
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1217 Session of
2013

INTRODUCED BY DINNIMAN, DECEMBER 20, 2013

REFERRED TO JUDICIARY, DECEMBER 20, 2013

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in juvenile matters,
3 further providing for definitions, for transfer from criminal
4 proceedings and for disposition of delinquent child.

5 The General Assembly finds and declares that this act shall
6 be known and may be cited as the Juvenile Driving Safety Act.

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

9 Section 1. The definition of "delinquent act" in section
10 6302 of Title 42 of the Pennsylvania Consolidated Statutes is
11 amended to read:

12 § 6302. Definitions.

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

16 * * *

17 "Delinquent act."

18 (1) The term means an act designated a crime under the
19 law of this Commonwealth, or of another state if the act

1 occurred in that state, or under Federal law, or under local
2 ordinances or an act which constitutes indirect criminal
3 contempt under 23 Pa.C.S. Ch. 61 (relating to protection from
4 abuse).

5 (2) The term shall not include:

6 (i) The crime of murder.

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

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

14 (relating to rape).

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

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

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

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

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

28 (G) Kidnapping as defined in 18 Pa.C.S. § 2901
29 (relating to kidnapping).

30 (H) Voluntary manslaughter.

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

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

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

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

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

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

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

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

21 (G) Voluntary manslaughter.

22 (H) An attempt, conspiracy or solicitation to
23 commit murder or any of these crimes as provided in
24 18 Pa.C.S. §§ 901, 902 and 903.

25 (iv) Summary offenses, unless the child fails to
26 comply with a lawful sentence imposed thereunder, in
27 which event notice of such fact shall be certified to the
28 court.

29 (v) A crime committed by a child who has been found
30 guilty in a criminal proceeding for other than a summary

1 offense.

2 (vi) Any of the following prohibited conduct where
3 the child is 15 years of age or older at the time of the
4 alleged conduct:

5 (A) Homicide by vehicle as defined in 75 Pa.C.S.
6 § 3732 (relating to homicide by vehicle).

7 (B) Aggravated assault by vehicle as defined in
8 75 Pa.C.S. § 3732.1 (relating to aggravated assault
9 by vehicle).

10 (C) Homicide by vehicle while driving under
11 influence as defined in 75 Pa.C.S. § 3735 (relating
12 to homicide by vehicle while driving under
13 influence).

14 (D) Aggravated assault by vehicle while driving
15 under the influence as defined in 75 Pa.C.S. § 3735.1
16 (relating to aggravated assault by vehicle while
17 driving under the influence).

18 * * *

19 Section 2. Sections 6322(a) and 6352(a) and (b) of Title 42
20 are amended to read:

21 § 6322. Transfer from criminal proceedings.

22 (a) General rule.--Except as provided in 75 Pa.C.S. § 6303
23 (relating to rights and liabilities of minors) or in the event
24 the child is charged with murder or any of the offenses excluded
25 by paragraph (2)(ii) [or], (iii) or (vi) of the definition of
26 "delinquent act" in section 6302 (relating to definitions) or
27 has been found guilty in a criminal proceeding, if it appears to
28 the court in a criminal proceeding that the defendant is a
29 child, this chapter shall immediately become applicable, and the
30 court shall forthwith halt further criminal proceedings, and,

1 where appropriate, transfer the case to the division or a judge
2 of the court assigned to conduct juvenile hearings, together
3 with a copy of the accusatory pleading and other papers,
4 documents, and transcripts of testimony relating to the case. If
5 it appears to the court in a criminal proceeding charging murder
6 or any of the offenses excluded by paragraph (2)(ii) or (iii) of
7 the definition of "delinquent act" in section 6302, that the
8 defendant is a child, the case may similarly be transferred and
9 the provisions of this chapter applied. In determining whether
10 to transfer a case charging murder or any of the offenses
11 excluded from the definition of "delinquent act" in section
12 6302, the child shall be required to establish by a
13 preponderance of the evidence that the transfer will serve the
14 public interest. In determining whether the child has so
15 established that the transfer will serve the public interest,
16 the court shall consider the factors contained in section
17 6355(a)(4)(iii) (relating to transfer to criminal proceedings).

18 * * *

19 § 6352. Disposition of delinquent child.

20 (a) General rule.--If the child is found to be a delinquent
21 child the court may make any of the following orders of
22 disposition determined to be consistent with the protection of
23 the public interest and best suited to the child's treatment,
24 supervision, rehabilitation and welfare, which disposition
25 shall, as appropriate to the individual circumstances of the
26 child's case, provide balanced attention to the protection of
27 the community, the imposition of accountability for offenses
28 committed and the development of competencies to enable the
29 child to become a responsible and productive member of the
30 community:

1 (1) Any order authorized by section 6351 (relating to
2 disposition of dependent child).

3 (2) Placing the child on probation under supervision of
4 the probation officer of the court or the court of another
5 state as provided in section 6363 (relating to ordering
6 foreign supervision), under conditions and limitations the
7 court prescribes.

8 (3) Committing the child to an institution, youth
9 development center, camp, or other facility for delinquent
10 children operated under the direction or supervision of the
11 court or other public authority and approved by the
12 Department of Public Welfare.

13 (4) If the child is 12 years of age or older, committing
14 the child to an institution operated by the Department of
15 Public Welfare.

16 (5) Ordering payment by the child of reasonable amounts
17 of money as fines, costs, fees or restitution as deemed
18 appropriate as part of the plan of rehabilitation considering
19 the nature of the acts committed and the earning capacity of
20 the child, including a contribution to a restitution fund.
21 The president judge of the court of common pleas shall
22 establish a restitution fund for the deposit of all
23 contributions to the restitution fund which are received or
24 collected. The president judge of the court of common pleas
25 shall promulgate written guidelines for the administration of
26 the fund. Disbursements from the fund shall be made, subject
27 to the written guidelines and the limitations of this
28 chapter, at the discretion of the president judge and used to
29 reimburse crime victims for financial losses resulting from
30 delinquent acts. For an order made under this subsection, the

1 court shall retain jurisdiction until there has been full
2 compliance with the order or until the delinquent child
3 attains 21 years of age. Any restitution order which remains
4 unpaid at the time the child attains 21 years of age shall
5 continue to be collectible under section 9728 (relating to
6 collection of restitution, reparation, fees, costs, fines and
7 penalties).

8 (6) An order of the terms of probation may include an
9 appropriate fine considering the nature of the act committed
10 or restitution not in excess of actual damages caused by the
11 child which shall be paid from the earnings of the child
12 received through participation in a constructive program of
13 service or education acceptable to the victim and the court
14 whereby, during the course of such service, the child shall
15 be paid not less than the minimum wage of this Commonwealth.
16 In ordering such service, the court shall take into
17 consideration the age, physical and mental capacity of the
18 child and the service shall be designed to impress upon the
19 child a sense of responsibility for the injuries caused to
20 the person or property of another. The order of the court
21 shall be limited in duration consistent with the limitations
22 in section 6353 (relating to limitation on and change in
23 place of commitment) and in the act of May 13, 1915 (P.L.286,
24 No.177), known as the Child Labor Law. The court order shall
25 specify the nature of the work, the number of hours to be
26 spent performing the assigned tasks, and shall further
27 specify that as part of a plan of treatment and
28 rehabilitation that up to 75% of the earnings of the child be
29 used for restitution in order to provide positive
30 reinforcement for the work performed.

1 In selecting from the alternatives set forth in this section,
2 the court shall follow the general principle that the
3 disposition imposed should provide the means through which the
4 provisions of this chapter are executed and enforced consistent
5 with section 6301(b) (relating to purposes) and when confinement
6 is necessary, the court shall impose the minimum amount of
7 confinement that is consistent with the protection of the public
8 and the rehabilitation needs of the child. For an offense under
9 paragraph (2)(vi) of the definition of "delinquent act" in
10 section 6302 (relating to definitions), if the case is
11 transferred for disposition under this chapter in accordance
12 with section 6322 (relating to transfer from criminal
13 proceedings), the child shall be subject to the same sentencing
14 guidelines and mandatory minimum sentences as in criminal court.
15 Notwithstanding any other provision of this chapter, for an
16 offense under paragraph (2)(vi) of the definition of "delinquent
17 act" in section 6302, the maximum term of confinement and
18 supervision shall be the same as in criminal court.

19 (b) Limitation on place of commitment.--A child shall not be
20 committed or transferred to a penal institution or other
21 facility used primarily for the execution of sentences of adults
22 convicted of a crime. A child committed to a facility designed
23 or operated for the benefit of delinquent children who is
24 younger than 18 years of age may be transferred to an adult
25 facility upon attaining 18 years of age and shall be transferred
26 to an adult facility upon attaining 19 years of age. A person
27 sentenced as a child who is sentenced to confinement for
28 violation of probation or parole after attaining 18 years of age
29 shall be sentenced to a facility that houses adults.

30 * * *

1 Section 3. This act shall take effect in 60 days.