

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1222 Session of
2003

INTRODUCED BY WEBER, ARMSTRONG, BUNT, CRAHALLA, DIGIROLAMO,
GABIG, GEIST, GILLESPIE, HERMAN, HICKERNELL, HORSEY, KELLER,
LEWIS, MARSICO, R. MILLER, O'NEILL, PAYNE, REICHLEY,
E. Z. TAYLOR, WATSON, YOUNGBLOOD AND HARPER, APRIL 24, 2003

AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,
DECEMBER 8, 2003

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 ~~identification of incorrect debtor, for summary offenses~~ <—
4 ~~involving vehicles and for sentence of intermediate~~
5 ~~punishment.~~ IDENTIFICATION OF INCORRECT DEBTOR; FURTHER <—
6 DEFINING "OTHER SPECIFIED OFFENSE" FOR PURPOSES OF DNA DATA
7 AND TESTING; AND FURTHER PROVIDING FOR SUMMARY OFFENSES
8 INVOLVING VEHICLES, FOR LAW ENFORCEMENT RECORDS, FOR DURATION
9 OF COMMITMENT AND REVIEW, FOR SENTENCE OF INTERMEDIATE
10 PUNISHMENT AND FOR ASSESSMENTS.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 ~~Section 1. Sections 2737.1 and 5553(a), (b) and (c) of Title~~ <—
14 ~~42 of the Pennsylvania Consolidated Statutes are amended to~~
15 ~~read:~~

16 SECTION 1. SECTION 2737.1 OF TITLE 42 OF THE PENNSYLVANIA <—
17 CONSOLIDATED STATUTES IS AMENDED TO READ:

18 § 2737.1. Incorrect debtor identified.

19 [At the time a](a) Procedure.--A creditor that files for a
20 judgment by confession under section 2737(3) (relating to powers

1 and duties of the office of the prothonotary)[, the creditor
2 filing the judgment shall provide the debtor with written
3 instructions regarding the procedure to follow to strike the
4 judgment.] shall comply with the Pennsylvania Rules of Civil
5 Procedure regarding confession of judgment, including any notice
6 provisions. A debtor who has been incorrectly identified and had
7 a confession or judgment entered against him [shall be entitled
8 to] may petition the court for costs and reasonable attorney
9 fees as determined by the court. [The instructions provided to
10 the debtor shall explain to the debtor that under this section
11 he is entitled to costs and reasonable attorney fees as
12 determined by the court if he was incorrectly identified.]

13 (b) Effect on judgment.--A judgment shall not be stricken or
14 opened because of a creditor's failure to provide a correctly
15 identified debtor with instructions pursuant to this section
16 regarding procedures to follow to strike a judgment or regarding
17 any rights available to an incorrectly identified debtor.

18 SECTION 2. THE DEFINITION OF "OTHER SPECIFIED OFFENSE" IN <—
19 SECTION 4703 OF TITLE 42 IS AMENDED TO READ:

20 § 4703. DEFINITIONS.

21 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
22 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
23 CONTEXT CLEARLY INDICATES OTHERWISE:

24 * * *

25 "OTHER SPECIFIED OFFENSE." AN OFFENSE OR AN ATTEMPT,
26 CONSPIRACY OR SOLICITATION TO COMMIT AN OFFENSE UNDER ANY OF THE
27 FOLLOWING:

28 18 PA.C.S. § 2502 (RELATING TO MURDER).

29 18 PA.C.S. [§ 2709(C)(2)(II) (RELATING TO HARASSMENT AND
30 STALKING)] § 2709.1(C)(2) (RELATING TO STALKING).

1 18 PA.C.S. § 2901 (RELATING TO KIDNAPPING).

2 18 PA.C.S. § 2910 (RELATING TO LURING A CHILD INTO A
3 MOTOR VEHICLE).

4 18 PA.C.S. § 3126 (RELATING TO INDECENT ASSAULT).

5 18 PA.C.S. § 3502 (RELATING TO BURGLARY).

6 18 PA.C.S. § 3701 (RELATING TO ROBBERY).

7 * * *

8 SECTION 3. SECTIONS 5553(A), (B) AND (C), 6308(B)(1) AND
9 6404(C)(3) OF TITLE 42 ARE AMENDED TO READ:

10 § 5553. Summary offenses involving vehicles.

11 (a) General rule.--Except as provided in subsection (b) or
12 (c), proceedings for a summary [offenses] offense under Title 75
13 (relating to vehicles) must be commenced within 30 days after
14 the commission of the alleged offense or within 30 days after
15 the discovery of the commission of the offense or the identity
16 of the offender, whichever is later, and not thereafter.

17 [(b) Minor offenses.--Except as provided in subsection (c),
18 proceedings for summary offenses under the following provisions
19 of Title 75 must be commenced within 30 days after the
20 commission of the alleged offense or within 30 days after the
21 discovery of the commission of the offense or the identity of
22 the offender, whichever is later, and not thereafter:

23 Chapter 31 (relating to general provisions).

24 Chapter 33 (relating to rules of the road in general).

25 Chapter 35 (relating to special vehicles and
26 pedestrians).

27 Subchapters A (relating to offenses in general) and C
28 (relating to accidents and accident reports) of Chapter 37.

29 (c) Exception.--Where]

30 (c) Exceptions.--

1 (1) Where proceedings are timely commenced against a
2 person reasonably believed to have committed the [offense]
3 summary offense or offenses charged and it subsequently
4 appears that a person other than the person charged is the
5 offender, proceedings may be commenced against the other
6 person within 30 days after the identity of the person is
7 discovered and not thereafter.

8 (2) Where a police officer reasonably believes that
9 there are multiple summary offenses arising out of the same
10 conduct or the same criminal episode and that an offense
11 under 75 Pa.C.S. § 1543 (relating to driving while operating
12 privilege is suspended or revoked) has occurred, proceedings
13 on all summary offenses arising from the conduct or episode
14 may be commenced at the same time and must be commenced
15 within 30 days after the commission of the alleged offenses
16 or within 30 days after the discovery of the commission of
17 the offenses or the identity of the offender or within 30
18 days after the police officer receives verification of the
19 basis for the suspension from the Department of
20 Transportation as required under 75 Pa.C.S. ~~§ 1543(c)~~ § <—
21 1543(D), whichever is later, and not thereafter.

22 * * *

23 § 6308. LAW ENFORCEMENT RECORDS. <—

24 * * *

25 (B) PUBLIC AVAILABILITY.--

26 (1) THE CONTENTS OF LAW ENFORCEMENT RECORDS AND FILES
27 CONCERNING A CHILD SHALL NOT BE DISCLOSED TO THE PUBLIC
28 [EXCEPT IF THE CHILD IS 14 OR MORE YEARS OF AGE AT THE TIME
29 OF THE ALLEGED CONDUCT AND IF ANY OF] UNLESS ANY OF THE
30 FOLLOWING APPLY:

1 (I) THE CHILD HAS BEEN ADJUDICATED DELINQUENT BY A
2 COURT AS A RESULT OF AN ACT OR ACTS [WHICH INCLUDE THE
3 ELEMENTS OF RAPE, KIDNAPPING, MURDER, ROBBERY, ARSON,
4 BURGLARY, VIOLATION OF SECTION 13(A)(30) OF THE ACT OF
5 APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED
6 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR OTHER ACT
7 INVOLVING THE USE OF OR THREAT OF SERIOUS BODILY HARM.]
8 COMMITTED:

9 (A) WHEN THE CHILD WAS 14 YEARS OF AGE OR OLDER
10 AND THE CONDUCT WOULD BE CONSIDERED A FELONY IF
11 COMMITTED BY AN ADULT; OR

12 (B) WHEN THE CHILD WAS 12 OR 13 YEARS OF AGE AND
13 THE CONDUCT WOULD HAVE CONSTITUTED ONE OR MORE OF THE
14 FOLLOWING OFFENSES IF COMMITTED BY AN ADULT:

15 (I) MURDER.

16 (II) VOLUNTARY MANSLAUGHTER.

17 (III) AGGRAVATED ASSAULT AS DEFINED IN 18
18 PA.C.S. § 2702(A)(1) OR (2) (RELATING TO
19 AGGRAVATED ASSAULT).

20 (IV) ARSON AS DEFINED IN 18 PA.C.S. §
21 3301(A)(1) (RELATING TO ARSON AND RELATED
22 OFFENSES).

23 (V) INVOLUNTARY DEVIATE SEXUAL INTERCOURSE.

24 (VI) KIDNAPPING.

25 (VII) RAPE.

26 (VIII) ROBBERY AS DEFINED IN 18 PA.C.S. §
27 3701(A)(1)(I), (II) OR (III) (RELATING TO
28 ROBBERY).

29 (IX) ROBBERY OF MOTOR VEHICLE.

30 (X) ATTEMPT OR CONSPIRACY TO COMMIT ANY OF

1 THE OFFENSES IN THIS SUBPARAGRAPH.

2 (II) A PETITION ALLEGING DELINQUENCY HAS BEEN FILED
3 BY A LAW ENFORCEMENT AGENCY ALLEGING THAT THE CHILD HAS
4 COMMITTED AN ACT OR ACTS [WHICH INCLUDE THE ELEMENTS OF
5 RAPE, KIDNAPPING, MURDER, ROBBERY, ARSON, BURGLARY,
6 VIOLATION OF SECTION 13(A)(30) OF THE CONTROLLED
7 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR OTHER ACT
8 INVOLVING THE USE OF OR THREAT OF SERIOUS BODILY HARM]
9 SUBJECT TO A HEARING PURSUANT TO SECTION 6336(E) AND THE
10 CHILD PREVIOUSLY HAS BEEN ADJUDICATED DELINQUENT BY A
11 COURT AS A RESULT OF AN ACT OR ACTS [WHICH INCLUDED THE
12 ELEMENTS OF ONE OF SUCH CRIMES.] COMMITTED:

13 (A) WHEN THE CHILD WAS 14 YEARS OF AGE OR OLDER
14 AND THE CONDUCT WOULD BE CONSIDERED A FELONY IF
15 COMMITTED BY AN ADULT; OR

16 (B) WHEN THE CHILD WAS 12 OR 13 YEARS OF AGE AND
17 THE CONDUCT WOULD HAVE CONSTITUTED ONE OR MORE OF THE
18 FOLLOWING OFFENSES IF COMMITTED BY AN ADULT:

19 (I) MURDER.

20 (II) VOLUNTARY MANSLAUGHTER.

21 (III) AGGRAVATED ASSAULT AS DEFINED IN 18
22 PA.C.S. § 2702(A)(1) OR (2) (RELATING TO
23 AGGRAVATED ASSAULT).

24 (IV) ARSON AS DEFINED IN 18 PA.C.S. §
25 3301(A)(1) (RELATING TO ARSON AND RELATED
26 OFFENSES).

27 (V) INVOLUNTARY DEVIATE SEXUAL INTERCOURSE.

28 (VI) KIDNAPPING.

29 (VII) RAPE.

30 (VIII) ROBBERY AS DEFINED IN 18 PA.C.S. §

1 3701(A)(1)(I), (II) OR (III) (RELATING TO
2 ROBBERY).

3 (IX) ROBBERY OF MOTOR VEHICLE.

4 (X) ATTEMPT OR CONSPIRACY TO COMMIT ANY OF
5 THE OFFENSES IN THIS SUBPARAGRAPH.

6 * * *

7 § 6404. DURATION OF COMMITMENT AND REVIEW.

8 * * *

9 (C) DISCHARGE.--

10 * * *

11 (3) WITHIN 15 DAYS AFTER [THE PETITION HAS BEEN FILED,]
12 THE RECEIPT OF THE ASSESSMENT FROM THE BOARD, THE COURT SHALL
13 HOLD A HEARING PURSUANT TO SECTION 6403(C). IF THE COURT
14 DETERMINES [THE PERSON NO LONGER HAS SERIOUS DIFFICULTY
15 CONTROLLING SEXUALLY VIOLENT BEHAVIOR, THE COURT SHALL ORDER
16 THE DISCHARGE OF THE PERSON. IF THE COURT DENIES THE
17 PETITION, THE PERSON SHALL BE SUBJECT TO THE REMAINDER OF THE
18 PERIOD OF COMMITMENT.] BY CLEAR AND CONVINCING EVIDENCE THAT
19 THE PERSON CONTINUES TO HAVE SERIOUS DIFFICULTY CONTROLLING
20 SEXUALLY VIOLENT BEHAVIOR DUE TO A MENTAL ABNORMALITY OR
21 PERSONALITY DISORDER THAT MAKES THE PERSON LIKELY TO ENGAGE
22 IN AN ACT OF SEXUAL VIOLENCE, THE COURT SHALL ORDER THAT THE
23 PERSON BE SUBJECT TO THE REMAINDER OF THE PERIOD OF
24 COMMITMENT. OTHERWISE, THE COURT SHALL ORDER THE DISCHARGE OF
25 THE PERSON.

26 * * *

27 Section ~~2~~ 4. Section 9763(c)(3) of Title 42, added September <—
28 30, 2003 (P.L.120, No.24), is amended to read:

29 § 9763. Sentence of intermediate punishment.

30 * * *

(c) Restriction.--

* * *

(3) If the defendant is determined not to be in need of drug and alcohol treatment, the defendant may only be sentenced to intermediate punishment:

(i) by house arrest [or] and electronic surveillance;

(ii) partial confinement programs, such as work release, work camps and halfway facilities; or

(iii) any combination of the programs set forth in this subsection.

* * *

SECTION 5. SECTION 9795.4(B)(4) AND (H) OF TITLE 42, AMENDED <—
AUGUST 14, 2003 (P.L.97, NO.21), ARE AMENDED TO READ:

§ 9795.4. ASSESSMENTS.

* * *

(B) ASSESSMENT.--UPON RECEIPT FROM THE COURT OF AN ORDER FOR AN ASSESSMENT, A MEMBER OF THE BOARD AS DESIGNATED BY THE ADMINISTRATIVE OFFICER OF THE BOARD SHALL CONDUCT AN ASSESSMENT OF THE INDIVIDUAL TO DETERMINE IF THE INDIVIDUAL SHOULD BE CLASSIFIED AS A SEXUALLY VIOLENT PREDATOR. THE BOARD SHALL ESTABLISH STANDARDS FOR EVALUATIONS AND FOR EVALUATORS CONDUCTING THE ASSESSMENTS. AN ASSESSMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, AN EXAMINATION OF THE FOLLOWING:

* * *

(4) FACTORS THAT ARE SUPPORTED IN [A] THE SEXUAL OFFENDER ASSESSMENT [FILED] FIELD AS CRITERIA REASONABLY RELATED TO THE RISK OF REOFFENSE.

* * *

(H) DELINQUENT CHILDREN.--EXCEPT WHERE SECTION 6358(B.1)

1 (RELATING TO ASSESSMENT OF DELINQUENT CHILDREN BY THE STATE
2 SEXUAL OFFENDERS ASSESSMENT BOARD) IS APPLICABLE, THE PROBATION
3 OFFICER SHALL NOTIFY THE BOARD 90 DAYS PRIOR TO THE 20TH
4 BIRTHDAY OF THE CHILD OF THE STATUS OF THE DELINQUENT CHILD WHO
5 IS COMMITTED TO AN INSTITUTION OR OTHER FACILITY PURSUANT TO
6 SECTION 6352 (RELATING TO DISPOSITION OF DELINQUENT CHILD) AFTER
7 HAVING BEEN FOUND DELINQUENT FOR AN ACT OF SEXUAL VIOLENCE WHICH
8 IF COMMITTED BY AN ADULT WOULD BE A VIOLATION OF 18 PA.C.S. §
9 3121 (RELATING TO RAPE), 3123 (RELATING TO INVOLUNTARY DEVIATE
10 SEXUAL INTERCOURSE), 3124.1 (RELATING TO SEXUAL ASSAULT), 3125
11 (RELATING TO AGGRAVATED INDECENT ASSAULT), 3126 (RELATING TO
12 INDECENT ASSAULT) OR 4302 (RELATING TO INCEST), TOGETHER WITH
13 THE LOCATION OF THE FACILITY WHERE THE CHILD IS COMMITTED. THE
14 BOARD SHALL CONDUCT AN ASSESSMENT OF THE CHILD, WHICH SHALL
15 INCLUDE THE BOARD'S DETERMINATION OF WHETHER OR NOT THE CHILD IS
16 IN NEED OF COMMITMENT DUE TO A MENTAL ABNORMALITY AS DEFINED IN
17 SECTION 6402 (RELATING TO DEFINITIONS) OR A PERSONALITY
18 DISORDER, EITHER OF WHICH RESULTS IN SERIOUS DIFFICULTY IN
19 CONTROLLING SEXUALLY VIOLENT BEHAVIOR, AND PROVIDE A REPORT TO
20 THE COURT [NO LATER THAN 90 DAYS AFTER THE CHILD'S 20TH
21 BIRTHDAY] WITHIN THE TIME FRAMES SET FORTH IN SECTION 6358(C)
22 (RELATING TO ASSESSMENT OF DELINQUENT CHILDREN BY THE STATE
23 SEXUAL OFFENDERS ASSESSMENT BOARD). THE PROBATION OFFICER SHALL
24 ASSIST THE BOARD IN OBTAINING ACCESS TO THE CHILD AND ANY
25 RECORDS OR INFORMATION AS REQUESTED BY THE BOARD IN CONNECTION
26 WITH THE ASSESSMENT. THE ASSESSMENT SHALL BE CONDUCTED PURSUANT
27 TO SUBSECTION (B).

28 Section ~~3~~ 6. The addition of 42 Pa.C.S. § 2737.1(b) is
29 intended to clarify and confirm the original intent of the
30 General Assembly in adding 42 Pa.C.S. § 2737.1 in the act of

<—

1 December 20, 2000 (P.L.742, No.105), entitled "An act amending
2 Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania
3 Consolidated Statutes, further providing for the number of
4 judges of the courts of common pleas in certain judicial
5 districts; providing for reimbursement for common pleas court
6 costs and for judgment by confession filed against incorrectly
7 identified debtors; further providing for county judicial center
8 or courthouse, for composition of investigating grand jury and
9 for confidential communications with sexual assault counselors;
10 providing for confidential communications to crime stopper or
11 similar anticrime program; and further providing for exemption
12 from attachment of retirement funds and accounts." To the extent
13 necessary to clarify the meaning and interpretation of 42
14 Pa.C.S. § 2737.1, the addition of 42 Pa.C.S. § 2737.1(b) shall
15 apply retroactively to causes of action which arose on or before
16 the effective date of this section.

17 ~~Section 4. This act shall take effect as follows:~~ <—

18 ~~(1) This section shall take effect immediately.~~

19 ~~(2) The amendment of 42 Pa.C.S. § 2737.1 shall take~~
20 ~~effect immediately.~~

21 ~~(3) The amendment of 42 Pa.C.S. § 9763(c)(3) shall take~~
22 ~~effect February 1, 2004, or immediately, whichever is later.~~

23 ~~(4) Section 3 of this act shall take effect immediately.~~

24 ~~(5) The remainder of this act shall take effect in 60~~
25 ~~days.~~

26 SECTION 7. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: <—

27 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
28 IMMEDIATELY:

29 (I) THIS SECTION.

30 (II) THE AMENDMENT OF 42 PA.C.S. § 2737.1.

1 (III) THE AMENDMENT OF THE DEFINITION OF "OTHER
2 SPECIFIED OFFENSE" IN 42 PA.C.S. § 4703.
3 (2) THE AMENDMENT OF 42 PA.C.S. § 9763(C)(3) SHALL TAKE
4 EFFECT FEBRUARY 1, 2004, OR IMMEDIATELY, WHICHEVER IS LATER.
5 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
6 DAYS.