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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL  
No. 521

Session of  
2003

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INTRODUCED BY BRIGHTBILL, PICCOLA, CONTI, JUBELIRER, MUSTO,  
LEMOND, WENGER, M. WHITE, DENT, TARTAGLIONE, RAFFERTY,  
COSTA, ERICKSON, TOMLINSON, WONDERLING, MOWERY, GREENLEAF,  
RHOADES, WAUGH, ORIE, BOSCOLA, STACK, C. WILLIAMS AND  
THOMPSON, MARCH 18, 2003

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JULY 16, 2003

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, providing for assessment  
3 and commitment of ~~sexually violent delinquent children and~~ <—  
4 ~~young adults~~. CERTAIN SEXUALLY VIOLENT PERSONS. <—

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

7 ~~Section 1. Title 42 of the Pennsylvania Consolidated~~ <—  
8 ~~Statutes is amended by adding a section to read:~~

9 ~~SECTION 1. SECTION 6302 OF TITLE 42 OF THE PENNSYLVANIA~~ <—  
10 ~~CONSOLIDATED STATUTES IS AMENDED BY ADDING A DEFINITION TO READ:~~  
11 ~~§ 6302. DEFINITIONS.~~

12 ~~THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER~~  
13 ~~SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE~~  
14 ~~MEANINGS GIVEN TO THEM IN THIS SECTION:~~

15 \* \* \*

16 ~~"BOARD." THE STATE SEXUAL OFFENDERS ASSESSMENT BOARD.~~

~~\* \* \*~~

~~SECTION 2. SECTION 6307 OF TITLE 42 IS AMENDED BY ADDING A  
PARAGRAPH TO READ:~~

~~§ 6307. INSPECTION OF COURT FILES AND RECORDS.~~

~~ALL FILES AND RECORDS OF THE COURT IN A PROCEEDING UNDER THIS  
CHAPTER ARE OPEN TO INSPECTION ONLY BY:~~

~~\* \* \*~~

~~(6.4) THE BOARD FOR USE IN COMPLETING ASSESSMENTS.~~

~~\* \* \*~~

~~SECTION 3. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:~~

~~§ 6358. Assessment of delinquent children by the State Sexual  
Offenders Assessment Board.~~

~~(a) General rule. A child who has been found to be  
delinquent for an act or acts of sexual violence which if  
committed by an adult would be a violation of 18 Pa.C.S. § 3121  
(relating to rape), 3123 (relating to involuntary deviate sexual  
intercourse), 3124.1 (relating to sexual assault), 3125  
(relating to aggravated indecent assault), 3126 (relating to  
indecent assault) or 4302 (relating to incest) who is committed  
to an institution or other facility pursuant to section 6352  
(relating to disposition of delinquent child) and who remains in  
such facility upon attaining 20 years of age shall be subject to  
an assessment by the State Sexual Offenders Assessment Board  
BOARD.~~

~~(b) Duty of probation officer. Ninety days prior to the  
20th birthday of the child, the probation officer shall have the  
duty to notify the State Sexual Offenders Assessment Board BOARD  
of the status of the delinquent child and the institution or  
other facility where the child is presently committed. The  
probation officer shall assist the board in obtaining access to~~

~~the child and any information required by the board to perform the assessment.~~

~~(c) Report. The State Sexual Offenders Assessment Board (B.1) NOTIFICATION TO BOARD. THE PROBATION OFFICER SHALL, WITHIN FIVE DAYS OF THE EFFECTIVE DATE OF THIS SUBSECTION, NOTIFY THE BOARD OF ANY CHILD WHOSE AGE PRECLUDES COMPLIANCE WITH SUBSECTION (B) PROVIDED THE CHILD HAS NOT YET ATTAINED 21 YEARS OF AGE.~~

~~(C) ASSESSMENT. THE BOARD shall conduct an assessment, which shall include the board's determination of whether or not the child is in need of commitment FOR INVOLUNTARY TREATMENT due to a mental abnormality, as defined in § 6402 (relating to definitions), or a personality disorder which results in serious difficulty in controlling sexually violent behavior. Upon the completion of the assessment pursuant to this section, the State Sexual Offenders Assessment Board BOARD shall provide the assessment to the court. In no case shall the board file the report ASSESSMENT later than 90 days after the offender's CHILD'S 20th birthday UNLESS NOTIFICATION OF THE BOARD WAS DELAYED UNDER SUBSECTION (B.1), IN WHICH CASE THE ASSESSMENT SHALL BE FILED NO LATER THAN 180 DAYS AFTER THE CHILD'S 20TH BIRTHDAY.~~

~~(d) Duty of court. The court shall provide a copy of the assessment by the State Sexual Offenders Assessment Board BOARD to the probation officer, the district attorney, county solicitor OR DESIGNEE and the child's attorney.~~

~~(e) Dispositional review hearing. Where the board has concluded that the child is in need of commitment INVOLUNTARY TREATMENT pursuant to the provisions of Chapter 64 (relating to commitment of sexually violent delinquent children and young~~

1 ~~adults COURT ORDERED INVOLUNTARY TREATMENT OF CERTAIN SEXUALLY~~ <—  
2 ~~VIOLENT PERSONS), the court shall conduct a hearing at which the~~  
3 ~~county solicitor or deputy county solicitor A DESIGNEE, the~~ <—  
4 ~~probation officer and the child's attorney are present. The~~  
5 ~~court shall consider the assessment, treatment information and~~  
6 ~~any other relevant information regarding the delinquent child at~~  
7 ~~the dispositional review hearing pursuant to section 6353~~  
8 ~~(relating to limitation on and change in place of commitment),~~  
9 ~~which shall be held no later than 180 days before the 21st~~  
10 ~~birthday of the child. WHERE THE SUBMISSION OF THE REPORT WAS~~ <—  
11 ~~DELAYED PURSUANT TO SUBSECTION (C), THE DISPOSITIONAL REVIEW~~  
12 ~~HEARING SHALL BE HELD NO LATER THAN 90 DAYS BEFORE THE 21ST~~  
13 ~~BIRTHDAY OF THE CHILD.~~

14 ~~(f) Subsequent proceeding. If, at the conclusion of the~~  
15 ~~dispositional review hearing required in subsection (c), the~~  
16 ~~court finds there is a prima facie case that the child is~~  
17 ~~subject to commitment IN NEED OF INVOLUNTARY TREATMENT under the~~ <—  
18 ~~provisions of Chapter 64, the court shall direct that the county~~  
19 ~~solicitor OR A DESIGNEE file a petition to initiate proceedings~~ <—  
20 ~~under the provisions of that chapter.~~

21 ~~Section 2 4. Title 42 is amended by adding a chapter to~~ <—  
22 ~~read:~~

23 ~~CHAPTER 64~~  
24 ~~COMMITMENT OF SEXUALLY VIOLENT DELINQUENT CHILDREN AND YOUNG~~ <—  
25 ~~ADULTS~~  
26 ~~COURT ORDERED INVOLUNTARY TREATMENT OF CERTAIN SEXUALLY~~ <—  
27 ~~VIOLENT PERSONS~~

28 ~~Sec.~~

29 ~~6401. Scope of chapter.~~

30 ~~6402. Definitions.~~

1 ~~6403. Court ordered involuntary commitment TREATMENT.~~ <—

2 ~~6404. Duration of commitment and review.~~

3 ~~6405. Right to counsel.~~

4 ~~6406. Duty of Department of Public Welfare.~~

5 ~~6407. Regulations.~~

6 ~~6408. Jurisdiction.~~

7 ~~6409. IMMUNITY FOR GOOD FAITH CONDUCT.~~ <—

8 ~~§ 6401. Scope of chapter.~~

9 ~~This chapter establishes rights and procedures for the civil~~  
10 ~~commitment of sexually violent delinquent children and young~~ <—

11 ~~adults who due to a mental abnormality or personality disorder~~  
12 ~~have serious difficulty in controlling sexually violent behavior~~  
13 ~~and thereby pose a danger to the public AND FURTHER PROVIDES FOR~~ <—

14 ~~ADDITIONAL PERIODS OF COMMITMENT FOR INVOLUNTARY TREATMENT FOR~~  
15 ~~SAID PERSONS.~~

16 ~~§ 6402. Definitions.~~

17 ~~The following words and phrases when used in this chapter~~  
18 ~~shall have the meanings given to them in this section unless the~~  
19 ~~context clearly indicates otherwise:~~

20 ~~"BOARD." THE BOARD AS DEFINED IN SECTION 6302 (RELATING TO~~ <—  
21 ~~DEFINITIONS).~~

22 ~~"COUNTY SOLICITOR." THE SOLICITOR APPOINTED BY THE COUNTY~~  
23 ~~COMMISSIONERS OR A SIMILAR BODY IN HOME RULE COUNTIES.~~

24 ~~"Department." The Department of Public Welfare of the~~  
25 ~~Commonwealth.~~

26 ~~"Mental abnormality." A congenital or acquired condition of~~  
27 ~~a person affecting the emotional or volitional capacity which~~  
28 ~~predisposes the person to commit sexually violent offenses to a~~  
29 ~~degree making the person a menace to the health and safety of~~  
30 ~~others.~~

~~"Sexually violent delinquent child or young adult." A person who has been found delinquent for an act or acts of sexual violence which if committed by an adult would be a violation of 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault), 3126 (relating to indecent assault) or 4302 (relating to incest) and who has been determined to be in need of commitment FOR INVOLUNTARY TREATMENT under this chapter.~~

~~§ 6403. Court ordered involuntary commitment TREATMENT.~~

~~(a) Persons subject to commitment INVOLUNTARY TREATMENT. A person may be subject to court ordered involuntary commitment COMMITMENT FOR INVOLUNTARY TREATMENT under this chapter if the person:~~

~~(1) Has been adjudicated delinquent for an act or acts of sexual violence which if committed by an adult would be a violation of 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault), 3126 (relating to indecent assault) or 4302 (relating to incest).~~

~~(2) Has been committed to an institution or other facility pursuant to section 6352 (relating to disposition of delinquent child) and remains in the institution or other facility upon attaining 20 years of age.~~

~~(3) Is in need of commitment INVOLUNTARY TREATMENT due to a mental abnormality or personality disorder which results in serious difficulty in controlling sexually violent behavior.~~

~~(b) Procedures for initiating court ordered involuntary~~

1 commitment.—

2       ~~(1) Where, pursuant to the provisions of section 6358(f)~~  
3 ~~(relating to assessment of delinquent children by the State~~  
4 ~~Sexual Offenders Assessment Board), the court determines that~~  
5 ~~a prima facie case has been presented that the child is~~  
6 ~~subject to commitment IN NEED OF INVOLUNTARY TREATMENT under~~ <—  
7 ~~the provisions of this chapter, the court shall order that a~~  
8 ~~petition be filed by the county solicitor before the court~~  
9 ~~having jurisdiction of the person pursuant to Chapter 63~~  
10 ~~(relating to juvenile matters).~~

11       ~~(2) The petition shall be in writing in a form adopted~~  
12 ~~by the department and shall set forth the facts constituting~~  
13 ~~reasonable grounds to believe the individual is within the~~  
14 ~~criteria for court ordered commitment INVOLUNTARY TREATMENT~~ <—  
15 ~~as set forth in subsection (a). The petition shall include~~  
16 ~~the assessment of the person by the State Sexual Offenders~~ <—  
17 ~~Assessment Board BOARD as required in section 6358.~~ <—

18       ~~(3) The court shall set a date for the hearing which~~  
19 ~~shall be held within 30 days of the filing of the petition~~  
20 ~~pursuant to paragraph (1) and direct the person to appear for~~  
21 ~~the hearing. A copy of the petition and notice of the hearing~~  
22 ~~date shall be served on the person, the attorney who~~  
23 ~~represented the person at the most recent dispositional~~  
24 ~~review hearing pursuant to section 6358(e), and the county~~  
25 ~~solicitor OR A DESIGNEE. The person and the attorney who~~ <—  
26 ~~represented the person shall, along with copies of the~~  
27 ~~petition, also be provided with written notice advising that~~  
28 ~~the person has the right to counsel and that, if he cannot~~  
29 ~~afford one, counsel shall be appointed for the person.~~

30       ~~(4) The person shall be informed that the person has a~~

1 ~~right to be assisted in the proceedings by an independent~~  
2 ~~expert in the field of sexually violent behavior. If the~~  
3 ~~person cannot afford to engage such an expert, the court~~  
4 ~~shall allow a reasonable fee for such purpose.~~

5 ~~(c) Hearing. A hearing pursuant to this chapter shall be~~  
6 ~~conducted as follows:~~

7 ~~(1) The person shall not be called as a witness without~~  
8 ~~the person's consent.~~

9 ~~(2) The person shall have the right to confront and~~  
10 ~~cross examine all witnesses and to present evidence on the~~  
11 ~~person's own behalf.~~

12 ~~(3) The hearing shall be public.~~

13 ~~(4) A stenographic or other sufficient record shall be~~  
14 ~~made.~~

15 ~~(5) The hearing shall be conducted by the court.~~

16 ~~(6) A decision shall be rendered within five days after~~  
17 ~~the conclusion of the hearing.~~

18 ~~(d) Determination and order. Upon a finding by clear and~~  
19 ~~convincing evidence that the person has a mental abnormality or~~  
20 ~~personality disorder which results in serious difficulty in~~  
21 ~~controlling sexually violent behavior, an order shall be entered~~  
22 ~~directing commitment of the person to an institution THE~~ <—  
23 ~~IMMEDIATE COMMITMENT OF THE PERSON FOR INPATIENT INVOLUNTARY~~  
24 ~~TREATMENT TO A FACILITY designated by the department. The order~~  
25 ~~shall be in writing and shall be consistent with the protection~~  
26 ~~of the public safety and the appropriate control, care and~~  
27 ~~treatment of the person. AN APPEAL SHALL NOT STAY THE EXECUTION~~ <—  
28 ~~OF THE ORDER.~~

29 ~~§ 6404. Duration of commitment and review.~~

30 ~~(a) Initial period of commitment. The person shall be~~



1 ~~subject to a period of commitment FOR INPATIENT TREATMENT for~~ <—  
2 ~~one year.~~

3 ~~(b) Annual review.~~

4 ~~(1) Sixty days prior to the expiration of the one year~~  
5 ~~commitment period, the department and the State Sexual~~ <—  
6 ~~Offenders Assessment Board shall each submit an evaluation of~~  
7 ~~DIRECTOR OF THE FACILITY OR A DESIGNEE SHALL SUBMIT AN~~ <—  
8 ~~EVALUATION AND THE BOARD SHALL SUBMIT AN ASSESSMENT OF the~~  
9 ~~person to the court.~~

10 ~~(2) The court shall schedule a review hearing which~~  
11 ~~shall be conducted pursuant to section 6403(c) (relating to~~  
12 ~~court ordered involuntary commitment TREATMENT) and which~~ <—  
13 ~~shall be held no later than 30 days after receipt of the~~ <—  
14 ~~evaluations BOTH THE EVALUATION AND THE ASSESSMENT under~~ <—  
15 ~~paragraph (1). Notice of the review hearing shall be provided~~  
16 ~~to the person, the attorney who represented the person at the~~  
17 ~~previous hearing held pursuant to this subsection or section~~  
18 ~~6403, the juvenile probation office, the county administrator~~ <—  
19 ~~and the county DISTRICT ATTORNEY AND THE COUNTY solicitor OR~~ <—  
20 ~~A DESIGNEE. The person and the person's attorney shall also~~  
21 ~~be provided with written notice advising that the person has~~  
22 ~~the right to counsel and that, if he cannot afford one,~~  
23 ~~counsel shall be appointed for the person. If the court~~  
24 ~~determines by clear and convincing evidence that the person~~  
25 ~~continues to have serious difficulty controlling sexually~~  
26 ~~violent behavior due to a mental abnormality or personality~~  
27 ~~disorder, the court may SHALL order an additional period of~~ <—  
28 ~~commitment INVOLUNTARY TREATMENT of one year, OTHERWISE THE~~ <—  
29 ~~COURT SHALL ORDER THE DISCHARGE OF THE PERSON. The order~~  
30 ~~shall be in writing and shall be consistent with the~~

1 ~~protection of the public safety and appropriate control, care~~  
2 ~~and treatment of the person.~~

3 ~~(c) Discharge.~~

4 ~~(1) If at any time the director OR A DESIGNEE of the~~ <—  
5 ~~facility to which the person was committed and the State~~ <—  
6 ~~Sexual Offenders Assessment Board conclude CONCLUDES the~~ <—  
7 ~~person no longer has serious difficulty in controlling~~  
8 ~~sexually violent behavior, the director shall petition the~~  
9 ~~court for a hearing. Notice of the petition shall be given to~~  
10 ~~the person, the attorney who represented the person at the~~  
11 ~~previous hearing held pursuant to subsection (b) or section~~  
12 ~~6403, the county administrator and the BOARD, THE DISTRICT~~ <—  
13 ~~ATTORNEY AND THE county solicitor. The person and the~~  
14 ~~person's attorney shall also be provided with written notice~~  
15 ~~advising that the person has the right to counsel and that,~~  
16 ~~if he cannot afford one, counsel shall be appointed for the~~  
17 ~~person.~~

18 ~~(2) UPON RECEIPT OF NOTICE UNDER PARAGRAPH (1), THE~~ <—  
19 ~~BOARD SHALL CONDUCT A NEW ASSESSMENT WITHIN 30 DAYS AND~~  
20 ~~PROVIDE THAT ASSESSMENT TO THE COURT.~~

21 ~~(2) (3) Within 15 days after the petition has been~~ <—  
22 ~~filed, the court shall hold a hearing pursuant to section~~  
23 ~~6403(c). If the court determines the person no longer has~~  
24 ~~serious difficulty controlling sexually violent behavior, the~~  
25 ~~court shall order the discharge of the person. If the court~~  
26 ~~denies the petition, the person shall be subject to the~~  
27 ~~remainder of the original period of commitment.~~ <—

28 ~~(3) (4) The department shall provide the person with~~ <—  
29 ~~notice of the person's right to petition the court for~~  
30 ~~discharge over the objection of the department. The court,~~

1 after review of the petition, may schedule a hearing pursuant  
2 to section 6403(c).

3 ~~(d) Limitation of total period of commitment. In no case~~ <—  
4 ~~shall a person subject to additional one year commitment periods~~  
5 ~~be confined for more than ten years.~~

6 ~~§ 6405. Right to counsel.~~

7 ~~At each proceeding conducted pursuant to the provisions of~~  
8 ~~this chapter, the person who is the subject of the proceeding~~  
9 ~~shall have the right to assistance of counsel.~~

10 ~~§ 6406. Duty of Department of Public Welfare.~~

11 ~~(A) GENERAL RULE. The department shall have the duty to~~ <—  
12 ~~provide a SEPARATE, secure facility OR UNIT UTILIZED solely for~~ <—  
13 ~~the SEGREGATION, control, care and treatment in consultation~~ <—  
14 ~~with the Juvenile Court Judges' Commission and the State Sexual~~ <—  
15 ~~Offenders Assessment Board BOARD of persons committed pursuant~~ <—  
16 ~~to this chapter. THE DEPARTMENT SHALL BE RESPONSIBLE FOR ALL~~ <—  
17 ~~COSTS RELATING TO THE CONTROL, CARE AND TREATMENT OF PERSONS~~  
18 ~~COMMITTED TO CUSTODY PURSUANT TO THIS CHAPTER.~~

19 ~~(B) ADJUDICATED DELINQUENT CHILDREN. A STATE OWNED FACILITY~~  
20 ~~OR UNIT WHICH RECEIVES CHILDREN WHO ARE ADJUDICATED DELINQUENT~~  
21 ~~AND COMMITTED UNDER CHAPTER 63 (RELATING TO JUVENILE MATTERS)~~  
22 ~~MAY RECEIVE INDIVIDUALS COMMITTED UNDER THIS CHAPTER AS LONG AS~~  
23 ~~THESE INDIVIDUALS ARE SEGREGATED AT ALL TIMES FROM CHILDREN~~  
24 ~~COMMITTED UNDER CHAPTER 63. THIS SUBSECTION SHALL EXPIRE JULY 1,~~  
25 ~~2006.~~

26 ~~§ 6407. Regulations.~~

27 ~~(A) GENERAL RULE. The department shall adopt in~~ <—  
28 ~~consultation with the Juvenile Court Judges' Commission and the~~  
29 ~~State Sexual Offenders Assessment Board BOARD such regulations~~ <—  
30 ~~as are necessary to effectuate the provisions of this chapter.~~

~~(B) PROFESSIONAL CLINICAL GUIDELINES. THE DEPARTMENT, IN  
CONSULTATION WITH THE JUVENILE COURT JUDGES COMMISSION AND THE  
BOARD, SHALL DEVELOP PROFESSIONAL CLINICAL GUIDELINES CONSISTENT  
WITH STANDARDS FOR THE TREATMENT AND MANAGEMENT OF PERSONS  
SUBJECT TO THIS CHAPTER THAT SHALL INCLUDE INDIVIDUALIZED  
DISCHARGE PLANS.~~

~~§ 6408. Jurisdiction.~~

~~The court of common pleas for the county which entered the  
order for commitment of the person for a delinquent act pursuant  
to Chapter 63 (relating to juvenile matters) shall have  
jurisdiction for proceedings under this chapter including  
subsequent proceedings.~~

~~§ 6409. IMMUNITY FOR GOOD FAITH CONDUCT.~~

~~THE FOLLOWING ENTITIES SHALL BE IMMUNE FROM LIABILITY FOR  
GOOD FAITH CONDUCT UNDER THIS SUBCHAPTER:~~

~~(1) MEMBERS OF THE BOARD AND ITS AGENTS AND EMPLOYEES.~~

~~(2) THE DEPARTMENT AND ITS AGENTS AND EMPLOYEES.~~

~~(3) COUNTY PROBATION DEPARTMENTS AND THEIR AGENTS AND  
EMPLOYEES.~~

~~Section 3. Section 9795.4 of Title 42 is amended by adding~~

~~SECTION 5. SECTION 9795.4(C) OF TITLE 42 IS AMENDED AND THE  
SECTION IS AMENDED BY ADDING a subsection to read:~~

~~§ 9795.4. Assessments.~~

~~\* \* \*~~

~~(C) RELEASE OF INFORMATION. ALL STATE, COUNTY, INCLUDING  
JUVENILE PROBATION OFFICES AND LOCAL AGENCIES, OFFICES OR  
ENTITIES IN THIS COMMONWEALTH SHALL COOPERATE BY PROVIDING  
COPIES OF RECORDS AND INFORMATION AS REQUESTED BY THE BOARD IN  
CONNECTION WITH THE COURT ORDERED ASSESSMENT AND THE ASSESSMENT  
REQUESTED BY THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE.~~

1       \* \* \*

2       ~~(h) Delinquent children or young adults. The probation~~ <—  
3 ~~officer shall notify the board~~

4       ~~(H) DELINQUENT CHILDREN. EXCEPT WHERE SECTION 6358(B.1)~~ <—

5 ~~(RELATING TO ASSESSMENT OF DELINQUENT CHILDREN BY THE STATE~~

6 ~~SEXUAL OFFENDERS ASSESSMENT BOARD) IS APPLICABLE, THE PROBATION~~

7 ~~OFFICER SHALL NOTIFY THE BOARD 90 days prior to the 20th~~

8 ~~birthday of the child of the status of the delinquent child who~~

9 ~~is committed to an institution or other facility pursuant to~~

10 ~~section 6352 (relating to disposition of delinquent child) after~~

11 ~~having been found delinquent for an act or acts of sexual~~

12 ~~violence which if committed by an adult would be a violation of~~

13 ~~18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to~~

14 ~~involuntary deviate sexual intercourse), 3124.1 (relating to~~

15 ~~sexual assault), 3125 (relating to aggravated indecent assault),~~

16 ~~3126 (relating to indecent assault) or 4302 (relating to incest)~~

17 ~~together with the location of the facility where the child is~~

18 ~~committed. The board shall conduct an assessment of the child,~~

19 ~~which shall include the board's determination of whether or not~~

20 ~~the child is in need of commitment due to a mental abnormality,~~

21 ~~as defined in § 6402 (relating to definitions), or a personality~~

22 ~~disorder which results in serious difficulty in controlling~~

23 ~~sexually violent behavior, and provide a report to the court~~

24 ~~within 90 days after receiving notice of NO LATER THAN 90 DAYS~~ <—

25 ~~AFTER the child's 20th birthday. The probation officer shall~~

26 ~~assist the board in obtaining access to the child and any~~

27 ~~records or information as requested by the board in connection~~

28 ~~with the assessment. The assessment shall be conducted pursuant~~

29 ~~to subsection (b).~~

30       ~~Section 4 6. This act shall take effect in 180 days.~~ <—

SECTION 1. SECTION 6302 OF TITLE 42 OF THE PENNSYLVANIA  
CONSOLIDATED STATUTES IS AMENDED BY ADDING A DEFINITION TO READ:  
§ 6302. DEFINITIONS.

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

\* \* \*

"BOARD." THE STATE SEXUAL OFFENDERS ASSESSMENT BOARD.

\* \* \*

SECTION 2. SECTION 6307 OF TITLE 42 IS AMENDED BY ADDING A  
PARAGRAPH TO READ:

§ 6307. INSPECTION OF COURT FILES AND RECORDS.

ALL FILES AND RECORDS OF THE COURT IN A PROCEEDING UNDER THIS  
CHAPTER ARE OPEN TO INSPECTION ONLY BY:

\* \* \*

(6.4) THE BOARD FOR USE IN COMPLETING ASSESSMENTS.

\* \* \*

SECTION 3. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:  
§ 6358. ASSESSMENT OF DELINQUENT CHILDREN BY THE STATE SEXUAL  
OFFENDERS ASSESSMENT BOARD.

(A) GENERAL RULE.--A CHILD WHO HAS BEEN FOUND TO BE  
DELINQUENT FOR AN ACT OF SEXUAL VIOLENCE WHICH IF COMMITTED BY  
AN ADULT WOULD BE A VIOLATION OF 18 PA.C.S. § 3121 (RELATING TO  
RAPE), 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL  
INTERCOURSE), 3124.1 (RELATING TO SEXUAL ASSAULT), 3125  
(RELATING TO AGGRAVATED INDECENT ASSAULT), 3126 (RELATING TO  
INDECENT ASSAULT) OR 4302 (RELATING TO INCEST) WHO IS COMMITTED  
TO AN INSTITUTION OR OTHER FACILITY PURSUANT TO SECTION 6352  
(RELATING TO DISPOSITION OF DELINQUENT CHILD) AND WHO REMAINS IN  
SUCH FACILITY UPON ATTAINING 20 YEARS OF AGE SHALL BE SUBJECT TO

1 AN ASSESSMENT BY THE BOARD.

2 (B) DUTY OF PROBATION OFFICER.--NINETY DAYS PRIOR TO THE  
3 20TH BIRTHDAY OF THE CHILD, THE PROBATION OFFICER SHALL HAVE THE  
4 DUTY TO NOTIFY THE BOARD OF THE STATUS OF THE DELINQUENT CHILD  
5 AND THE INSTITUTION OR OTHER FACILITY WHERE THE CHILD IS  
6 PRESENTLY COMMITTED. THE PROBATION OFFICER SHALL ASSIST THE  
7 BOARD IN OBTAINING ACCESS TO THE CHILD AND ANY INFORMATION  
8 REQUIRED BY THE BOARD TO PERFORM THE ASSESSMENT.

9 (B.1) NOTIFICATION TO BOARD.--THE PROBATION OFFICER SHALL,  
10 WITHIN FIVE DAYS OF THE EFFECTIVE DATE OF THIS SUBSECTION,  
11 NOTIFY THE BOARD OF ANY CHILD WHOSE AGE PRECLUDES COMPLIANCE  
12 WITH SUBSECTION (B) PROVIDED THE CHILD HAS NOT YET ATTAINED 21  
13 YEARS OF AGE.

14 (C) ASSESSMENT.--THE BOARD SHALL CONDUCT AN ASSESSMENT,  
15 WHICH SHALL INCLUDE THE BOARD'S DETERMINATION OF WHETHER OR NOT  
16 THE CHILD IS IN NEED OF COMMITMENT FOR INVOLUNTARY TREATMENT DUE  
17 TO A MENTAL ABNORMALITY, AS DEFINED IN § 6402 (RELATING TO  
18 DEFINITIONS), OR A PERSONALITY DISORDER, EITHER OF WHICH RESULTS  
19 IN SERIOUS DIFFICULTY IN CONTROLLING SEXUALLY VIOLENT BEHAVIOR.  
20 UPON THE COMPLETION OF THE ASSESSMENT PURSUANT TO THIS SECTION,  
21 THE BOARD SHALL PROVIDE THE ASSESSMENT TO THE COURT. IN NO CASE  
22 SHALL THE BOARD FILE THE ASSESSMENT LATER THAN 90 DAYS AFTER THE  
23 CHILD'S 20TH BIRTHDAY UNLESS NOTIFICATION OF THE BOARD WAS  
24 DELAYED UNDER SUBSECTION (B.1), IN WHICH CASE THE ASSESSMENT  
25 SHALL BE FILED NO LATER THAN 180 DAYS AFTER THE CHILD'S 20TH  
26 BIRTHDAY.

27 (D) DUTY OF COURT.--THE COURT SHALL PROVIDE A COPY OF THE  
28 ASSESSMENT BY THE BOARD TO THE PROBATION OFFICER, THE DISTRICT  
29 ATTORNEY, COUNTY SOLICITOR OR DESIGNEE AND THE CHILD'S ATTORNEY.

30 (E) DISPOSITIONAL REVIEW HEARING.--WHERE THE BOARD HAS

1 CONCLUDED THAT THE CHILD IS IN NEED OF INVOLUNTARY TREATMENT  
2 PURSUANT TO THE PROVISIONS OF CHAPTER 64 (RELATING TO COURT-  
3 ORDERED INVOLUNTARY TREATMENT OF CERTAIN SEXUALLY VIOLENT  
4 PERSONS), THE COURT SHALL CONDUCT A HEARING AT WHICH THE COUNTY  
5 SOLICITOR OR A DESIGNEE, THE PROBATION OFFICER AND THE CHILD'S  
6 ATTORNEY ARE PRESENT. THE COURT SHALL CONSIDER THE ASSESSMENT,  
7 TREATMENT INFORMATION AND ANY OTHER RELEVANT INFORMATION  
8 REGARDING THE DELINQUENT CHILD AT THE DISPOSITIONAL REVIEW  
9 HEARING PURSUANT TO SECTION 6353 (RELATING TO LIMITATION ON AND  
10 CHANGE IN PLACE OF COMMITMENT), WHICH SHALL BE HELD NO LATER  
11 THAN 180 DAYS BEFORE THE 21ST BIRTHDAY OF THE CHILD. WHERE THE  
12 SUBMISSION OF THE REPORT WAS DELAYED PURSUANT TO SUBSECTION (C),  
13 THE DISPOSITIONAL REVIEW HEARING SHALL BE HELD NO LATER THAN 90  
14 DAYS BEFORE THE 21ST BIRTHDAY OF THE CHILD.

15 (F) SUBSEQUENT PROCEEDING.--IF, AT THE CONCLUSION OF THE  
16 DISPOSITIONAL REVIEW HEARING REQUIRED IN SUBSECTION (E), THE  
17 COURT FINDS THERE IS A PRIMA FACIE CASE THAT THE CHILD IS IN  
18 NEED OF INVOLUNTARY TREATMENT UNDER THE PROVISIONS OF CHAPTER  
19 64, THE COURT SHALL DIRECT THAT THE COUNTY SOLICITOR OR A  
20 DESIGNEE FILE A PETITION TO INITIATE PROCEEDINGS UNDER THE  
21 PROVISIONS OF THAT CHAPTER.

22 SECTION 4. TITLE 42 IS AMENDED BY ADDING A CHAPTER TO READ:

23 CHAPTER 64

24 COURT-ORDERED INVOLUNTARY TREATMENT OF CERTAIN SEXUALLY  
25 VIOLENT PERSONS

26 SEC.

27 6401. SCOPE OF CHAPTER.

28 6402. DEFINITIONS.

29 6403. COURT-ORDERED INVOLUNTARY TREATMENT.

30 6404. DURATION OF COMMITMENT AND REVIEW.



1 6405. RIGHT TO COUNSEL.

2 6406. DUTY OF DEPARTMENT OF PUBLIC WELFARE.

3 6407. REGULATIONS.

4 6408. JURISDICTION.

5 6409. IMMUNITY FOR GOOD FAITH CONDUCT.

6 § 6401. SCOPE OF CHAPTER.

7 THIS CHAPTER ESTABLISHES RIGHTS AND PROCEDURES FOR THE CIVIL  
8 COMMITMENT OF SEXUALLY VIOLENT DELINQUENT CHILDREN WHO DUE TO A  
9 MENTAL ABNORMALITY OR PERSONALITY DISORDER HAVE SERIOUS  
10 DIFFICULTY IN CONTROLLING SEXUALLY VIOLENT BEHAVIOR AND THEREBY  
11 POSE A DANGER TO THE PUBLIC AND FURTHER PROVIDES FOR ADDITIONAL  
12 PERIODS OF COMMITMENT FOR INVOLUNTARY TREATMENT FOR SAID  
13 PERSONS.

14 § 6402. DEFINITIONS.

15 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
16 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
17 CONTEXT CLEARLY INDICATES OTHERWISE:

18 "ACT OF SEXUAL VIOLENCE." ANY CONDUCT PROHIBITED UNDER THE  
19 FOLLOWING PROVISIONS OF LAW:

20 (1) 18 PA.C.S. § 3121 (RELATING TO RAPE).

21 (2) 18 PA.C.S. § 3123 (RELATING TO INVOLUNTARY DEVIATE  
22 SEXUAL INTERCOURSE).

23 (3) 18 PA.C.S. § 3124.1 (RELATING TO SEXUAL ASSAULT).

24 (4) 18 PA.C.S. § 3125 (RELATING TO AGGRAVATED INDECENT  
25 ASSAULT).

26 (5) 18 PA.C.S. § 3126 (RELATING TO INDECENT ASSAULT).

27 (6) 18 PA.C.S. § 4302 (RELATING TO INCEST).

28 "BOARD." THE BOARD AS DEFINED IN SECTION 6302 (RELATING TO  
29 DEFINITIONS).

30 "COUNTY SOLICITOR." THE SOLICITOR APPOINTED BY THE COUNTY

1 COMMISSIONERS OR A SIMILAR BODY IN HOME RULE COUNTIES.

2 "DEPARTMENT." THE DEPARTMENT OF PUBLIC WELFARE OF THE  
3 COMMONWEALTH.

4 "MENTAL ABNORMALITY." A CONGENITAL OR ACQUIRED CONDITION OF  
5 A PERSON AFFECTING THE PERSON'S EMOTIONAL OR VOLITIONAL  
6 CAPACITY.

7 "SEXUALLY VIOLENT DELINQUENT CHILD." A PERSON WHO HAS BEEN  
8 FOUND DELINQUENT FOR AN ACT OF SEXUAL VIOLENCE WHICH IF  
9 COMMITTED BY AN ADULT WOULD BE A VIOLATION OF 18 PA.C.S. § 3121  
10 (RELATING TO RAPE), 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL  
11 INTERCOURSE), 3124.1 (RELATING TO SEXUAL ASSAULT), 3125  
12 (RELATING TO AGGRAVATED INDECENT ASSAULT), 3126 (RELATING TO  
13 INDECENT ASSAULT) OR 4302 (RELATING TO INCEST) AND WHO HAS BEEN  
14 DETERMINED TO BE IN NEED OF COMMITMENT FOR INVOLUNTARY TREATMENT  
15 UNDER THIS CHAPTER.

16 § 6403. COURT-ORDERED INVOLUNTARY TREATMENT.

17 (A) PERSONS SUBJECT TO INVOLUNTARY TREATMENT.--A PERSON MAY  
18 BE SUBJECT TO COURT-ORDERED COMMITMENT FOR INVOLUNTARY TREATMENT  
19 UNDER THIS CHAPTER IF THE PERSON:

20 (1) HAS BEEN ADJUDICATED DELINQUENT FOR AN ACT OF SEXUAL  
21 VIOLENCE WHICH IF COMMITTED BY AN ADULT WOULD BE A VIOLATION  
22 OF 18 PA.C.S. § 3121 (RELATING TO RAPE), 3123 (RELATING TO  
23 INVOLUNTARY DEVIATE SEXUAL INTERCOURSE), 3124.1 (RELATING TO  
24 SEXUAL ASSAULT), 3125 (RELATING TO AGGRAVATED INDECENT  
25 ASSAULT), 3126 (RELATING TO INDECENT ASSAULT) OR 4302  
26 (RELATING TO INCEST).

27 (2) HAS BEEN COMMITTED TO AN INSTITUTION OR OTHER  
28 FACILITY PURSUANT TO SECTION 6352 (RELATING TO DISPOSITION OF  
29 DELINQUENT CHILD) AND REMAINS IN THE INSTITUTION OR OTHER  
30 FACILITY UPON ATTAINING 20 YEARS OF AGE.

1           (3) IS IN NEED OF INVOLUNTARY TREATMENT DUE TO A MENTAL  
2 ABNORMALITY OR PERSONALITY DISORDER WHICH RESULTS IN SERIOUS  
3 DIFFICULTY IN CONTROLLING SEXUALLY VIOLENT BEHAVIOR THAT  
4 MAKES THE PERSON LIKELY TO ENGAGE IN AN ACT OF SEXUAL  
5 VIOLENCE.

6           (B) PROCEDURES FOR INITIATING COURT-ORDERED INVOLUNTARY  
7 COMMITMENT.--

8           (1) WHERE, PURSUANT TO THE PROVISIONS OF SECTION 6358(F)  
9 (RELATING TO ASSESSMENT OF DELINQUENT CHILDREN BY THE STATE  
10 SEXUAL OFFENDERS ASSESSMENT BOARD), THE COURT DETERMINES THAT  
11 A PRIMA FACIE CASE HAS BEEN PRESENTED THAT THE CHILD IS IN  
12 NEED OF INVOLUNTARY TREATMENT UNDER THE PROVISIONS OF THIS  
13 CHAPTER, THE COURT SHALL ORDER THAT A PETITION BE FILED BY  
14 THE COUNTY SOLICITOR OR A DESIGNEE BEFORE THE COURT HAVING  
15 JURISDICTION OF THE PERSON PURSUANT TO CHAPTER 63 (RELATING  
16 TO JUVENILE MATTERS).

17           (2) THE PETITION SHALL BE IN WRITING IN A FORM ADOPTED  
18 BY THE DEPARTMENT AND SHALL SET FORTH THE FACTS CONSTITUTING  
19 REASONABLE GROUNDS TO BELIEVE THE INDIVIDUAL IS WITHIN THE  
20 CRITERIA FOR COURT-ORDERED INVOLUNTARY TREATMENT AS SET FORTH  
21 IN SUBSECTION (A). THE PETITION SHALL INCLUDE THE ASSESSMENT  
22 OF THE PERSON BY THE BOARD AS REQUIRED IN SECTION 6358.

23           (3) THE COURT SHALL SET A DATE FOR THE HEARING WHICH  
24 SHALL BE HELD WITHIN 30 DAYS OF THE FILING OF THE PETITION  
25 PURSUANT TO PARAGRAPH (1) AND DIRECT THE PERSON TO APPEAR FOR  
26 THE HEARING. A COPY OF THE PETITION AND NOTICE OF THE HEARING  
27 DATE SHALL BE SERVED ON THE PERSON, THE ATTORNEY WHO  
28 REPRESENTED THE PERSON AT THE MOST RECENT DISPOSITIONAL  
29 REVIEW HEARING PURSUANT TO SECTION 6358(E), AND THE COUNTY  
30 SOLICITOR OR A DESIGNEE. THE PERSON AND THE ATTORNEY WHO

1 REPRESENTED THE PERSON SHALL, ALONG WITH COPIES OF THE  
2 PETITION, ALSO BE PROVIDED WITH WRITTEN NOTICE ADVISING THAT  
3 THE PERSON HAS THE RIGHT TO COUNSEL AND THAT, IF HE CANNOT  
4 AFFORD ONE, COUNSEL SHALL BE APPOINTED FOR THE PERSON.

5 (4) THE PERSON SHALL BE INFORMED THAT THE PERSON HAS A  
6 RIGHT TO BE ASSISTED IN THE PROCEEDINGS BY AN INDEPENDENT  
7 EXPERT IN THE FIELD OF SEXUALLY VIOLENT BEHAVIOR. IF THE  
8 PERSON CANNOT AFFORD TO ENGAGE SUCH AN EXPERT, THE COURT  
9 SHALL ALLOW A REASONABLE FEE FOR SUCH PURPOSE.

10 (C) HEARING.--A HEARING PURSUANT TO THIS CHAPTER SHALL BE  
11 CONDUCTED AS FOLLOWS:

12 (1) THE PERSON SHALL NOT BE CALLED AS A WITNESS WITHOUT  
13 THE PERSON'S CONSENT.

14 (2) THE PERSON SHALL HAVE THE RIGHT TO CONFRONT AND  
15 CROSS-EXAMINE ALL WITNESSES AND TO PRESENT EVIDENCE ON THE  
16 PERSON'S OWN BEHALF.

17 (3) THE HEARING SHALL BE PUBLIC.

18 (4) A STENOGRAPHIC OR OTHER SUFFICIENT RECORD SHALL BE  
19 MADE.

20 (5) THE HEARING SHALL BE CONDUCTED BY THE COURT.

21 (6) A DECISION SHALL BE RENDERED WITHIN FIVE DAYS AFTER  
22 THE CONCLUSION OF THE HEARING.

23 (D) DETERMINATION AND ORDER.--UPON A FINDING BY CLEAR AND  
24 CONVINCING EVIDENCE THAT THE PERSON HAS A MENTAL ABNORMALITY OR  
25 PERSONALITY DISORDER WHICH RESULTS IN SERIOUS DIFFICULTY IN  
26 CONTROLLING SEXUALLY VIOLENT BEHAVIOR THAT MAKES THE PERSON  
27 LIKELY TO ENGAGE IN AN ACT OF SEXUAL VIOLENCE, AN ORDER SHALL BE  
28 ENTERED DIRECTING THE IMMEDIATE COMMITMENT OF THE PERSON FOR  
29 INPATIENT INVOLUNTARY TREATMENT TO A FACILITY DESIGNATED BY THE  
30 DEPARTMENT. THE ORDER SHALL BE IN WRITING AND SHALL BE

1 CONSISTENT WITH THE PROTECTION OF THE PUBLIC SAFETY AND THE  
2 APPROPRIATE CONTROL, CARE AND TREATMENT OF THE PERSON. AN APPEAL  
3 SHALL NOT STAY THE EXECUTION OF THE ORDER.

4 § 6404. DURATION OF COMMITMENT AND REVIEW.

5 (A) INITIAL PERIOD OF COMMITMENT.--THE PERSON SHALL BE  
6 SUBJECT TO A PERIOD OF COMMITMENT FOR INPATIENT TREATMENT FOR  
7 ONE YEAR.

8 (B) ANNUAL REVIEW.--

9 (1) SIXTY DAYS PRIOR TO THE EXPIRATION OF THE ONE-YEAR  
10 COMMITMENT PERIOD, THE DIRECTOR OF THE FACILITY OR A DESIGNEE  
11 SHALL SUBMIT AN EVALUATION AND THE BOARD SHALL SUBMIT AN  
12 ASSESSMENT OF THE PERSON TO THE COURT.

13 (2) THE COURT SHALL SCHEDULE A REVIEW HEARING WHICH  
14 SHALL BE CONDUCTED PURSUANT TO SECTION 6403(C) (RELATING TO  
15 COURT-ORDERED INVOLUNTARY TREATMENT) AND WHICH SHALL BE HELD  
16 NO LATER THAN 30 DAYS AFTER RECEIPT OF BOTH THE EVALUATION  
17 AND THE ASSESSMENT UNDER PARAGRAPH (1). NOTICE OF THE REVIEW  
18 HEARING SHALL BE PROVIDED TO THE PERSON, THE ATTORNEY WHO  
19 REPRESENTED THE PERSON AT THE PREVIOUS HEARING HELD PURSUANT  
20 TO THIS SUBSECTION OR SECTION 6403, THE DISTRICT ATTORNEY AND  
21 THE COUNTY SOLICITOR OR A DESIGNEE. THE PERSON AND THE  
22 PERSON'S ATTORNEY SHALL ALSO BE PROVIDED WITH WRITTEN NOTICE  
23 ADVISING THAT THE PERSON HAS THE RIGHT TO COUNSEL AND THAT,  
24 IF HE CANNOT AFFORD ONE, COUNSEL SHALL BE APPOINTED FOR THE  
25 PERSON. IF THE COURT DETERMINES BY CLEAR AND CONVINCING  
26 EVIDENCE THAT THE PERSON CONTINUES TO HAVE SERIOUS DIFFICULTY  
27 CONTROLLING SEXUALLY VIOLENT BEHAVIOR DUE TO A MENTAL  
28 ABNORMALITY OR PERSONALITY DISORDER THAT MAKES THE PERSON  
29 LIKELY TO ENGAGE IN AN ACT OF SEXUAL VIOLENCE, THE COURT  
30 SHALL ORDER AN ADDITIONAL PERIOD OF INVOLUNTARY TREATMENT OF

1 ONE YEAR, OTHERWISE THE COURT SHALL ORDER THE DISCHARGE OF  
2 THE PERSON. THE ORDER SHALL BE IN WRITING AND SHALL BE  
3 CONSISTENT WITH THE PROTECTION OF THE PUBLIC SAFETY AND  
4 APPROPRIATE CONTROL, CARE AND TREATMENT OF THE PERSON.

5 (C) DISCHARGE.--

6 (1) IF AT ANY TIME THE DIRECTOR OR A DESIGNEE OF THE  
7 FACILITY TO WHICH THE PERSON WAS COMMITTED CONCLUDES THE  
8 PERSON NO LONGER HAS SERIOUS DIFFICULTY IN CONTROLLING  
9 SEXUALLY VIOLENT BEHAVIOR, THE DIRECTOR SHALL PETITION THE  
10 COURT FOR A HEARING. NOTICE OF THE PETITION SHALL BE GIVEN TO  
11 THE PERSON, THE ATTORNEY WHO REPRESENTED THE PERSON AT THE  
12 PREVIOUS HEARING HELD PURSUANT TO SUBSECTION (B) OR SECTION  
13 6403, THE BOARD, THE DISTRICT ATTORNEY AND THE COUNTY  
14 SOLICITOR. THE PERSON AND THE PERSON'S ATTORNEY SHALL ALSO BE  
15 PROVIDED WITH WRITTEN NOTICE ADVISING THAT THE PERSON HAS THE  
16 RIGHT TO COUNSEL AND THAT, IF HE CANNOT AFFORD ONE, COUNSEL  
17 SHALL BE APPOINTED FOR THE PERSON.

18 (2) UPON RECEIPT OF NOTICE UNDER PARAGRAPH (1), THE  
19 BOARD SHALL CONDUCT A NEW ASSESSMENT WITHIN 30 DAYS AND  
20 PROVIDE THAT ASSESSMENT TO THE COURT.

21 (3) WITHIN 15 DAYS AFTER THE PETITION HAS BEEN FILED,  
22 THE COURT SHALL HOLD A HEARING PURSUANT TO SECTION 6403(C).  
23 IF THE COURT DETERMINES THE PERSON NO LONGER HAS SERIOUS  
24 DIFFICULTY CONTROLLING SEXUALLY VIOLENT BEHAVIOR, THE COURT  
25 SHALL ORDER THE DISCHARGE OF THE PERSON. IF THE COURT DENIES  
26 THE PETITION, THE PERSON SHALL BE SUBJECT TO THE REMAINDER OF  
27 THE PERIOD OF COMMITMENT.

28 (4) THE DEPARTMENT SHALL PROVIDE THE PERSON WITH NOTICE  
29 OF THE PERSON'S RIGHT TO PETITION THE COURT FOR DISCHARGE  
30 OVER THE OBJECTION OF THE DEPARTMENT. THE COURT, AFTER REVIEW

1 OF THE PETITION, MAY SCHEDULE A HEARING PURSUANT TO SECTION  
2 6403(C).

3 § 6405. RIGHT TO COUNSEL.

4 AT EACH PROCEEDING CONDUCTED PURSUANT TO THE PROVISIONS OF  
5 THIS CHAPTER, THE PERSON WHO IS THE SUBJECT OF THE PROCEEDING  
6 SHALL HAVE THE RIGHT TO ASSISTANCE OF COUNSEL.

7 § 6406. DUTY OF DEPARTMENT OF PUBLIC WELFARE.

8 (A) GENERAL RULE.--THE DEPARTMENT SHALL HAVE THE DUTY TO  
9 PROVIDE A SEPARATE, SECURE STATE-OWNED FACILITY OR UNIT UTILIZED  
10 SOLELY FOR THE CONTROL, CARE AND TREATMENT OF PERSONS COMMITTED  
11 PURSUANT TO THIS CHAPTER. THE DEPARTMENT SHALL BE RESPONSIBLE  
12 FOR ALL COSTS RELATING TO THE CONTROL, CARE AND TREATMENT OF  
13 PERSONS COMMITTED TO CUSTODY PURSUANT TO THIS CHAPTER.

14 (B) INTERIM FACILITY.--THE DEPARTMENT MAY DESIGNATE A STATE-  
15 OWNED FACILITY OR UNIT WHICH CURRENTLY RECEIVES CHILDREN WHO ARE  
16 ADJUDICATED DELINQUENT AND COMMITTED UNDER CHAPTER 63 (RELATING  
17 TO JUVENILE MATTERS) TO RECEIVE INDIVIDUALS COMMITTED UNDER THIS  
18 CHAPTER AS LONG AS THESE INDIVIDUALS ARE SEGREGATED AT ALL TIMES  
19 FROM CHILDREN COMMITTED UNDER CHAPTER 63. THIS SUBSECTION SHALL  
20 EXPIRE JULY 1, 2006.

21 (C) TREATMENT PLANS.--THE DEPARTMENT, IN CONSULTATION WITH  
22 THE JUVENILE COURT JUDGES' COMMISSION AND THE BOARD, SHALL  
23 DEVELOP POLICIES AND PROCEDURES FOR PROVIDING INDIVIDUALIZED  
24 TREATMENT AND DISCHARGE PLANS BASED ON CLINICAL GUIDELINES AND  
25 PROFESSIONAL STANDARDS IN THE FIELDS OF SEXUAL OFFENDER  
26 TREATMENT AND MENTAL HEALTH.

27 § 6407. REGULATIONS.

28 THE DEPARTMENT SHALL ADOPT IN CONSULTATION WITH THE JUVENILE  
29 COURT JUDGES' COMMISSION AND THE BOARD SUCH REGULATIONS AS ARE  
30 NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS CHAPTER.

1 § 6408. JURISDICTION.

2 THE COURT OF COMMON PLEAS FOR THE COUNTY WHICH ENTERED THE  
3 ORDER FOR COMMITMENT OF THE PERSON FOR A DELINQUENT ACT PURSUANT  
4 TO CHAPTER 63 (RELATING TO JUVENILE MATTERS) SHALL HAVE  
5 JURISDICTION FOR PROCEEDINGS UNDER THIS CHAPTER INCLUDING  
6 SUBSEQUENT PROCEEDINGS.

7 § 6409. IMMUNITY FOR GOOD FAITH CONDUCT.

8 THE FOLLOWING ENTITIES SHALL BE IMMUNE FROM LIABILITY FOR  
9 GOOD FAITH CONDUCT UNDER THIS SUBCHAPTER:

10 (1) MEMBERS OF THE BOARD AND ITS AGENTS AND EMPLOYEES.

11 (2) THE DEPARTMENT AND ITS AGENTS AND EMPLOYEES.

12 (3) COUNTY PROBATION DEPARTMENTS AND THEIR AGENTS AND  
13 EMPLOYEES.

14 SECTION 5. SECTION 9795.4(C) OF TITLE 42 IS AMENDED AND THE  
15 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

16 § 9795.4. ASSESSMENTS.

17 \* \* \*

18 (C) RELEASE OF INFORMATION.--ALL STATE, COUNTY AND LOCAL  
19 AGENCIES, OFFICES OR ENTITIES IN THIS COMMONWEALTH, INCLUDING  
20 JUVENILE PROBATION OFFICES, SHALL COOPERATE BY PROVIDING COPIES  
21 OF RECORDS AND INFORMATION AS REQUESTED BY THE BOARD IN  
22 CONNECTION WITH THE COURT-ORDERED ASSESSMENT AND THE ASSESSMENT  
23 REQUESTED BY THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE.

24 \* \* \*

25 (H) DELINQUENT CHILDREN.--EXCEPT WHERE SECTION 6358(B.1)  
26 (RELATING TO ASSESSMENT OF DELINQUENT CHILDREN BY THE STATE  
27 SEXUAL OFFENDERS ASSESSMENT BOARD) IS APPLICABLE, THE PROBATION  
28 OFFICER SHALL NOTIFY THE BOARD 90 DAYS PRIOR TO THE 20TH  
29 BIRTHDAY OF THE CHILD OF THE STATUS OF THE DELINQUENT CHILD WHO  
30 IS COMMITTED TO AN INSTITUTION OR OTHER FACILITY PURSUANT TO



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

20       SECTION 6.   THIS ACT SHALL TAKE EFFECT IN 180 DAYS.