355(a) of Title 42 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 6355. Transfer to criminal proceedings.

9 (a) General rule.--After a petition has been filed alleging
10 delinquency based on conduct which is designated a crime or
11 public offense under the laws, including local ordinances, of
12 this Commonwealth, the court before hearing the petition on its
13 merits may rule that this chapter is not applicable and that the
14 offense should be prosecuted, and transfer the offense, where
15 appropriate, to the division or a judge of the court assigned to
16 conduct criminal proceedings, for prosecution of the offense if
17 all of the following exist:

1 (1) The child was 14 or more years of age at the time of
2 the alleged conduct.

3 (2) A hearing on whether the transfer should be made is
4 held in conformity with this chapter.

5 (3) Notice in writing of the time, place, and purpose of
6 the hearing is given to the child and his parents, guardian,
7 or other custodian at least three days before the hearing.

8 (4) The court finds:

9 (i) that there is a prima facie case that the child
10 committed the delinquent act alleged;

11 (ii) that the delinquent act would be considered a
12 felony if committed by an adult or the delinquent act is
13 a violation of 18 Pa.C.S. § 912 (relating to possession
14 of weapon on school property); and

15 (iii) that there are reasonable grounds to believe
16 all of the following:

17 (A) That the child is not amenable to treatment,
18 supervision or rehabilitation as a juvenile through
19 available facilities, even though there may not have
20 been a prior adjudication of delinquency. In
21 determining this the court shall consider the
22 following factors:

23 Age.

24 Mental capacity.

25 Maturity.

26 The degree of criminal sophistication
27 exhibited by the child.

28 Previous records, if any.

29 The nature and extent of any prior delinquent
30 history, including the success or failure of any

1 previous attempts by the juvenile court to
2 rehabilitate the child.

3 Whether the child can be rehabilitated prior
4 to the expiration of the juvenile court
5 jurisdiction.

6 Probation or institutional reports, if any.

7 The nature and circumstances of the acts for
8 which the transfer is sought.

9 Any other relevant factors.

10 (B) That the child is not committable to an
11 institution for the mentally retarded or mentally
12 ill.

13 (C) That the interests of the community require
14 that the child be placed under legal restraint or
15 discipline or that the offense is one which would
16 carry a sentence of more than three years if
17 committed as an adult.

18 * * *

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