

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1622 Session of  
1997

INTRODUCED BY EGOLF, VANCE, LAUGHLIN, LYNCH, COWELL,  
E. Z. TAYLOR, STEELMAN, HENNESSEY, STERN, MAITLAND, TRUE,  
WOGAN, JAMES, TRELLO AND BENNINGHOFF, JUNE 10, 1997

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 10, 1997

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, further providing for  
3 release or delivery of a child taken into custody and for the  
4 place of detention of a child alleged to be delinquent.

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

7 Section 1. Section 6326(c) of Title 42 of the Pennsylvania  
8 Consolidated Statutes is amended to read:

9 § 6326. Release or delivery to court.

10 \* \* \*

11 (c) Detention in police lockup under certain  
12 circumstances.--A child alleged to have committed a crime or  
13 summary offense or to be in violation of conditions of probation  
14 or other supervision following an adjudication of delinquency  
15 may be held securely in a municipal police lockup or other  
16 facility which houses an adult lockup only under the following  
17 conditions:

18 (1) the secure holding shall only be for the purpose of

1 identification, investigation, processing, releasing or  
2 transferring the child to a parent, guardian, or juvenile  
3 court or county children and youth official, or to a shelter  
4 care or juvenile detention center, or while awaiting space in  
5 a juvenile detention center;

6 (2) the secure holding shall be limited to the minimum  
7 time necessary to complete the procedures listed in paragraph  
8 (1), but in no case may such holding exceed six hours unless  
9 the child is detained in a county correctional facility under  
10 section 6327(a.1) (relating to place of detention); and

11 (3) if so held, a child must be separated by sight and  
12 sound from incarcerated adult offenders and must be under the  
13 continuous visual supervision of law enforcement officials or  
14 facility staff.

15 \* \* \*

16 Section 2. Section 6327(a), (b) and (c) of Title 42 are  
17 amended and the section is amended by adding a subsection to  
18 read:

19 § 6327. Place of detention.

20 (a) General rule.--

21 (1) A child alleged to be delinquent may be detained  
22 only in:

23 [(1)] (i) A licensed foster home or a home approved  
24 by the court.

25 [(2)] (ii) A facility operated by a licensed child  
26 welfare agency or one approved by the court.

27 [(3)] (iii) A detention home, camp, center or other  
28 facility for delinquent children which is under the  
29 direction or supervision of the court or other public  
30 authority or private agency, and is approved by the

Department of Public Welfare.

(iv) A county correctional facility under subsection (a.1). A county correctional facility housing ten or fewer juveniles at a time shall be exempt from licensing, approval and regulations promulgated by the Department of Public Welfare.

[(4)] (v) Any other suitable place or facility, designated or operated by the court and approved by the Department of Public Welfare.

(2) Under no circumstances shall a child be detained:

(i) in any facility with adults, unless the child is detained in a county correctional facility under subsection (a.1); or

(ii) a place where the child is apt to be abused by other children.

(a.1) Detention in county correctional facility.--A child alleged to be or previously adjudicated delinquent of a misdemeanor or felony offense may only be detained in a county correctional facility when so ordered by a court and only under the following conditions:

(1) At the discretion of the court, one or more of the following applies:

(i) There is an immediate and urgent necessity to detain the child for the protection of the person or the property of others, and the circumstances surrounding the offense that the child has been charged with involve physical harm or substantial threat of physical harm.

(ii) There is a need to ensure court appearance when there is reason to believe that the child may abscond and there is no parent or responsible adult willing and able

1 to assume responsibility for the child's appearance.

2 (iii) Other resources, such as the child's home, or  
3 placement in a foster home, a group home, or other  
4 shelter care alternative, have been tried and proven  
5 unsuccessful.

6 (iv) There are compelling and clearly documented  
7 reasons why placement with parents or in a shelter care  
8 alternative cannot be considered.

9 (2) The child must be separated by sight and sound from  
10 incarcerated adult offenders and must be under the continuous  
11 visual supervision of law enforcement officials or facility  
12 staff.

13 (3) The county has no juvenile detention facility, and  
14 no space in a juvenile detention facility within a reasonable  
15 distance or in a contiguous county is available.

16 (4) The child must be placed in the first available  
17 space in a juvenile detention center within a reasonable  
18 distance or in a contiguous county, but in no case may a  
19 child be held in a county correctional facility for more than  
20 21 consecutive days.

21 (5) Upon request of the court, the county juvenile  
22 probation department shall deliver the child to the court or  
23 any other specified location.

24 (b) Report by correctional officer of receipt of child.--The  
25 official in charge of a jail or other facility for the detention  
26 of adult offenders or persons charged with crime shall inform  
27 the court immediately if a person who is or appears to be under  
28 the age of 18 years is received at the facility and shall bring  
29 him before the court upon request or deliver him to a detention  
30 or shelter care facility designated by the court[.], unless the

1 child is detained in a county correctional facility under  
2 subsection (a.1), in which case the county juvenile probation  
3 department shall be responsible.

4 (c) Detention in jail prohibited.--It is unlawful for any  
5 person in charge of or employed by a jail knowingly to receive  
6 for detention or to detain in the jail any person whom he has or  
7 should have reason to believe is a child unless, in a criminal  
8 proceeding, the child has been charged with or has been found  
9 guilty of an act set forth in paragraph (2)(i), (ii), (iii) or  
10 (v) of the definition of "delinquent act" in section 6302  
11 (relating to definitions) or the child is detained in a county  
12 correctional facility under subsection (a.1).

13 \* \* \*

14 Section 3. This act shall take effect in 60 days.