

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1417 Session of
1999

INTRODUCED BY WOGAN, CHADWICK, STEVENSON, L. I. COHEN, SNYDER,
ADOLPH, BARRAR, BATTISTO, BROWNE, CIVERA, CORNELL, COY,
DALLY, FICHTER, GEIST, KELLER, KENNEY, LAUGHLIN, McCALL,
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TRAVAGLIO, TRELLO, WOJNAROSKI, R. MILLER, MICOZZIE, HESS,
PLATTS, MARSICO, O'BRIEN, EGOLF, SOLOBAY, GIGLIOTTI, HARHAI,
ROSS, HARHART, BELFANTI, WALKO, DALEY AND TANGRETTI,
MAY 3, 1999

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 6, 1999

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further defining
3 "delinquent ~~act.~~" ACT"; AND FURTHER PROVIDING FOR DISPOSITION <—
4 OF DELINQUENT CHILDREN.

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

7 Section 1. The definition of "delinquent act" in section
8 6302 of Title 42 of the Pennsylvania Consolidated Statutes is
9 amended to read:

10 § 6302. Definitions.

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

14 * * *

15 "Delinquent act."

1 (1) The term means an act designated a crime under the
2 law of this Commonwealth, or of another state if the act
3 occurred in that state, or under Federal law, or under local
4 ordinances or an act which constitutes indirect criminal
5 contempt under 23 Pa.C.S. Ch. 61 (relating to protection from
6 abuse).

7 (2) The term shall not include:

8 (i) The crime of murder.

9 (ii) Any of the following prohibited conduct where
10 the child was 15 years of age or older at the time of the
11 alleged conduct and a deadly weapon as defined in 18
12 Pa.C.S. § 2301 (relating to definitions) was used during
13 the commission of the offense which, if committed by an
14 adult, would be classified as:

15 (A) Rape as defined in 18 Pa.C.S. § 3121
16 (relating to rape).

17 (B) Involuntary deviate sexual intercourse as
18 defined in 18 Pa.C.S. § 3123 (relating to involuntary
19 deviate sexual intercourse).

20 (C) Aggravated assault as defined in 18 Pa.C.S.
21 § 2702(a)(1) or (2) (relating to aggravated assault).

22 (D) Robbery as defined in 18 Pa.C.S. §
23 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

24 (E) Robbery of motor vehicle as defined in 18
25 Pa.C.S. § 3702 (relating to robbery of motor
26 vehicle).

27 (F) Aggravated indecent assault as defined in 18
28 Pa.C.S. § 3125 (relating to aggravated indecent
29 assault).

30 (G) Kidnapping as defined in 18 Pa.C.S. § 2901

1 (relating to kidnapping).

2 (H) Voluntary manslaughter.

3 (I) An attempt, conspiracy or solicitation to
4 commit murder or any of these crimes as provided in
5 18 Pa.C.S. §§ 901 (relating to criminal attempt), 902
6 (relating to criminal solicitation) and 903 (relating
7 to criminal conspiracy).

8 (iii) Any of the following prohibited conduct where
9 the child was 15 years of age or older at the time of the
10 alleged conduct and has been previously adjudicated
11 delinquent of any of the following prohibited conduct
12 which, if committed by an adult, would be classified as:

13 (A) Rape as defined in 18 Pa.C.S. § 3121.

14 (B) Involuntary deviate sexual intercourse as
15 defined in 18 Pa.C.S. § 3123.

16 (C) Robbery as defined in 18 Pa.C.S. §
17 3701(a)(1)(i), (ii) or (iii).

18 (D) Robbery of motor vehicle as defined in 18
19 Pa.C.S. § 3702.

20 (E) Aggravated indecent assault as defined in 18
21 Pa.C.S. § 3125.

22 (F) Kidnapping as defined in 18 Pa.C.S. § 2901.

23 (G) Voluntary manslaughter.

24 (H) Possession of a weapon on school property as
25 defined in 18 Pa.C.S. § 912 (relating to possession
26 of weapon on school property) while in possession of
27 a firearm as defined in 18 Pa.C.S. § 6102 (relating
28 to definitions).

29 [(H)] (I) An attempt, conspiracy or solicitation
30 to commit murder or any of these crimes as provided

1 in 18 Pa.C.S. §§ 901, 902 and 903.

2 (iv) Summary offenses, unless the child fails to
3 comply with a lawful sentence imposed thereunder, in
4 which event notice of such fact shall be certified to the
5 court.

6 (v) A crime committed by a child who has been found
7 guilty in a criminal proceeding for other than a summary
8 offense.

9 * * *

10 SECTION 2. SECTION 6352 OF TITLE 42 IS AMENDED BY ADDING A <—
11 SUBSECTION TO READ:

12 § 6352. DISPOSITION OF DELINQUENT CHILD.

13 * * *

14 (C) POSSESSION OF FIREARM OR EXPLOSIVE DEVICE ON SCHOOL
15 PROPERTY.--

16 (1) WHERE A CHILD HAS BEEN ADJUDICATED DELINQUENT FOR
17 THE OFFENSE OF POSSESSION OF A FIREARM OR EXPLOSIVE DEVICE ON
18 SCHOOL PROPERTY UNDER 18 PA.C.S. § 912 (RELATING TO
19 POSSESSION OF WEAPON ON SCHOOL PROPERTY), THE COURT SHALL
20 MAKE AN ORDER OF DISPOSITION COMMITTING THE CHILD PURSUANT TO
21 SUBSECTION (A)(2), (3) OR (4) FOR AT LEAST ONE YEAR,
22 NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE OR OTHER
23 STATUTE TO THE CONTRARY.

24 (2) THERE SHALL BE NO AUTHORITY FOR A COURT TO IMPOSE ON
25 A CHILD TO WHICH THIS SUBSECTION IS APPLICABLE A LESSER ORDER
26 OF DISPOSITION THAN PROVIDED FOR IN PARAGRAPH (1) OR TO
27 SUSPEND THE ORDER OF DISPOSITION. NOTHING IN THIS SECTION
28 SHALL PREVENT THE COURT FROM MAKING AN ORDER OR DISPOSITION
29 GREATER THAN THAT PROVIDED IN PARAGRAPH (1).

30 (3) IF A COURT REFUSES TO APPLY PARAGRAPH (1) WHERE

1 APPLICABLE, THE COMMONWEALTH SHALL HAVE THE RIGHT TO
2 APPELLATE REVIEW OF THE ACTION OF THE COURT. THE APPELLATE
3 COURT SHALL VACATE THE DISPOSITION AND REMAND TO THE COURT
4 FOR IMPOSITION OF A DISPOSITION IN ACCORDANCE WITH THIS
5 SECTION IF IT FINDS THAT THE DISPOSITION WAS IMPOSED IN
6 VIOLATION OF PARAGRAPH (1).

7 Section 2 3. This act shall take effect in 60 days.

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