
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2758 Session of
2022

INTRODUCED BY RABB, BENHAM, BULLOCK, FIEDLER, HILL-EVANS,
HOWARD, INNAMORATO, KINKEAD, KRAJEWSKI, LEE, N. NELSON,
ZABEL, HOHENSTEIN, MADDEN, CEPHAS, KINSEY, SANCHEZ, DELLOSO,
A. DAVIS, D. WILLIAMS, PARKER, KIRKLAND, WEBSTER, DALEY AND
McCLINTON, AUGUST 4, 2022

REFERRED TO COMMITTEE ON JUDICIARY, AUGUST 4, 2022

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 scope of chapter, for
4 inspection of court files and records, for transfer from
5 criminal proceedings, for place of detention and for conduct
6 of hearings and repealing provisions relating to transfer to
7 criminal proceedings.

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

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

13 § 6302. Definitions.

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

17 * * *

18 "Delinquent [act."

19 (1) The term means an] act." An act designated a crime

1 under the law of this Commonwealth, or of another state if
2 the act occurred in that state, or under Federal law, or an
3 act which constitutes indirect criminal contempt under
4 Chapter 62A (relating to protection of victims of sexual
5 violence or intimidation) with respect to sexual violence or
6 23 Pa.C.S. Ch. 61 (relating to protection from abuse) or the
7 failure of a child to comply with a lawful sentence imposed
8 for a summary offense, in which event notice of the fact
9 shall be certified to the court.

10 [(2) The term shall not include:

11 (i) The crime of murder.

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

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

19 (relating to rape).

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

23 (C) Aggravated assault as defined in 18 Pa.C.S.
24 § 2702(a)(1) or (2) (relating to aggravated assault).

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

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

30 (F) Aggravated indecent assault as defined in 18

1 Pa.C.S. § 3125 (relating to aggravated indecent
2 assault).

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

5 (H) Voluntary manslaughter.

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

11 (iii) 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 has been previously adjudicated
14 delinquent of any of the following prohibited conduct
15 which, if committed by an adult, would be classified as:

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

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

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

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

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

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

26 (G) Voluntary manslaughter.

27 (H) An attempt, conspiracy or solicitation to
28 commit murder or any of these crimes as provided in
29 18 Pa.C.S. §§ 901, 902 and 903.

30 (iv) Summary offenses.

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

4 * * *

5 Section 2. Sections 6303(b) and 6307(b)(1.1) of Title 42 are
6 amended to read:

7 § 6303. Scope of chapter.

8 * * *

9 (b) Minor judiciary.--No child shall be detained, committed
10 or sentenced to imprisonment by a magisterial district judge or
11 a judge of the minor judiciary [unless the child is charged with
12 an act set forth in paragraph (2)(i), (ii), (iii) or (v) of the
13 definition of "delinquent act" in section 6302 (relating to
14 definitions)].

15 * * *

16 § 6307. Inspection of court files and records.

17 * * *

18 (b) Public availability.--

19 (1.1) The contents of court records and files concerning
20 a child shall not be disclosed to the public. [unless any of
21 the following apply:

22 (i) The child has been adjudicated delinquent by a
23 court as a result of an act or acts committed when the
24 child was 14 years of age or older and the conduct would
25 have constituted one or more of the following offenses if
26 committed by an adult:

27 (A) Murder.

28 (B) Voluntary manslaughter.

29 (C) Aggravated assault as defined in 18 Pa.C.S.

30 § 2702(a)(1) or (2) (relating to aggravated assault).

1 (D) Sexual Assault as defined in 18 Pa.C.S. §
2 3124.1 (relating to sexual assault).

3 (E) Aggravated indecent assault as defined in 18
4 Pa.C.S. § 3125 (relating to aggravated indecent
5 assault).

6 (F) Arson as defined in 18 Pa.C.S. § 3301(a)(1)
7 (relating to arson and related offenses).

8 (G) Burglary as a felony in the first degree as
9 defined in 18 Pa.C.S. § 3502(c)(1) (relating to
10 burglary).

11 (H) Involuntary deviate sexual intercourse.

12 (I) Kidnapping.

13 (J) Rape.

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

16 (L) Robbery of motor vehicle.

17 (M) Violation of 18 Pa.C.S. Ch. 61 (relating to
18 firearms and other dangerous articles).

19 (N) Attempt or conspiracy to commit any of the
20 offenses in this subparagraph.

21 (ii) A petition alleging delinquency has been filed
22 alleging that the child has committed an act or acts
23 subject to a hearing pursuant to section 6336(e)
24 (relating to conduct of hearings) and the child
25 previously has been adjudicated delinquent by a court as
26 a result of an act or acts committed when the child was
27 14 years of age or older and the conduct would have
28 constituted one or more of the following offenses if
29 committed by an adult:

30 (A) Murder.

1 (B) Voluntary manslaughter.

2 (C) Aggravated assault as defined in 18 Pa.C.S.

3 § 2702(a)(1) or (2).

4 (D) Sexual Assault as defined in 18 Pa.C.S. §

5 3124.1.

6 (E) Aggravated indecent assault as defined in 18

7 Pa.C.S. § 3125.

8 (F) Arson as defined in 18 Pa.C.S. § 3301(a)(1).

9 (G) Burglary as a felony in the first degree as

10 defined in 18 Pa.C.S. § 3502(c)(1).

11 (H) Involuntary deviate sexual intercourse.

12 (I) Kidnapping.

13 (J) Rape.

14 (K) Robbery as defined in 18 Pa.C.S. § 3701(a)

15 (1)(i), (ii) or (iii).

16 (L) Robbery of motor vehicle.

17 (M) Violation of 18 Pa.C.S. Ch. 61.

18 (N) Attempt or conspiracy to commit any of the

19 offenses in this subparagraph.]

20 * * *

21 Section 3. Section 6322(a) of Title 42 is amended and the
22 section is amended by adding a subsection to read:

23 § 6322. Transfer from criminal proceedings.

24 (a) General rule.--Except as provided in 75 Pa.C.S. § 6303

25 (relating to rights and liabilities of minors) or in the event

26 the child [is charged with murder or any of the offenses

27 excluded by paragraph (2)(ii) or (iii) of the definition of

28 "delinquent act" in section 6302 (relating to definitions) or]

29 has been found guilty in a criminal proceeding, if it appears to

30 the court in a criminal proceeding that the defendant [is a

1 child] was a child at the time of the offense, this chapter
2 shall immediately become applicable, and the court shall
3 forthwith halt further criminal proceedings, and, where
4 appropriate, transfer the case to the division or a judge of the
5 court assigned to conduct juvenile hearings, together with a
6 copy of the accusatory pleading and other papers, documents, and
7 transcripts of testimony relating to the case. [If it appears to
8 the court in a criminal proceeding charging murder or any of the
9 offenses excluded by paragraph (2)(ii) or (iii) of the
10 definition of "delinquent act" in section 6302, that the
11 defendant is a child, the case may similarly be transferred and
12 the provisions of this chapter applied. In determining whether
13 to transfer a case charging murder or any of the offenses
14 excluded from the definition of "delinquent act" in section
15 6302, the child shall be required to establish by a
16 preponderance of the evidence that the transfer will serve the
17 public interest. In determining whether the child has so
18 established that the transfer will serve the public interest,
19 the court shall consider the factors contained in section
20 6355(a)(4)(iii) (relating to transfer to criminal proceedings).]

21 * * *

22 (f) Transfer of cases back to juvenile court.--In the case
23 of an individual who was under 18 years of age at the time of
24 the offense and whose case has already been transferred or is
25 otherwise within the adult criminal justice system, the case
26 shall be returned to juvenile court in accordance with
27 subsection (a).

28 Section 4. Sections 6327(c), (c.1) and (d) and 6336(e) of
29 Title 42 are amended to read:

30 § 6327. Place of detention.

1 * * *

2 (c) Detention in jail prohibited.--It is unlawful for any
3 person in charge of or employed by a jail knowingly to receive
4 for detention or to detain in the jail any person whom he has or
5 should have reason to believe is a child. [unless, in a criminal
6 proceeding, the child has been charged with or has been found
7 guilty of an act set forth in paragraph (2)(i), (ii), (iii) or
8 (v) of the definition of "delinquent act" in section 6302
9 (relating to definitions)].

10 (c.1) Detention of child.--

11 (1) A child who is subject to criminal proceedings
12 having been charged with an act set forth under paragraph
13 (2)(i), (ii) or (iii) of the definition of "delinquent act"
14 in section 6302, who has not been released on bail and who
15 may seek or is seeking transfer to juvenile proceedings under
16 section 6322 (relating to transfer from criminal proceedings)
17 may be detained in a secure detention facility approved by
18 the Department of Public Welfare for the detention of alleged
19 and adjudicated delinquent children if the attorney for the
20 Commonwealth has consented to and the court has ordered the
21 detention.

22 (2) Secure detention ordered under this subsection shall
23 not affect a child's eligibility for or ability to post bail.

24 (3) For a child held in secure detention under this
25 subsection, the court shall order the immediate transfer of
26 the child to the county jail if any of the following apply:

27 (i) The court determines that the child is no longer
28 seeking transfer under section 6322.

29 (ii) The court denies the motion filed under section
30 6322.

1 (iii) The child attains 18 years of age. This
2 subparagraph does not apply if:

3 (A) the court has granted the motion filed under
4 section 6322; or

5 (B) the child is otherwise under order of
6 commitment to the secure detention facility pursuant
7 to the jurisdiction of the court in a delinquency
8 matter.

9 (d) Transfer of child subject to criminal proceedings.--If a
10 case is transferred for criminal prosecution the child may be
11 transferred to the appropriate officer or detention facility in
12 accordance with the law governing the detention of persons
13 charged with crime. The court in making the transfer may order
14 continued detention as a juvenile pending trial if the child is
15 unable to provide bail.]

16 * * *

17 § 6336. Conduct of hearings.

18 * * *

19 [(e) Open proceedings.--The general public shall not be
20 excluded from any hearings under this chapter:

21 (1) Pursuant to a petition alleging delinquency where
22 the child was 14 years of age or older at the time of the
23 alleged conduct and the alleged conduct would be considered a
24 felony if committed by an adult.

25 (2) Pursuant to a petition alleging delinquency where
26 the child was 12 years of age or older at the time of the
27 alleged conduct and where the alleged conduct would have
28 constituted one or more of the following offenses if
29 committed by an adult:

30 (i) Murder.

1 (ii) Voluntary manslaughter.

2 (iii) Aggravated assault as defined in 18 Pa.C.S. §
3 2702(a)(1) or (2) (relating to aggravated assault).

4 (iv) Arson as defined in 18 Pa.C.S. § 3301(a)(1)
5 (relating to arson and related offenses).

6 (v) Involuntary deviate sexual intercourse.

7 (vi) Kidnapping.

8 (vii) Rape.

9 (viii) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)
10 (i), (ii) or (iii) (relating to robbery).

11 (ix) Robbery of motor vehicle.

12 (x) Attempt or conspiracy to commit any of the
13 offenses in this paragraph.

14 Notwithstanding anything in this subsection, the proceedings
15 shall be closed upon and to the extent of any agreement between
16 the child and the attorney for the Commonwealth.]

17 * * *

18 Section 5. Section 6355 of Title 42 is repealed:

19 [§ 6355. Transfer to criminal proceedings.

20 (a) General rule.--After a petition has been filed alleging
21 delinquency based on conduct which is designated a crime or
22 public offense under the laws, including local ordinances, of
23 this Commonwealth, the court before hearing the petition on its
24 merits may rule that this chapter is not applicable and that the
25 offense should be prosecuted, and transfer the offense, where
26 appropriate, to the division or a judge of the court assigned to
27 conduct criminal proceedings, for prosecution of the offense if
28 all of the following exist:

29 (1) The child was 14 or more years of age at the time of
30 the alleged conduct.

1 (2) A hearing on whether the transfer should be made is
2 held in conformity with this chapter.

3 (3) Notice in writing of the time, place, and purpose of
4 the hearing is given to the child and his parents, guardian,
5 or other custodian at least three days before the hearing.

6 (4) The court finds:

7 (i) that there is a prima facie case that the child
8 committed the delinquent act alleged;

9 (ii) that the delinquent act would be considered a
10 felony if committed by an adult;

11 (iii) that there are reasonable grounds to believe
12 that the public interest is served by the transfer of the
13 case for criminal prosecution. In determining whether the
14 public interest can be served, the court shall consider
15 the following factors:

16 (A) the impact of the offense on the victim or
17 victims;

18 (B) the impact of the offense on the community;

19 (C) the threat to the safety of the public or
20 any individual posed by the child;

21 (D) the nature and circumstances of the offense
22 allegedly committed by the child;

23 (E) the degree of the child's culpability;

24 (F) the adequacy and duration of dispositional
25 alternatives available under this chapter and in the
26 adult criminal justice system; and

27 (G) whether the child is amenable to treatment,
28 supervision or rehabilitation as a juvenile by
29 considering the following factors:

30 (I) age;

1 (II) mental capacity;

2 (III) maturity;

3 (IV) the degree of criminal sophistication
4 exhibited by the child;

5 (V) previous records, if any;

6 (VI) the nature and extent of any prior
7 delinquent history, including the success or
8 failure of any previous attempts by the juvenile
9 court to rehabilitate the child;

10 (VII) whether the child can be rehabilitated
11 prior to the expiration of the juvenile court
12 jurisdiction;

13 (VIII) probation or institutional reports,
14 if any;

15 (IX) any other relevant factors; and

16 (iv) that there are reasonable grounds to believe
17 that the child is not committable to an institution for
18 the mentally retarded or mentally ill.

19 (b) Chapter inapplicable following transfer.--The transfer
20 terminates the applicability of this chapter over the child with
21 respect to the delinquent acts alleged in the petition.

22 (c) Transfer at request of child.--The child may request
23 that the case be transferred for prosecution in which event the
24 court may order this chapter not applicable.

25 (d) Effect of transfer from criminal proceedings.--No
26 hearing shall be conducted where this chapter becomes applicable
27 because of a previous determination by the court in a criminal
28 proceeding.

29 (e) Murder and other excluded acts.--Where the petition
30 alleges conduct which if proven would constitute murder, or any

1 of the offenses excluded by paragraph (2)(ii) or (iii) of the
2 definition of "delinquent act" in section 6302 (relating to
3 definitions), the court shall require the offense to be
4 prosecuted under the criminal law and procedures, except where
5 the case has been transferred pursuant to section 6322 (relating
6 to transfer from criminal proceedings) from the division or a
7 judge of the court assigned to conduct criminal proceedings.

8 (f) Transfer action interlocutory.--The decision of the
9 court to transfer or not to transfer the case shall be
10 interlocutory.

11 (g) Burden of proof.--The burden of establishing by a
12 preponderance of evidence that the public interest is served by
13 the transfer of the case to criminal court and that a child is
14 not amenable to treatment, supervision or rehabilitation as a
15 juvenile shall rest with the Commonwealth unless the following
16 apply:

17 (1) (i) a deadly weapon as defined in 18 Pa.C.S. § 2301
18 (relating to definitions) was used and the child was 14
19 years of age at the time of the offense; or

20 (ii) the child was 15 years of age or older at the
21 time of the offense and was previously adjudicated
22 delinquent of a crime that would be considered a felony
23 if committed by an adult; and

24 (2) there is a prima facie case that the child committed
25 a delinquent act which, if committed by an adult, would be
26 classified as rape, involuntary deviate sexual intercourse,
27 aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or
28 (2) (relating to aggravated assault), robbery as defined in
29 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to
30 robbery), robbery of motor vehicle, aggravated indecent

1 assault, kidnapping, voluntary manslaughter, an attempt,
2 conspiracy or solicitation to commit any of these crimes or
3 an attempt to commit murder as specified in paragraph (2)(ii)
4 of the definition of "delinquent act" in section 6302.

5 If either of the preceding criteria are met, the burden of
6 establishing by a preponderance of the evidence that retaining
7 the case under this chapter serves the public interest and that
8 the child is amenable to treatment, supervision or
9 rehabilitation as a juvenile shall rest with the child.]

10 Section 6. This act shall apply to all proceedings that
11 commence on or after the effective date of this section.

12 Section 7. This act shall take effect in 60 days.