

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1197 Session of
2013

INTRODUCED BY GREENLEAF, WASHINGTON, STACK, FONTANA, PILEGGI,
COSTA, BAKER, YUDICHAK, SOLOBAY AND BROWNE, NOVEMBER 26, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
SEPTEMBER 15, 2014

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, IN OBSTRUCTING GOVERNMENTAL OPERATIONS, FURTHER <--
4 PROVIDING FOR ESCAPE; in criminal history record information,
5 further providing for juvenile records; in juvenile matters,
6 further providing for scope of chapter, for inspection of
7 court files and records, for juvenile history record
8 information and for conduct of hearings; and, in registration
9 of sexual offenders, further providing for definitions and
10 for court notification and classification requirements.

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

13 ~~Section 1. Section 9123(a)(2.1) of Title 18 of the~~ <--
14 ~~Pennsylvania Consolidated Statutes is amended to read:~~

15 SECTION 1. SECTIONS 5121(D)(1)(I) AND 9123(A)(2.1) OF TITLE <--
16 18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO
17 READ:

18 § 5121. ESCAPE.

19 * * *

20 (D) GRADING.--

1 (1) AN OFFENSE UNDER THIS SECTION IS A FELONY OF THE
2 THIRD DEGREE WHERE:

3 (I) THE ACTOR WAS:

4 (A) UNDER ARREST FOR OR DETAINED ON A CHARGE OF
5 FELONY [OR FOLLOWING CONVICTION OF CRIME];

6 (B) CONVICTED OF A CRIME; OR

7 (C) FOUND TO BE DELINQUENT OF AN OFFENSE WHICH,
8 IF COMMITTED BY AN ADULT, WOULD BE CLASSIFIED AS A
9 FELONY AND THE ACTOR IS AT LEAST 18 YEARS OF AGE AT
10 THE TIME OF THE VIOLATION OF THIS SECTION;

11 * * *

12 § 9123. Juvenile records.

13 (a) Expungement of juvenile records.--Notwithstanding the
14 provisions of section 9105 (relating to other criminal justice
15 information) and except as provided under subsection (a.1),
16 expungement of records of juvenile delinquency cases and cases
17 involving summary offenses committed while the individual was
18 under 18 years of age, wherever kept or retained, shall occur
19 after 30 days' notice to the district attorney whenever the
20 court upon its own motion or upon the motion of a child or the
21 parents or guardian finds:

22 * * *

23 (2.1) the individual is 18 years of age or older and six
24 months have elapsed since the individual has satisfied all
25 terms and conditions of the sentence imposed following a
26 conviction for a summary offense, with the exception of a
27 violation of section 6308 (relating to purchase, consumption,
28 possession or transportation of liquor or malt or brewed
29 beverages), committed while the individual was under 18 years
30 of age and, since satisfying all terms and conditions of the

1 sentence, the individual has not been convicted of a felony,
2 misdemeanor or adjudicated delinquent and no proceeding is
3 pending to seek such conviction and adjudication;

4 * * *

5 Section 2. Sections 6303(c), 6307(c), 6309(d) and (e) and
6 6336(g) of Title 42 are amended to read:

7 § 6303. Scope of chapter.

8 * * *

9 (c) Summary offenses generally.--In addition to the
10 provisions of subsection (a)(5) and notwithstanding the
11 exclusion of summary offenses generally from the definition of
12 "delinquent act" under section 6302, the provisions of sections
13 6307 (relating to inspection of court files and records) and
14 6336(d) (relating to conduct of hearings), insofar as section
15 6336(d) relates to the exclusion of the general public from the
16 proceedings, shall apply to proceedings involving a child
17 charged with a summary offense when the proceedings are before a
18 judge of the minor judiciary, the Philadelphia Municipal Court
19 or a court of common pleas.

20 § 6307. Inspection of court files and records.

21 * * *

22 (c) Summary offenses.--The provisions of this section shall
23 apply to proceedings involving a child charged with a summary
24 offense when the proceedings are before a judge of the minor
25 judiciary, the Philadelphia Municipal Court or a court of common
26 pleas.

27 § 6309. Juvenile history record information.

28 * * *

29 (d) Disposition reporting.--The division or judge of the
30 court assigned to conduct juvenile hearings shall, within seven

1 days after disposition of a case where the child has been
2 alleged to be delinquent, notify the arresting authority of the
3 disposition of the case. [In addition, it shall collect and
4 submit to the Juvenile Court Judges' Commission the] The
5 disposition of cases where a child has been alleged to be
6 delinquent, including the disposition of cases resulting in an
7 adjudication of delinquency [which] shall be [submitted]
8 provided to the Pennsylvania State Police for inclusion in the
9 central repository [within 90 days of an adjudication of
10 delinquency as required by] as determined by the Administrative
11 Office of Pennsylvania Courts in consultation with the Juvenile
12 Court Judges' Commission. In addition, the Juvenile Court
13 Judges' Commission shall be provided with information pertaining
14 to the cases of children who have been alleged to be delinquent
15 as the commission determines necessary to fulfill its
16 responsibilities under section 6373 (relating to powers and
17 duties).

18 (e) Definitions.--As used in this section, the following
19 words and phrases shall have the meanings given to them in this
20 subsection:

21 "Criminal history record information." In addition to the
22 meaning in 18 Pa.C.S. § 9102 (relating to definitions), the term
23 includes the meaning of juvenile history record information as
24 defined in this subsection.

25 "Juvenile history record information." Information collected
26 pursuant to this section concerning alleged delinquents and
27 adjudicated delinquents whose fingerprints and photographs are
28 taken pursuant to section 6308(c) and arising from [the filing
29 of a petition] an allegation of delinquency, consisting of
30 identifiable descriptions, dates and notations of arrests or

1 other delinquency charges and any adjudication of delinquency or
2 preadjudication disposition other than dismissal arising
3 therefrom. This information shall also include the last known
4 location and the juvenile court jurisdiction status of each
5 adjudicated delinquent. Juvenile history record information
6 shall not include intelligence information, investigative
7 information, treatment information, including medical and
8 psychiatric information, caution indicator information, modus
9 operandi information, wanted persons information, stolen
10 property information, missing persons information, employment
11 history information, personal history information or presentence
12 investigation information.

13 § 6336. Conduct of hearings.

14 * * *

15 (g) Summary offenses.--The provisions of subsection (d),
16 insofar as subsection (d) relates to the exclusion of the
17 general public from the proceedings, shall apply to proceedings
18 involving a child charged with a summary offense when the
19 proceedings are before a judge of the minor judiciary, the
20 Philadelphia Municipal Court or a court of common pleas.

21 * * *

22 ~~Section 3. The definition of "juvenile offender" in section~~ <--
23 ~~9799.12 of Title 42 is amended to read:~~

24 SECTION 3. THE DEFINITIONS OF "JUVENILE OFFENDER" AND <--
25 "SEXUALLY VIOLENT PREDATOR" IN SECTION 9799.12 OF TITLE 42,
26 AMENDED MARCH 14, 2014 (P.L.41, NO.19), ARE AMENDED TO READ:

27 § 9799.12. Definitions.

28 The following words and phrases when used in this subchapter
29 shall have the meanings given to them in this section unless the
30 context clearly indicates otherwise:

1 * * *

2 "Juvenile offender." One of the following:

3 (1) An individual who was 14 years of age or older at
4 the time the individual committed an offense which, if
5 committed by an adult, would be classified as an offense
6 under 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to
7 involuntary deviate sexual intercourse) or 3125 (relating to
8 aggravated indecent assault) or an attempt, solicitation or
9 conspiracy to commit an offense under 18 Pa.C.S. § 3121, 3123
10 or 3125 and either:

11 (i) is adjudicated delinquent for such offense on or
12 after the effective date of this section; or

13 (ii) has been adjudicated delinquent for such
14 offense and on the effective date of this section is
15 subject to the jurisdiction of the court on the basis of
16 that adjudication of delinquency, including commitment to
17 an institution or facility set forth in section
18 6352(a) (3) (relating to a disposition of delinquent
19 child).

20 (2) An individual who, on or after the effective date of
21 this paragraph, was 14 years of age or older at the time the
22 individual committed an offense similar to an offense under
23 18 Pa.C.S. § 3121, 3123 or 3125 or an attempt, solicitation
24 or conspiracy to commit an offense similar to an offense
25 under 18 Pa.C.S. § 3121, 3123 or 3125 under the laws of the
26 United States, another jurisdiction or a foreign country and
27 was adjudicated delinquent for such an offense[.]; or who was
28 previously adjudicated delinquent for such an offense and, on
29 the effective date of this paragraph, is subject to the
30 jurisdiction of the court on the basis of that adjudication

1 of delinquency.

2 (3) An individual who, on or after the effective date of
3 this paragraph, was required to register in a sexual offender
4 registry in another jurisdiction or foreign country based
5 upon an adjudication of delinquency.

6 The term does not include a sexually violent delinquent child.

7 * * *

8 "SEXUALLY VIOLENT PREDATOR." AN INDIVIDUAL DETERMINED TO BE <--
9 A SEXUALLY VIOLENT PREDATOR UNDER SECTION 9795.4 (RELATING TO
10 ASSESSMENTS) PRIOR TO THE EFFECTIVE DATE OF THIS SUBCHAPTER OR
11 AN INDIVIDUAL CONVICTED OF AN OFFENSE SPECIFIED IN:

12 (1) SECTION 9799.14(B) (1), (2), (3), (4), (5), (6), (8),
13 (9) OR (10) (RELATING TO SEXUAL OFFENSES AND TIER SYSTEM) OR
14 AN ATTEMPT, CONSPIRACY OR SOLICITATION TO COMMIT ANY OFFENSE
15 UNDER SECTION 9799.14(B) (1), (2), (3), (4), (5), (6), (8),
16 (9) OR (10);

17 (2) SECTION 9799.14(C) (1), (1.1), (1.2), (1.3), (2),
18 (3), (4), (5) OR (6) OR AN ATTEMPT, CONSPIRACY OR
19 SOLICITATION TO COMMIT AN OFFENSE UNDER SECTION 9799.14(C)
20 (1), (1.1), (1.2), (1.3), (2), (3), (4), (5) OR (6); OR

21 (3) SECTION 9799.14(D) (1), (2), (3), (4), (5), (6), (7),
22 (8) OR (9) OR AN ATTEMPT, CONSPIRACY OR SOLICITATION TO
23 COMMIT AN OFFENSE UNDER SECTION 9799.14(D) (1), (2), (3), (4),
24 (5), (6), (7), (8) OR (9)

25 WHO, ON OR AFTER THE EFFECTIVE DATE OF THIS SUBCHAPTER, IS
26 DETERMINED TO BE A SEXUALLY VIOLENT PREDATOR UNDER SECTION
27 9799.24 (RELATING TO ASSESSMENTS) DUE TO A MENTAL ABNORMALITY OR
28 PERSONALITY DISORDER THAT MAKES THE INDIVIDUAL LIKELY TO ENGAGE
29 IN PREDATORY SEXUALLY VIOLENT OFFENSES. THE TERM INCLUDES AN
30 INDIVIDUAL DETERMINED TO BE A SEXUALLY VIOLENT PREDATOR OR

1 SIMILAR DESIGNATION WHERE THE DETERMINATION OCCURRED IN ANOTHER
2 JURISDICTION, A FOREIGN COUNTRY OR BY COURT MARTIAL FOLLOWING A
3 JUDICIAL OR ADMINISTRATIVE DETERMINATION PURSUANT TO A PROCESS
4 SIMILAR TO THAT UNDER SECTION 9799.24. IN ADDITION, THE TERM
5 SHALL INCLUDE ANY PERSON CONVICTED BETWEEN JANUARY 23, 2005, AND
6 DECEMBER 19, 2012, OF ANY OFFENSE SET FORTH IN SECTION
7 9799.13(3.1) (RELATING TO APPLICABILITY) DETERMINED BY A COURT
8 TO BE A SEXUALLY VIOLENT PREDATOR DUE TO A MENTAL ABNORMALITY OR
9 PERSONALITY DISORDER THAT MADE THE PERSON LIKELY TO ENGAGE IN
10 PREDATORY SEXUALLY VIOLENT OFFENSES, WHICH PERSON SHALL BE
11 DEEMED A SEXUALLY VIOLENT PREDATOR UNDER THIS SUBCHAPTER.

12 * * *

13 Section 4. Section 9799.23(a) of Title 42 is amended to
14 read:

15 § 9799.23. Court notification and classification requirements.

16 (a) Notice to sexual offenders.--At the time of sentencing,
17 of disposition under section 6352 (relating to disposition of
18 delinquent child) in the case of a juvenile offender, of
19 adjudication of delinquency under section 6341 (relating to
20 adjudication) in the case of a juvenile offender if the
21 individual was adjudicated delinquent in any county other than
22 the individual's county of residence and section 9799.19(h)(1)
23 (i)(B) (relating to initial registration) applies, or of
24 commitment under section 6403 (relating to court-ordered
25 involuntary treatment) in the case of a sexually violent
26 delinquent child, the court shall inform the sexual offender of
27 the provisions of this subchapter. The court shall:

28 (1) Specifically inform the sexual offender of the duty
29 to register under this subchapter.

30 (2) Specifically inform the sexual offender of:

1 (i) the duty to register in accordance with sections
2 9799.15 (relating to period of registration), 9799.16(b)
3 (relating to registry), 9799.19 [(relating to initial
4 registration)] and 9799.25 (relating to verification by
5 sexual offenders and Pennsylvania State Police); and

6 (ii) the duty to attend counseling in accordance
7 with:

8 (A) section 9799.36 (relating to counseling of
9 sexually violent predators) if applicable; or

10 (B) section 6404.2(g) (relating to duration of
11 outpatient commitment and review) if applicable.

12 (3) Specifically inform the sexual offender of the duty
13 to register with authorities in another jurisdiction within
14 three business days of:

15 (i) Commencement of residence, change of residence,
16 termination of residence or failure to maintain a
17 residence, thus making the sexual offender a transient.

18 (ii) Commencement of employment, a change in the
19 location or entity in which the sexual offender is
20 employed or termination of employment.

21 (iii) Commencement of enrollment as a student, a
22 change in enrollment as a student or termination of
23 enrollment as a student.

24 (4) In accordance with section 9799.16(c), order that
25 the fingerprints, palm prints, DNA sample and photograph of
26 the sexual offender be provided to the Pennsylvania State
27 Police upon sentencing.

28 (5) Require the sexual offender to read and sign a form
29 stating that the duty to register under this subchapter has
30 been explained. If the sexual offender is incapable of

1 speaking, reading or writing the English language, the court
2 shall certify the duty to register was explained to the
3 sexual offender, and the sexual offender indicated an
4 understanding of the duty.

5 (6) Specifically classify the individual as one of the
6 following:

- 7 (i) An individual convicted of a Tier I offense.
- 8 (ii) An individual convicted of a Tier II offense.
- 9 (iii) An individual convicted of a Tier III offense.
- 10 (iv) A sexually violent predator.
- 11 (v) A juvenile offender.
- 12 (vi) A sexually violent delinquent child.

13 * * *

14 SECTION 5. THE AMENDMENT OF THE DEFINITION OF "SEXUALLY <--
15 VIOLENT PREDATOR" IN 42 PA.C.S. § 9799.12 SHALL BE RETROACTIVE
16 TO SEPTEMBER 2, 2014.

17 Section ~~5~~ 6. This act shall take effect in 60 days. <--