

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 159 Session of 2017

INTRODUCED BY NESBIT, MARSICO, WATSON, ROZZI, A. HARRIS, WARD, RADER, GABLER, JOZWIAK, KORTZ, BARBIN, MICCARELLI, BENNINGHOFF AND D. COSTA, JANUARY 23, 2017

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED, JUNE 5, 2018

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in juvenile matters,
3 further providing for definitions and, for summary offenses
4 AND FOR ADJUDICATION. <--<--

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

7 Section 1. The definition of "delinquent act" in section
8 6302 of Title 42 of the Pennsylvania Consolidated Statutes is
9 amended to read:

10 § 6302. Definitions.

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

14 * * *

15 "Delinquent act."

16 (1) The term means an act designated a crime under the
17 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 Chapter 62A (relating to protection of victims
4 of sexual violence or intimidation) with respect to sexual
5 violence or 23 Pa.C.S. Ch. 61 (relating to protection from
6 abuse) or the failure of a child to comply with a lawful
7 sentence imposed for a summary offense, in which event notice
8 of the fact shall be certified to the court.

9 (2) The term shall not include:

10 (i) The crime of murder.

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

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

18 (relating to rape).

19 (B) Involuntary deviate sexual intercourse as
20 defined in 18 Pa.C.S. § 3123 (relating to involuntary
21 deviate sexual intercourse).

22 (C) Aggravated assault as defined in 18 Pa.C.S.
23 § 2702(a)(1) or (2) (relating to aggravated assault).

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

26 (E) Robbery of motor vehicle as defined in 18
27 Pa.C.S. § 3702 (relating to robbery of motor
28 vehicle).

29 (F) Aggravated indecent assault as defined in 18
30 Pa.C.S. § 3125 (relating to aggravated indecent

1 assault).

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

4 (H) Voluntary manslaughter.

5 (I) An attempt, conspiracy or solicitation to
6 commit murder or any of these crimes as provided in
7 18 Pa.C.S. §§ 901 (relating to criminal attempt), 902
8 (relating to criminal solicitation) and 903 (relating
9 to criminal conspiracy).

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

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

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

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

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

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

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

25 (G) Voluntary manslaughter.

26 (H) An attempt, conspiracy or solicitation to
27 commit murder or any of these crimes as provided in
28 18 Pa.C.S. §§ 901, 902 and 903.

29 (iv) Summary offenses[, unless the child fails to
30 comply with a lawful sentence imposed thereunder, in

1 which event notice of such fact shall be certified to the
2 court].

3 (v) A crime committed by a child who has been found
4 guilty in a criminal proceeding for other than a summary
5 offense.

6 * * *

7 Section 2. ~~Section 6304.1(a)~~ SECTIONS 6304.1(A) AND 6341(B) <--
8 of Title 42 ~~is~~ ARE amended to read: <--

9 § 6304.1. Summary offenses.

10 (a) Review.--

11 (1) Upon notice being certified to the court that a
12 child has failed to comply with a lawful sentence imposed for
13 a summary offense, a probation officer shall review the
14 complaints and charges of delinquency pursuant to section
15 6304 (relating to powers and duties of probation officers)
16 for the purpose of considering the commencement of
17 proceedings under this chapter.

18 (2) A proceeding commenced under the review in this
19 subsection is a separate action from the underlying summary
20 conviction. For the purposes of proceedings commenced under
21 this section, failure to comply with a lawful sentence
22 imposed for a summary offense is an alleged delinquent act.

23 (3) Any reference to the underlying summary conviction
24 is solely for the purpose of the certification from the
25 magisterial district judge to the court of common pleas that
26 the juvenile was convicted of the summary offense and failed
27 to comply under section 4132(2) (relating to attachment and
28 summary punishment for contempts).

29 * * *

30 § 6341. ADJUDICATION. <--

1 * * *

2 (B) FINDING OF DELINQUENCY.--IF THE COURT FINDS ON PROOF
3 BEYOND A REASONABLE DOUBT THAT THE CHILD COMMITTED THE ACTS BY
4 REASON OF WHICH HE IS ALLEGED TO BE DELINQUENT IT SHALL ENTER
5 SUCH FINDING ON THE RECORD AND SHALL SPECIFY THE PARTICULAR
6 OFFENSES, INCLUDING THE GRADING AND COUNTS THEREOF WHICH THE
7 CHILD IS FOUND TO HAVE COMMITTED. THE COURT SHALL THEN PROCEED
8 IMMEDIATELY OR AT A POSTPONED HEARING, WHICH SHALL OCCUR NOT
9 LATER THAN 20 DAYS AFTER SUCH FINDING IF THE CHILD IS IN
10 DETENTION OR NOT MORE THAN 60 DAYS AFTER SUCH FINDING IF THE
11 CHILD IS NOT IN DETENTION, TO HEAR EVIDENCE AS TO WHETHER THE
12 CHILD IS IN NEED OF TREATMENT, SUPERVISION OR REHABILITATION, AS
13 ESTABLISHED BY A PREPONDERANCE OF THE EVIDENCE, AND TO MAKE AND
14 FILE ITS FINDINGS THEREON. THIS TIME LIMITATION MAY ONLY BE
15 EXTENDED PURSUANT TO THE AGREEMENT OF THE CHILD AND THE ATTORNEY
16 FOR THE COMMONWEALTH. THE COURT'S FAILURE TO COMPLY WITH THE
17 TIME LIMITATIONS STATED IN THIS SECTION SHALL NOT BE GROUNDS FOR
18 DISCHARGING THE CHILD OR DISMISSING THE PROCEEDING. IN THE
19 ABSENCE OF EVIDENCE TO THE CONTRARY, EVIDENCE OF THE COMMISSION
20 OF ACTS WHICH CONSTITUTE A FELONY SHALL BE SUFFICIENT TO SUSTAIN
21 A FINDING THAT THE CHILD IS IN NEED OF TREATMENT, SUPERVISION OR
22 REHABILITATION. IF THE COURT FINDS THAT THE CHILD IS NOT IN NEED
23 OF TREATMENT, SUPERVISION OR REHABILITATION IT SHALL DISMISS THE
24 PROCEEDING AND DISCHARGE THE CHILD FROM ANY DETENTION OR OTHER
25 RESTRICTION THERETOFORE ORDERED.

26 * * *

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