
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 751 Session of
2023

INTRODUCED BY BARTOLOTTA, A. WILLIAMS, HUGHES, SCHWANK, HAYWOOD,
KANE, KEARNEY, CAPPELLETTI, SANTARSIERO, COSTA, COLLETT,
STREET, SAVAL AND DILLON, JUNE 6, 2023

REFERRED TO JUDICIARY, JUNE 6, 2023

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 place of detention and
4 for transfer to criminal proceedings.

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
18 occurred in that state, or under Federal law, or an act which

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

8 (2) The term shall not include[:

9 (i) The crime of murder.

10 (ii) 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 a deadly weapon as defined in 18
13 Pa.C.S. § 2301 (relating to definitions) was used during
14 the commission of the offense which, if committed by an
15 adult, would be classified as:

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

17 (relating to rape).

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

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

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

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

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

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

3 (H) Voluntary manslaughter.

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

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

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

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

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

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

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

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

24 (G) Voluntary manslaughter.

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

28 (iv) Summary offenses.

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.] summary offenses.

2 * * *

3 Section 2. Sections 6327 and 6355(a)(1), (e) and (g) of
4 Title 42 are amended to read:

5 § 6327. Place of detention.

6 (a) General rule.--A child alleged to be delinquent may be
7 detained only in:

8 (1) A licensed foster home or a home approved by the
9 court.

10 (2) A facility operated by a licensed child welfare
11 agency or one approved by the court.

12 (3) A detention home, camp, center or other facility for
13 delinquent children which is under the direction or
14 supervision of the court or other public authority or private
15 agency, and is approved by the Department of [Public Welfare]
16 Human Services.

17 (4) Any other suitable place or facility, designated or
18 operated by the court and approved by the Department of
19 [Public Welfare] Human Services.

20 Under no circumstances shall a child be detained in any facility
21 with adults, or where the child is apt to be abused by other
22 children.

23 (b) Report by correctional officer of receipt of child.--The
24 official in charge of a jail or other facility for the detention
25 of adult offenders or persons charged with crime shall inform
26 the court immediately if a person who is or appears to be under
27 the age of 18 years is received at the facility and shall bring
28 [him] the person before the court upon request or deliver [him]
29 the person to a detention or shelter care facility designated by
30 the court.

1 (c) Detention in jail prohibited.--It is unlawful for any
2 person in charge of or employed by a jail knowingly to receive
3 for detention or to detain in the jail any other person whom
4 [he] the person in charge or so employed has or should have
5 reason to believe is a child. [unless, in a criminal proceeding,
6 the child has been charged with or has been found guilty of an
7 act set forth in paragraph (2)(i), (ii), (iii) or (v) of the
8 definition of "delinquent act" in section 6302 (relating to
9 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] Human Services for the
19 detention of alleged and adjudicated delinquent children if
20 the attorney for the Commonwealth has consented to and the
21 court has ordered the 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 (4) For a child held in secure detention under this
10 subsection, the court may order the immediate transfer of the
11 child to the county jail if the child attains 18 years of
12 age. This paragraph does not apply if:

13 (i) the court has granted the motion filed under
14 section 6322; or

15 (ii) the child is otherwise under order of
16 commitment to the secure detention facility pursuant to
17 the jurisdiction of the court in a delinquency matter.

18 (d) Transfer of child subject to criminal proceedings.--

19 (1) If a case is transferred for criminal prosecution
20 the child may be transferred to the appropriate officer or
21 detention facility in accordance with the law governing the
22 detention of persons charged with crime. The court in making
23 the transfer may order continued detention as a juvenile
24 pending trial if the child is unable to provide bail.

25 (2) Notwithstanding any other provision of law, no child
26 under 18 years of age may be transferred to an adult jail.

27 (e) Detention of dependent child.--A child alleged to be
28 dependent may be detained or placed only in a Department of
29 Public Welfare approved shelter care facility as stated in
30 subsection (a) (1), (2) and (4), and shall not be detained in a

1 jail or other facility intended or used for the detention of
2 adults charged with criminal offenses, but may be detained in
3 the same shelter care facilities with alleged or adjudicated
4 delinquent children.

5 (f) Development of approved shelter care programs.--The
6 Department of Public Welfare shall develop or assist in the
7 development in each county of this Commonwealth approved
8 programs for the provision of shelter care for children needing
9 these services who have been taken into custody under section
10 6324 (relating to taking into custody) and for children referred
11 to or under the jurisdiction of the court.

12 § 6355. Transfer to criminal proceedings.

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

22 (1) The child was [14] 16 or more years of age at the
23 time of the alleged conduct.

24 * * *

25 [(e) Murder and other excluded acts.--Where the petition
26 alleges conduct which if proven would constitute murder, or any
27 of the offenses excluded by paragraph (2)(ii) or (iii) of the
28 definition of "delinquent act" in section 6302 (relating to
29 definitions), the court shall require the offense to be
30 prosecuted under the criminal law and procedures, except where

1 the case has been transferred pursuant to section 6322 (relating
2 to transfer from criminal proceedings) from the division or a
3 judge of the court assigned to conduct criminal proceedings.]

4 * * *

5 (g) Burden of proof.--The burden of establishing by a
6 preponderance of evidence that the public interest is served by
7 the transfer of the case to criminal court and that a child is
8 not amenable to treatment, supervision or rehabilitation as a
9 juvenile shall rest with the Commonwealth. [unless the following
10 apply:

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

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

18 (2) there is a prima facie case that the child committed
19 a delinquent act which, if committed by an adult, would be
20 classified as rape, involuntary deviate sexual intercourse,
21 aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or
22 (2) (relating to aggravated assault), robbery as defined in
23 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to
24 robbery), robbery of motor vehicle, aggravated indecent
25 assault, kidnapping, voluntary manslaughter, an attempt,
26 conspiracy or solicitation to commit any of these crimes or
27 an attempt to commit murder as specified in paragraph (2)(ii)
28 of the definition of "delinquent act" in section 6302.

29 If either of the preceding criteria are met, the burden of
30 establishing by a preponderance of the evidence that retaining

1 the case under this chapter serves the public interest and that
2 the child is amenable to treatment, supervision or
3 rehabilitation as a juvenile shall rest with the child.]

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