
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2786 Session of
1998

INTRODUCED BY HARHART, CORNELL, DENT, CIVERA, ADOLPH, ARGALL,
BARD, BELARDI, CLARK, L. I. COHEN, HARHAI, KENNEY, MAJOR,
MILLER, ROSS, SCHRODER, E. Z. TAYLOR, WAUGH, C. WILLIAMS,
WOGAN AND WOJNAROSKI, SEPTEMBER 21, 1998

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 21, 1998

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 disposition of delinquent child.

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

6 Section 1. Section 6352 of Title 42 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 6352. Disposition of delinquent child.

9 (a) General rule.--If the child is found to be a delinquent
10 child the court may make any of the following orders of
11 disposition determined to be consistent with the protection of
12 the public interest and best suited to the child's treatment,
13 supervision, rehabilitation and welfare, which disposition
14 shall, as appropriate to the individual circumstances of the
15 child's case, provide balanced attention to the protection of
16 the community, the imposition of accountability for offenses
17 committed and the development of competencies to enable the

1 child to become a responsible and productive member of the
2 community:

3 (1) Any order authorized by section 6351 (relating to
4 disposition of dependent child).

5 (2) Placing the child on probation under supervision of
6 the probation officer of the court or the court of another
7 state as provided in section 6363 (relating to ordering
8 foreign supervision), under conditions and limitations the
9 court prescribes.

10 (3) Committing the child to an institution, youth
11 development center, camp, or other facility for delinquent
12 children operated under the direction or supervision of the
13 court or other public authority and approved by the
14 Department of Public Welfare.

15 (4) If the child is 12 years of age or older, committing
16 the child to an institution operated by the Department of
17 Public Welfare.

18 (5) Ordering payment by the child of reasonable amounts
19 of money as fines, costs or restitution as deemed appropriate
20 as part of the plan of rehabilitation considering the nature
21 of the acts committed and the earning capacity of the child.
22 For an order made under this subsection, the court shall
23 retain jurisdiction until there has been full compliance with
24 the order or until the delinquent child attains 21 years of
25 age. Any restitution order which remains unpaid at the time
26 the child attains 21 years of age shall continue to be
27 collectible under section 9728 (relating to collection of
28 restitution, reparation, fees, costs, fines and penalties).

29 (6) An order of the terms of probation may include an
30 appropriate fine considering the nature of the act committed

1 or restitution not in excess of actual damages caused by the
2 child which shall be paid from the earnings of the child
3 received through participation in a constructive program of
4 service or education acceptable to the victim and the court
5 whereby, during the course of such service, the child shall
6 be paid not less than the minimum wage of this Commonwealth.
7 In ordering such service, the court shall take into
8 consideration the age, physical and mental capacity of the
9 child and the service shall be designed to impress upon the
10 child a sense of responsibility for the injuries caused to
11 the person or property of another. The order of the court
12 shall be limited in duration consistent with the limitations
13 in section 6353 (relating to limitation on and change in
14 place of commitment) and in the act of May 13, 1915 (P.L.286,
15 No.177), known as the Child Labor Law. The court order shall
16 specify the nature of the work, the number of hours to be
17 spent performing the assigned tasks, and shall further
18 specify that as part of a plan of treatment and
19 rehabilitation that up to 75% of the earnings of the child be
20 used for restitution in order to provide positive
21 reinforcement for the work performed.

22 In selecting from the alternatives set forth in this section,
23 the court shall follow the general principle that the
24 disposition imposed should provide the means through which the
25 provisions of this chapter are executed and enforced consistent
26 with section 6301(b) (relating to purposes) and when confinement
27 is necessary, the court shall impose the minimum amount of
28 confinement that is consistent with the protection of the public
29 and the rehabilitation needs of the child.

30 (b) Limitation on place of commitment.--A child shall not be

1 committed or transferred to a penal institution or other
2 facility used primarily for the execution of sentences of adults
3 convicted of a crime.

4 (c) Possession of firearm or explosive device on school
5 property.--

6 (1) Where a child has been adjudicated delinquent for
7 the offense of possession of a firearm or explosive device on
8 school property under 18 Pa.C.S. § 912 (relating to
9 possession of weapon on school property), the court shall
10 make an order of disposition committing the child pursuant to
11 subsection (a)(2), (3) or (4) for at least one year,
12 notwithstanding any other provision of this title or other
13 statute to the contrary.

14 (2) There shall be no authority for a court to impose on
15 a child to which this subsection is applicable a lesser order
16 of disposition than provided for in paragraph (1), to place
17 the child on probation, or to suspend the order of
18 disposition. Nothing in this section shall prevent the court
19 from making an order or disposition greater than that
20 provided in paragraph (1).

21 (3) If a court refuses to apply paragraph (1) where
22 applicable, the Commonwealth shall have the right to
23 appellate review of the action of the court. The appellate
24 court shall vacate the disposition and remand to the court
25 for imposition of a disposition in accordance with this
26 section if it finds that the disposition was imposed in
27 violation of paragraph (1).

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