
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 818 Session of
2001

INTRODUCED BY (PRIME SPONSOR WITHDREW), GREENLEAF AND HOLL,
MAY 2, 2001

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 20, 2001

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for law
3 enforcement records; AND PROVIDING FOR LIMITATIONS ON
4 ASBESTOS-RELATED LIABILITIES RELATING TO CERTAIN MERGERS OR
5 CONSOLIDATIONS. <—

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

8 Section 1. Section 6308(b)(1) of Title 42 of the
9 Pennsylvania Consolidated Statutes is amended to read:

10 § 6308. Law enforcement records.

11 * * *

12 (b) Public availability.--

13 (1) The contents of law enforcement records and files
14 concerning a child shall not be disclosed to the public
15 [except if the child is 14 or more years of age at the time
16 of the alleged conduct and if any of] unless ANY OF the
17 following apply: <—

18 (i) The child has been adjudicated delinquent by a

1 court as a result of an act or acts [which include the
2 elements of rape, kidnapping, murder, robbery, arson,
3 burglary, violation of section 13(a)(30) of the act of
4 April 14, 1972 (P.L.233, No.64), known as The Controlled
5 Substance, Drug, Device and Cosmetic Act, or other act
6 involving the use of or threat of serious bodily harm.]
7 committed:

8 (A) when the child was 14 years of age or older and
9 the ~~alleged~~ conduct would be considered a felony if <—
10 committed by an adult; or

11 (B) when the child was 12 or 13 years of age and the
12 ~~alleged~~ conduct would have constituted one or more of the <—
13 following offenses if committed by an adult:

14 (I) Murder.

15 (II) Voluntary manslaughter.

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

19 (IV) Arson as defined in 18 Pa.C.S. § 3301(a)(1)
20 (relating to arson and related offenses).

21 (V) Involuntary deviate sexual intercourse.

22 (VI) Kidnapping.

23 (VII) Rape.

24 (VIII) Robbery as defined in 18 Pa.C.S. §
25 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

26 (IX) Robbery of motor vehicle.

27 (X) Attempt or conspiracy to commit any of the
28 offenses in this subparagraph.

29 (ii) A petition alleging delinquency has been filed
30 by a law enforcement agency alleging that the child has

1 committed an act or acts [which include the elements of
2 rape, kidnapping, murder, robbery, arson, burglary,
3 violation of section 13(a)(30) of The Controlled
4 Substance, Drug, Device and Cosmetic Act, or other act
5 involving the use of or threat of serious bodily harm]
6 subject to a hearing pursuant to section 6336(e) and the
7 child previously has been adjudicated delinquent by a
8 court as a result of an act or acts [which included the
9 elements of one of such crimes.] committed:

10 (A) when the child was 14 years of age or older and
11 the ~~alleged~~ conduct would be considered a felony if <—
12 committed by an adult; or

13 (B) when the child was 12 or 13 years of age and the
14 ~~alleged~~ conduct would have constituted one or more of the <—
15 following offenses if committed by an adult:

16 (I) Murder.

17 (II) Voluntary manslaughter.

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

21 (IV) Arson as defined in 18 Pa.C.S. § 3301(a)(1)
22 (relating to arson and related offenses).

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27 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

28 (IX) Robbery of motor vehicle.

29 (X) Attempt or conspiracy to commit any of the
30 offenses in this subparagraph.

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

SECTION 2. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:

§ 7104. LIMITATIONS ON ASBESTOS-RELATED LIABILITIES RELATING TO CERTAIN MERGERS OR CONSOLIDATIONS.

(A) LIMITATIONS ON SUCCESSOR ASBESTOS-RELATED LIABILITIES.--

(1) EXCEPT AS FURTHER LIMITED IN PARAGRAPH (2), THE CUMULATIVE SUCCESSOR ASBESTOS-RELATED LIABILITIES OF A DOMESTIC CORPORATION THAT WAS INCORPORATED IN THIS COMMONWEALTH PRIOR TO MAY 1, 2001, SHALL BE LIMITED TO THE FAIR MARKET VALUE OF THE TOTAL ASSETS OF THE TRANSFEROR DETERMINED AT THE TIME OF THE MERGER OR CONSOLIDATION AND SUCH CORPORATION SHALL HAVE NO RESPONSIBILITY FOR SUCCESSOR ASBESTOS-RELATED LIABILITIES IN EXCESS OF SUCH LIMITATION.

(2) IF THE TRANSFEROR HAD ASSUMED OR INCURRED SUCCESSOR ASBESTOS-RELATED LIABILITIES IN CONNECTION WITH A PRIOR MERGER OR CONSOLIDATION WITH A PRIOR TRANSFEROR, THEN THE FAIR MARKET VALUE OF THE TOTAL ASSETS OF THE PRIOR TRANSFEROR, DETERMINED AT THE TIME OF SUCH EARLIER MERGER OR CONSOLIDATION, SHALL BE SUBSTITUTED FOR THE LIMITATION SET FORTH IN PARAGRAPH (1) FOR PURPOSES OF DETERMINING THE LIMITATION OF LIABILITY OF A DOMESTIC CORPORATION.

(B) LIMITATION ON TOTAL ASSETS AVAILABLE TO SATISFY
SUCCESSOR ASBESTOS-RELATED LIABILITIES.--

(1) EXCEPT AS FURTHER LIMITED IN PARAGRAPH (2), THE ASSETS OF A DOMESTIC CORPORATION THAT WAS INCORPORATED IN THIS COMMONWEALTH PRIOR TO MAY 1, 2001, SHALL BE EXEMPT FROM RESTRAINT, ATTACHMENT OR EXECUTION ON JUDGMENTS RELATED TO CLAIMS FOR SUCCESSOR ASBESTOS-RELATED LIABILITIES TO THE EXTENT THAT THE CUMULATIVE AMOUNTS WHICH, AFTER THE TIME OF

1 THE MERGER OR CONSOLIDATION AS TO WHICH THE FAIR MARKET VALUE
2 OF TOTAL ASSETS IS DETERMINED FOR PURPOSES OF THIS SUBSECTION
3 AND SUBSECTION (A), ARE PAID OR COMMITTED TO BE PAID BY OR ON
4 BEHALF OF THE CORPORATION, OR BY OR ON BEHALF OF A
5 TRANSFEROR, IN CONNECTION WITH SETTLEMENTS, JUDGMENTS OR
6 OTHER DISCHARGES OF CLAIMS OF ASBESTOS-RELATED LIABILITIES,
7 EXCEEDS THE FAIR MARKET VALUE OF THE TOTAL ASSETS OF THE
8 TRANSFEROR, DETERMINED AT THE TIME OF THE MERGER OR
9 CONSOLIDATION.

10 (2) IF THE TRANSFEROR HAD ASSUMED OR INCURRED SUCCESSOR
11 ASBESTOS-RELATED LIABILITIES IN CONNECTION WITH A PRIOR
12 MERGER OR CONSOLIDATION WITH A PRIOR TRANSFEROR, THEN THE
13 FAIR MARKET VALUE OF THE TOTAL ASSETS OF THE PRIOR
14 TRANSFEROR, DETERMINED AT THE TIME OF SUCH EARLIER MERGER OR
15 CONSOLIDATION, SHALL BE SUBSTITUTED FOR THE LIMITATION SET
16 FORTH IN PARAGRAPH (1) FOR PURPOSES OF DETERMINING THE EXTENT
17 OF THE EXEMPTION OF THE ASSETS OF A DOMESTIC CORPORATION.

18 (C) FAIR MARKET VALUE OF TOTAL ASSETS.--

19 (1) A DOMESTIC CORPORATION MAY ESTABLISH THE FAIR MARKET
20 VALUE OF TOTAL ASSETS THROUGH ANY METHOD THAT IS REASONABLE
21 IN THE CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, BY
22 REFERENCE TO THE PURCHASE PRICE PAID FOR SUCH ASSETS IN AN
23 ARM'S LENGTH TRANSACTION AND THE VALUE OF SUCH ASSETS
24 RECORDED ON A BALANCE SHEET. ANY SUCH SHOWING BY THE DOMESTIC
25 CORPORATION OF A REASONABLE DETERMINATION OF THE FAIR MARKET
26 VALUE OF ASSETS SHALL BE PRIMA FACIE EVIDENCE OF SUCH FAIR
27 MARKET VALUE.

28 (2) ONCE A REASONABLE DETERMINATION OF THE FAIR MARKET
29 VALUE OF TOTAL ASSETS HAS BEEN THUS ESTABLISHED BY A DOMESTIC
30 CORPORATION, A CLAIMANT DISPUTING THAT DETERMINATION OF VALUE

1 SHALL THEN HAVE THE BURDEN OF ESTABLISHING A DIFFERENT FAIR
2 MARKET VALUE OF SUCH ASSETS.

3 (3) FOR THE PURPOSE OF ADJUSTING THE LIMITATIONS SET
4 FORTH IN SUBSECTIONS (A) AND (B) TO ACCOUNT FOR THE PASSAGE
5 OF TIME, THE FAIR MARKET VALUE OF TOTAL ASSETS AT THE TIME OF
6 A MERGER OR CONSOLIDATION SHALL BE INCREASED ANNUALLY, UNTIL
7 THE EARLIER OF:

8 (I) THE DATE OF THE SETTLEMENT, JUDGMENT OR OTHER
9 DISCHARGE TO WHICH THE LIMITATIONS IN SUBSECTIONS (A) AND
10 (B) ARE BEING APPLIED; OR

11 (II) THE DATE ON WHICH SUCH ADJUSTED FAIR MARKET
12 VALUE IS FIRST EXCEEDED BY THE CUMULATIVE AMOUNTS PAID OR
13 COMMITTED TO BE PAID BY OR ON BEHALF OF THE CORPORATION,
14 OR BY OR ON BEHALF OF A TRANSFEROR, AFTER THE TIME OF THE
15 MERGER OR CONSOLIDATION AS TO WHICH THE FAIR MARKET VALUE
16 OF TOTAL ASSETS IS DETERMINED FOR PURPOSES OF SUBSECTIONS
17 (A) AND (B), IN CONNECTION WITH SETTLEMENTS, JUDGMENTS OR
18 OTHER DISCHARGES OF THE SUCCESSOR ASBESTOS-RELATED
19 LIABILITIES,

20 AT THE RATE EQUAL TO THE PRIME RATE AS LISTED IN THE FIRST
21 EDITION OF THE WALL STREET JOURNAL PUBLISHED FOR EACH
22 CALENDAR YEAR SINCE SUCH MERGER OR CONSOLIDATION, PLUS 1%,
23 NOT COMPOUNDED.

24 (D) TRANSFER OF CLAIM TO AVOID POLICY OF COMMONWEALTH.--THE
25 PROVISIONS OF SECTION 8128 (RELATING TO TRANSFER OF CLAIM TO
26 AVOID POLICY OF COMMONWEALTH) SHALL APPLY TO THE LIMITATION ON
27 ASSETS SET FORTH IN SUBSECTION (B).

28 (E) APPLICATION.--

29 (1) THE LIMITATIONS SET FORTH IN SUBSECTIONS (A) AND (B)
30 SHALL APPLY TO MERGERS OR CONSOLIDATIONS EFFECTED UNDER THE

1 LAWS OF THIS COMMONWEALTH OR ANOTHER JURISDICTION CONSUMMATED
2 BEFORE MAY 1, 2001.

3 (2) THE LIMITATIONS SET FORTH IN SUBSECTIONS (A) AND (B)
4 SHALL APPLY TO ALL ASBESTOS CLAIMS, INCLUDING EXISTING
5 ASBESTOS CLAIMS, AND ALL LITIGATION, INCLUDING EXISTING
6 LITIGATION, AND SHALL APPLY TO SUCCESSORS OF A DOMESTIC
7 CORPORATION TO WHICH THIS SECTION APPLIES.

8 (3) THE LIMITATIONS SET FORTH IN SUBSECTIONS (A) AND (B)
9 SHALL NOT APPLY TO WORKERS' COMPENSATION BENEFITS PAID BY OR
10 ON BEHALF OF AN EMPLOYER TO AN EMPLOYEE PURSUANT TO THE ACT
11 OF JUNE 2, 1915 (P.L.736, NO.338), KNOWN AS THE WORKERS'
12 COMPENSATION ACT, OR COMPARABLE WORKERS' COMPENSATION LAW OF
13 ANOTHER JURISDICTION.

14 (4) THE LIMITATIONS SET FORTH IN SUBSECTIONS (A) AND (B)
15 SHALL NOT APPLY TO ANY CLAIM AGAINST A DOMESTIC CORPORATION
16 THAT DOES NOT CONSTITUTE A SUCCESSOR ASBESTOS-RELATED
17 LIABILITY.

18 (5) THIS SECTION SHALL NOT APPLY TO AN INSURANCE
19 CORPORATION AS DEFINED IN 15 PA.C.S. § 3102 (RELATING TO
20 DEFINITIONS).

21 (6) THE LIMITATIONS SET FORTH IN SUBSECTIONS (A) AND (B)
22 SHALL NOT APPLY TO ANY OBLIGATIONS ARISING UNDER THE NATIONAL
23 LABOR RELATIONS ACT (49 STAT. 449, 29 U.S.C. § 151 ET SEQ.),
24 OR UNDER ANY COLLECTIVE BARGAINING AGREEMENT.

25 (F) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
26 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
27 SUBSECTION:

28 "ASBESTOS CLAIM." ANY CLAIM, WHEREVER OR WHENEVER MADE, FOR
29 DAMAGES, LOSSES, INDEMNIFICATION, CONTRIBUTION OR OTHER RELIEF,
30 ARISING OUT OF, BASED ON OR IN ANY WAY RELATED TO ASBESTOS,

1 INCLUDING, BUT NOT LIMITED TO, PROPERTY DAMAGE CAUSED BY THE
2 INSTALLATION, PRESENCE OR REMOVAL OF ASBESTOS, THE HEALTH
3 EFFECTS OF EXPOSURE TO ASBESTOS, INCLUDING ANY CLAIM FOR
4 PERSONAL INJURY, DEATH, MENTAL OR EMOTIONAL INJURY, RISK OF
5 DISEASE OR OTHER INJURY OR THE COSTS OF MEDICAL MONITORING OR
6 SURVEILLANCE. THE TERM ALSO INCLUDES ANY CLAIM MADE BY OR ON
7 BEHALF OF ANY PERSON EXPOSED TO ASBESTOS OR ANY REPRESENTATIVE,
8 SPOUSE, PARENT, CHILD OR OTHER RELATIVE OF ANY SUCH PERSON.

9 "DOMESTIC CORPORATION." A DOMESTIC CORPORATION AS DEFINED IN
10 15 PA.C.S. § 102 (RELATING TO DEFINITIONS).

11 "SUCCESSOR ASBESTOS-RELATED LIABILITIES." ANY LIABILITIES
12 WHETHER KNOWN OR UNKNOWN, ASSERTED OR UNASSERTED, ABSOLUTE OR
13 CONTINGENT, ACCRUED OR UNACCRUED, LIQUIDATED OR UNLIQUIDATED OR
14 DUE OR TO BECOME DUE, RELATED IN ANY WAY TO ASBESTOS CLAIMS,
15 THAT WERE ASSUMED OR INCURRED BY A CORPORATION AS A RESULT OF OR
16 IN CONNECTION WITH A MERGER OR CONSOLIDATION, OR THE PLAN OF
17 MERGER OR CONSOLIDATION RELATED THERETO, WITH OR INTO ANOTHER
18 CORPORATION EFFECTED UNDER THE LAWS OF THIS COMMONWEALTH OR
19 ANOTHER JURISDICTION OR WHICH ARE RELATED IN ANY WAY TO ASBESTOS
20 CLAIMS BASED ON THE EXERCISE OF CONTROL OR THE OWNERSHIP OF
21 STOCK OF SUCH CORPORATION PRIOR TO SUCH MERGER OR CONSOLIDATION.
22 THE TERM SHALL INCLUDE LIABILITIES WHICH, AFTER THE TIME OF THE
23 MERGER OR CONSOLIDATION AS TO WHICH THE FAIR MARKET VALUE OF
24 TOTAL ASSETS IS DETERMINED FOR PURPOSES OF SUBSECTIONS (A) AND
25 (B), WERE OR ARE PAID OR OTHERWISE DISCHARGED OR COMMITTED TO BE
26 PAID OR OTHERWISE DISCHARGED, BY OR ON BEHALF OF THE
27 CORPORATION, OR BY OR ON BEHALF OF A TRANSFEROR, IN CONNECTION
28 WITH SETTLEMENTS, JUDGMENTS OR OTHER DISCHARGES IN THIS
29 COMMONWEALTH OR ANOTHER JURISDICTION.

30 "TRANSFEROR." A CORPORATION FROM WHOM SUCCESSOR ASBESTOS-

1 RELATED LIABILITIES ARE ASSUMED OR INCURRED.

2 SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.