
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1240 Session of
2022

INTRODUCED BY BARTOLOTTA, A. WILLIAMS, COSTA, SCHWANK, KEARNEY
AND CAPPELLETTI, MAY 20, 2022

REFERRED TO JUDICIARY, MAY 20, 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 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
19 constitutes indirect criminal contempt under Chapter 62A

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

7 (2) The term shall not include[:

8 (i) The crime of murder.

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

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

16 (relating to rape).

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

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

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

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

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

30 (G) Kidnapping as defined in 18 Pa.C.S. § 2901

1 (relating to kidnapping).

2 (H) Voluntary manslaughter.

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

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

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

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

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

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

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

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

23 (G) Voluntary manslaughter.

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

27 (iv) Summary offenses.

28 (v) A crime committed by a child who has been found
29 guilty in a criminal proceeding for other than a summary
30 offense.] summary offenses.

1 * * *

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

4 § 6327. Place of detention.

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

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

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

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

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

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

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

30 (c) Detention in jail prohibited.--It is unlawful for any

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

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

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

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

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

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

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

30 (iii) The child attains 18 years of age. This

1 subparagraph does not apply if:

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

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

8 (4) For a child held in secure detention under this
9 subsection, the court may order the immediate transfer of the
10 child to the county jail if the child attains 18 years of
11 age. This paragraph does not apply if:

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

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

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

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

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

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

1 adults charged with criminal offenses, but may be detained in
2 the same shelter care facilities with alleged or adjudicated
3 delinquent children.

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

11 § 6355. Transfer to criminal proceedings.

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

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

23 * * *

24 [(e) Murder and other excluded acts.--Where the petition
25 alleges conduct which if proven would constitute murder, or any
26 of the offenses excluded by paragraph (2)(ii) or (iii) of the
27 definition of "delinquent act" in section 6302 (relating to
28 definitions), the court shall require the offense to be
29 prosecuted under the criminal law and procedures, except where
30 the case has been transferred pursuant to section 6322 (relating

1 to transfer from criminal proceedings) from the division or a
2 judge of the court assigned to conduct criminal proceedings.]

3 * * *

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

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

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

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

28 If either of the preceding criteria are met, the burden of
29 establishing by a preponderance of the evidence that retaining
30 the case under this chapter serves the public interest and that

1 the child is amenable to treatment, supervision or
2 rehabilitation as a juvenile shall rest with the child.]

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