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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 32 Session of  
2015

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INTRODUCED BY WILLIAMS, GREENLEAF, BOSCOLA AND RAFFERTY,  
JANUARY 14, 2015

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REFERRED TO JUDICIARY, JANUARY 14, 2015

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AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, in minors, providing for responsibility of parents  
4 and guardians; and, in juvenile matters, providing for  
5 pretrial diversion program.

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

8 Section 1. Title 18 of the Pennsylvania Consolidated  
9 Statutes is amended by adding a section to read:

10 § 6301.1. Responsibility of parents and guardians.

11 (a) Offense defined.--A parent or guardian who intentionally  
12 and knowingly commits one or more acts or omits the performance  
13 of one or more duties, which causes the child or the ward under  
14 18 years of age to come within or remain within the provisions  
15 of 42 Pa.C.S. § 6341 (relating to adjudication) or 23 Pa.C.S. §  
16 6315 (relating to taking child into protective custody), commits  
17 an offense.

18 (b) Grading.--A person who violates subsection (a) commits a  
19 misdemeanor of the third degree.

1 (c) Diversion program.--A person who violates subsection (a)  
2 may be eligible for the pretrial diversion program established  
3 under 42 Pa.C.S. § 6312 (relating to pretrial diversion  
4 program).

5 (d) Standard of care.--For purposes of this section, a  
6 parent or guardian of any person under 18 years of age shall  
7 have the duty to exercise reasonable care, supervision,  
8 protection and control over the minor child.

9 Section 2. Title 42 is amended by adding a section to read:  
10 § 6312. Pretrial diversion program.

11 (a) Review and approval.--Every prosecutor with jurisdiction  
12 to prosecute violations of 18 Pa.C.S. § 6301.1 (relating to  
13 responsibility of parents and guardians) shall review annually  
14 any diversion program established pursuant to this section, and  
15 no program shall commence or continue without the approval of  
16 the prosecutor. No person may be diverted under a program unless  
17 it has been approved by the district attorney.

18 (b) Applicability.--This section shall apply whenever a case  
19 is before a court upon an accusatory pleading alleging a parent  
20 or guardian to have violated 18 Pa.C.S. § 6301.1 and the  
21 defendant's record does not indicate that he has previously been  
22 diverted pursuant to this section.

23 (c) Waiver.--If the defendant consents and waives his right  
24 to a speedy trial, the case shall be referred to the district  
25 attorney who shall conduct an investigation as is necessary to  
26 determine whether the defendant qualifies for diversion under  
27 this section and whether the defendant is a person who would  
28 benefit from education, treatment or rehabilitation. The  
29 district attorney shall also submit findings and recommendations  
30 to the court for approval, which shall include education,

1 treatment or a rehabilitative plan that would benefit the  
2 defendant. If the recommendation includes referral to a  
3 community service program, the report shall contain a statement  
4 regarding the program's willingness to accept the defendant and  
5 the manner in which the services the program offers can assist  
6 the defendant in completing the diversion program successfully.

7 (d) Admissibility.--No statement or information with respect  
8 to the specific offense with which the defendant is charged,  
9 which is made subsequent to the granting of diversion, may be  
10 admissible in any action or proceeding. In the event that  
11 diversion is denied or is subsequently revoked once it has been  
12 granted, the investigation, statements or information divulged  
13 during that investigation shall not be used in any subsequent  
14 action or proceeding.

15 (e) Hearing.--The court shall hold a hearing and, after  
16 consideration of the district attorney's report and any other  
17 relevant information, shall determine if the defendant consents  
18 to further proceedings under this section and waives his right  
19 to a speedy trial. The period during which the further criminal  
20 proceedings against the defendant may be diverted shall be for  
21 the length of time required to complete and verify the diversion  
22 program but shall not exceed two years. If the court orders a  
23 defendant to be diverted, the court may make inquiry into the  
24 financial condition of the defendant and upon a finding that the  
25 defendant is able, in whole or in part, to pay the reasonable  
26 cost of diversion, the court may order the defendant to pay all  
27 or part of the expense. The reasonable cost of diversion shall  
28 not exceed the amount determined to be the actual average cost  
29 of diversion services. If the defendant is determined to be  
30 indigent, the defendant may not be ordered to pay the expenses.

1     (f) Finding that diversion is not beneficial.--If the court  
2 does not deem the defendant to be a person who would benefit  
3 from diversion or if the defendant does not consent to  
4 participate, the proceedings shall continue as in any other  
5 case.

6     (g) Unsatisfactory progress or other conviction.--If the  
7 court finds after notice to the defendant and a hearing that the  
8 defendant is not performing satisfactorily in the assigned  
9 program, or that the defendant has been convicted of a  
10 misdemeanor in which force or violence was used or is convicted  
11 of a felony, the criminal case shall be referred back to the  
12 court for resumption of the criminal proceedings.

13     (h) Disposition.--If the defendant has performed  
14 satisfactorily during the period of diversion, the criminal  
15 charges shall be dismissed.

16     (i) Definitions.--As used in this section, the term  
17 "pretrial diversion" means the procedure of postponing  
18 prosecution either temporarily or permanently at any point in  
19 the judicial process from the time the accused is charged until  
20 adjudication.

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