
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1038 Session of
2021

INTRODUCED BY KRAJEWSKI, FIEDLER, KENYATTA, SANCHEZ, RABB,
HARRIS, GUZMAN, HOHENSTEIN, HILL-EVANS, LEE AND INNAMORATO,
MARCH 31, 2021

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 31, 2021

AN ACT

1 Amending Titles 23 (Domestic Relations), 42 (Judiciary and
2 Judicial Procedure) and 44 (Law and Justice) of the
3 Pennsylvania Consolidated Statutes, in proceedings prior to
4 petition to adopt, further providing for grounds for
5 involuntary termination; in juvenile matters, further
6 providing for disposition of dependent child; and adding
7 provisions relating to certain arrest protocols.

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

10 Section 1. Section 2511(b) of Title 23 of the Pennsylvania
11 Consolidated Statutes is amended to read:

12 § 2511. Grounds for involuntary termination.

13 * * *

14 (b) Other considerations.--

15 (1) The court in terminating the rights of a parent
16 shall give primary consideration to the developmental,
17 physical and emotional needs and welfare of the child.

18 (2) The rights of a parent shall not be terminated
19 solely on the basis of:

20 (i) environmental factors such as inadequate

1 housing, furnishings, income, clothing and medical care
2 if found to be beyond the control of the parent[.]; or
3 (ii) parental incarceration.

4 (3) With respect to any petition filed pursuant to
5 subsection (a) (1), (6) or (8), the court shall not consider
6 any efforts by the parent to remedy the conditions described
7 therein which are first initiated subsequent to the giving of
8 notice of the filing of the petition.

9 * * *

10 Section 2. Section 6351(f) (9) of Title 42 is amended to
11 read:

12 § 6351. Disposition of dependent child.

13 * * *

14 (f) Matters to be determined at permanency hearing.--At each
15 permanency hearing, a court shall determine all of the
16 following:

17 * * *

18 (9) If the child has been in placement for at least 15
19 of the last 22 months or the court has determined that
20 aggravated circumstances exist and that reasonable efforts to
21 prevent or eliminate the need to remove the child from the
22 child's parent, guardian or custodian or to preserve and
23 reunify the family need not be made or continue to be made,
24 whether the county agency has filed or sought to join a
25 petition to terminate parental rights and to identify,
26 recruit, process and approve a qualified family to adopt the
27 child unless any of the following provisions apply:

28 (i) [the] The child is being cared for by a relative
29 best suited to the physical, mental and moral welfare of
30 the child[;].

1 (ii) [the] The county agency has documented a
2 compelling reason for determining that filing a petition
3 to terminate parental rights would not serve the needs
4 and welfare of the child[; or]. A compelling reason may
5 include parental incarceration for a period exceeding 15
6 months, if:

7 (A) the parent makes efforts to the extent
8 feasible to comply with family service plan
9 requirements and otherwise maintain a meaningful role
10 in the child's life during the time of incarceration;
11 and

12 (B) termination of parental rights is not
13 otherwise necessitated by the needs and welfare of
14 the child.

15 (iii) [the] The child's family has not been provided
16 with necessary services to achieve the safe return to the
17 child's parent, guardian or custodian within the time
18 frames set forth in the permanency plan.

19 * * *

20 Section 3. Title 44 is amended by adding a chapter to read:

21 CHAPTER 25

22 ARREST PROTOCOLS

23 Sec.

24 2501. Definitions.

25 2502. Training.

26 2503. Guidelines for identification of minor or dependent
27 children upon arrest.

28 2504. Program responsibilities.

29 § 2501. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Commission." The Municipal Police Officers' Education and
4 Training Commission.

5 "Department." The Department of Human Services of the
6 Commonwealth.

7 "Law enforcement officer." Any of the following:

8 (1) A member of the Pennsylvania State Police.

9 (2) A police officer as defined in 53 Pa.C.S. Ch. 21
10 Subch. D (relating to municipal police education and
11 training).

12 (3) A constable and deputy constable appointed under
13 Chapter 71 (relating to constables).

14 (4) A county sheriff and deputy sheriff.

15 § 2502. Training.

16 A course of training for ensuring child safety upon the
17 arrest of a parent or guardian shall be included in the basic
18 curriculum of each basic training class and as a component of
19 in-service training each year for each law enforcement officer.

20 § 2503. Guidelines for identification of minor or dependent
21 children upon arrest.

22 (a) Inquiry upon arrest.--A law enforcement officer who
23 arrests an individual shall, at the time of the arrest, inquire
24 as to whether the individual is a parent or guardian of any
25 minor or dependent child whose safety or well-being may be at
26 risk as a result of the arrest. The law enforcement officer
27 shall make reasonable efforts to ensure the safety or well-being
28 of any child in accordance with the guidelines established under
29 subsection (b).

30 (b) Establishment of guidelines.--

1 (1) In consultation with representatives of county
2 children and youth social service agencies, the Pennsylvania
3 State Police, the commission and the department shall
4 establish guidelines and training programs for law
5 enforcement officers to ensure the safety of a child upon the
6 arrest of a parent or guardian of the child.

7 (2) The guidelines and training program shall include:

8 (i) Procedures to ensure that law enforcement
9 officers inquire whether an arrestee has a minor or
10 dependent child who may be present or at another location
11 at the time of the arrest.

12 (ii) Procedures for the proper arrangement of
13 temporary care for children to ensure their safety and
14 well-being.

15 (iii) Education on how the effects of witnessing a
16 violent crime or other event causes emotional trauma to
17 children and how law enforcement officers can assist in
18 mitigating the long-term effects of the trauma.

19 § 2504. Program responsibilities.

20 The Pennsylvania State Police and the commission shall:

21 (1) Use available funds to develop and maintain arrest
22 protocol training programs.

23 (2) Oversee and coordinate the arrest protocol training
24 programs throughout this Commonwealth.

25 (3) Regularly evaluate arrest protocol programs and make
26 modifications as necessary.

27 Section 4. This act shall take effect in 60 days.