

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1381 Session of  
2023

---

INTRODUCED BY D. MILLER, HARRIS, BULLOCK, SANCHEZ, MADDEN,  
HANBIDGE, SCHLOSSBERG, HOHENSTEIN, KINKEAD, HILL-EVANS,  
MCNEILL, MALAGARI, KHAN, KINSEY, SCOTT AND CEPEDA-FREYTIZ,  
JUNE 12, 2023

---

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 12, 2023

---

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in juvenile matters,  
3 further providing for short title and purposes of chapter,  
4 for definitions, for scope of chapter, for powers and duties  
5 of probation officers, for summary offenses, for inspection  
6 of court files and records, for guardian ad litem for child  
7 in court proceedings, for transfer from criminal proceedings,  
8 for informal adjustment, for taking into custody, for  
9 detention of child, for release or delivery to court and for  
10 place of detention, providing for confinement in juvenile  
11 treatment facilities, further providing for notice and  
12 hearing, providing for questioning and interrogating a child,  
13 further providing for consent decree, providing for school  
14 stability for certain students, further providing for  
15 disposition of delinquent child, for limitation on and change  
16 in place of commitment and for transfer to criminal  
17 proceedings.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 Section 1. Section 6301(b)(1.1) of Title 42 of the  
21 Pennsylvania Consolidated Statutes is amended to read:

22 § 6301. Short title and purposes of chapter.

23 \* \* \*

24 (b) Purposes.--This chapter shall be interpreted and

1 construed as to effectuate the following purposes:

2 \* \* \*

3 (1.1) To provide for the care, protection, safety,  
4 access to free and appropriate public education and wholesome  
5 mental and physical development of children coming within the  
6 provisions of this chapter.

7 \* \* \*

8 Section 2. The definitions of "assessment," "child,"  
9 "delinquent act," "delinquent child" and "dependent child" in  
10 section 6302 of Title 42 are amended and the section is amended  
11 by adding definitions to read:

12 § 6302. Definitions.

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

16 "504 plan." An agreement under 29 U.S.C. § 794 (relating to  
17 nondiscrimination under Federal grants and programs).

18 \* \* \*

19 "Assessment." An independent individualized examination by a  
20 licensed professional of a child to determine the child's  
21 psychosocial needs and problems, including the type and extent  
22 of any mental health, substance abuse or co-occurring mental  
23 health and substance abuse disorders and recommendations for  
24 treatment. The term includes, but is not limited to, a drug and  
25 alcohol, psychological and psychiatric evaluation, records  
26 review, clinical interview and the administration of a formal  
27 test and instrument.

28 \* \* \*

29 "Child." An individual who:

30 (1) is under the age of 18 years;

1 (2) is under the age of 21 years who committed an act of  
2 delinquency before reaching the age of 18 years; or

3 (3) is under the age of 21 years and was adjudicated  
4 dependent before reaching the age of 18 years, who has  
5 requested the court to retain jurisdiction and who remains  
6 under the jurisdiction of the court as a dependent child  
7 because the court has determined that the child is:

8 (i) completing secondary education or an equivalent  
9 credential;

10 (ii) enrolled in an institution which provides  
11 postsecondary or [vocational] career and technical  
12 education;

13 (iii) participating in a program actively designed  
14 to promote or remove barriers to employment;

15 (iv) employed for at least 80 hours per month; or

16 (v) incapable of doing any of the activities  
17 described in subparagraph (i), (ii), (iii) or (iv) due to  
18 a medical or behavioral health condition, which is  
19 supported by regularly updated information in the  
20 permanency plan of the child.

21 \* \* \*

22 "Delinquent act."

23 [(1) The term means an] An act designated a crime,  
24 excluding a summary offense, under the law of this  
25 Commonwealth, or of another state if the act occurred in that  
26 state, or under Federal law, or an act which constitutes  
27 indirect criminal contempt under Chapter 62A (relating to  
28 protection of victims of sexual violence or intimidation)  
29 with respect to sexual violence or 23 Pa.C.S. Ch. 61  
30 (relating to protection from abuse). The term shall not

1 include a summary offense or the failure of a child to comply  
2 with a lawful sentence imposed for a summary offense. [or the  
3 failure of a child to comply with a lawful sentence imposed  
4 for a summary offense, in which event notice of the fact  
5 shall be certified to the court.

6 (2) The term shall not include:

7 (i) The crime of murder.

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

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

15 (relating to rape).

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

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

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

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

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

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

1 (H) Voluntary manslaughter.

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

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

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

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

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

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

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

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

22 (G) Voluntary manslaughter.

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

26 (iv) Summary offenses.

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

30 "Delinquent child." The following:

1           (1) A child [ten] 13 years of age or older whom the  
2           court has found to have committed a delinquent act and [is]  
3           for whom it is established is in need of treatment,  
4           supervision or rehabilitation.

5           (2) A child 12 years of age or older who the court has  
6           found to have committed one of the following and for whom it  
7           is established is in need of treatment, supervision or  
8           rehabilitation:

9                   (i) The crime of murder.

10                   (ii) A sexual offense which would be designated as a  
11                   felony in the first degree if committed by an adult.

12           (3) The term does not include a child who is found to  
13           have committed a summary offense or failed to comply with a  
14           lawful sentence imposed for a summary offense.

15           "Dependent child." A child who:

16                   (1) is without proper parental care or control,  
17                   subsistence, education as required by law, or other care or  
18                   control necessary for [his] the child's physical, mental, or  
19                   emotional health, or morals. A determination that there is a  
20                   lack of proper parental care or control may be based upon  
21                   evidence of conduct by the parent, guardian or other  
22                   custodian that places the health, safety or welfare of the  
23                   child at risk, including evidence of the parent's, guardian's  
24                   or other custodian's use of alcohol or a controlled substance  
25                   that places the health, safety or welfare of the child at  
26                   risk;

27                   (2) has been placed for care or adoption in violation of  
28                   law;

29                   (3) has been abandoned by his or her parents, guardian,  
30                   or other custodian;

1 (4) is without a parent, guardian, or legal custodian;

2 (5) while subject to compulsory school attendance is  
3 habitually and without justification truant from school;

4 (6) has committed a specific act or acts of habitual  
5 disobedience of the reasonable and lawful commands of his or  
6 her parent, guardian or other custodian and who is  
7 ungovernable and found to be in need of care, treatment or  
8 supervision;

9 (7) has committed a delinquent act or crime, other than  
10 a summary offense, while under the age of [ten] 13 years  
11 except as provided in paragraph (2) of the definition of  
12 "delinquent child";

13 (8) has been formerly adjudicated dependent, and is  
14 under the jurisdiction of the court, subject to its  
15 conditions or placements and who commits an act which is  
16 defined as ungovernable in paragraph (6);

17 (9) has been referred pursuant to section 6323 (relating  
18 to informal adjustment and diversion), and who commits an act  
19 which is defined as ungovernable in paragraph (6); or

20 (10) is born to a parent whose parental rights with  
21 regard to another child have been involuntarily terminated  
22 under 23 Pa.C.S. § 2511 (relating to grounds for involuntary  
23 termination) within three years immediately preceding the  
24 date of birth of the child and conduct of the parent poses a  
25 risk to the health, safety or welfare of the child.

26 \* \* \*

27 "Individualized education plan." A plan developed in  
28 accordance with 22 Pa. Code § 14.131 (relating to IEP) and 20  
29 U.S.C. Ch. 33 (relating to education of individuals with  
30 disabilities).

1 "Material loss." The following:

2 (1) A financial loss found by the court to have been  
3 caused by a delinquent act of a child and is:

4 (i) uninsured property loss;

5 (ii) a deductible paid on an insurance claim for  
6 property;

7 (iii) actual lost wages because of bodily injury;

8 (iv) uninsured medical expense from bodily injury;

9 or

10 (v) costs incurred due to emotional distress or  
11 trauma, including counseling and therapy services.

12 (2) A material loss that entitled the person to receive  
13 compensation from the Crime Victim Services and Compensation  
14 Fund.

15 "Nonviolent felony." A felony offense that does not  
16 constitute a crime of violence as defined under section 9714(g)  
17 (relating to sentences for second and subsequent offenses). The  
18 term does not include firearm-related offenses or murder.

19 \* \* \*

20 "Risk and needs assessment." An assessment of a juvenile's  
21 likelihood of reoffending, which may include the criminogenic  
22 needs of the child, shown, through an independent external  
23 analysis, to be free of racial bias and disparate impact.

24 "School of origin." A school within a school district that:

25 (1) a child attended before being adjudicated a  
26 delinquent child; or

27 (2) the child would attend based on the address of the  
28 child's parents or guardian.

29 \* \* \*

30 Section 3. Sections 6303(b), 6304(a)(5) and (c), 6304.1,

1 6307(b), 6311(b)(2), 6322, 6323, 6324, 6325, 6326(b) and (c) and  
2 6327 of Title 42 are amended to read:

3 § 6303. Scope of chapter.

4 \* \* \*

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

11 \* \* \*

12 § 6304. Powers and duties of probation officers.

13 (a) General rule.--For the purpose of carrying out the  
14 objectives and purposes of this chapter, and subject to the  
15 limitations of this chapter or imposed by the court, a probation  
16 officer shall:

17 \* \* \*

18 (5) Take into custody and detain a child who is under  
19 his or her supervision or care as a delinquent or dependent  
20 child if the probation officer has reasonable cause to  
21 believe that the health or safety of the child is in imminent  
22 danger, or that he or she may abscond or be removed from the  
23 jurisdiction of the court, or when ordered by the court  
24 pursuant to this chapter [or that he violated the conditions  
25 of his probation].

26 \* \* \*

27 (c) Definitions.--As used in this section, the following  
28 words and phrases shall have the meanings given to them in this  
29 subsection:

30 "Conditions of supervision." A term or condition of a

1 child's supervision, whether imposed by the court or a probation  
2 officer consistent with a demonstrated need as determined by  
3 validated risk and needs assessment, including compliance with  
4 all requirements of Federal, State and local law.

5 "Contraband." An item that a child is not permitted to  
6 possess under the conditions of supervision, including an item  
7 whose possession is forbidden by any Federal, State or local  
8 law.

9 "Court." The court of common pleas or a judge thereof.

10 "Exigent circumstances." The term includes, but is not  
11 limited to, reasonable suspicion that contraband or other  
12 evidence of violations of the conditions of supervision might be  
13 destroyed or suspicion that a weapon might be used.

14 "Personal search." A warrantless search of a child's person,  
15 including, but not limited to, the child's clothing and any  
16 personal property which is in the possession, within the reach  
17 or under the control of the child.

18 "Probation officer." A probation officer appointed or  
19 employed by a court or by a county probation department.

20 "Property search." A warrantless search of real property,  
21 vehicle or personal property which is in the possession or under  
22 the control of a child.

23 "Supervisor." An individual acting in a supervisory or  
24 administrative capacity.

25 [§ 6304.1. Summary offenses.]

26 (a) Review.--

27 (1) Upon notice being certified to the court that a  
28 child has failed to comply with a lawful sentence imposed for  
29 a summary offense, a probation officer shall review the  
30 complaints and charges of delinquency pursuant to section

1 6304 (relating to powers and duties of probation officers)  
2 for the purpose of considering the commencement of  
3 proceedings under this chapter.

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

9 (3) Any reference to the underlying summary conviction  
10 is solely for the purpose of the certification from the  
11 magisterial district judge to the court of common pleas that  
12 the juvenile was convicted of the summary offense and failed  
13 to comply under section 4132(2) (relating to attachment and  
14 summary punishment for contempts).

15 (b) Administration of money.--Any money subsequently paid by  
16 the child pursuant to the disposition of the charges shall be  
17 administered and disbursed in accordance with written guidelines  
18 adopted by the president judge of the court of common pleas. The  
19 court may direct that any portion of the money received from the  
20 child shall be deposited into a restitution fund established by  
21 the president judge of the court of common pleas pursuant to  
22 section 6352(a)(5) (relating to disposition of delinquent  
23 child).]

24 § 6307. Inspection of court files and records.

25 \* \* \*

26 (b) Public availability.--

27 (1.1) The contents of court records and files concerning  
28 a child shall not be disclosed to the public unless [any of  
29 the following apply:

30 (i) The] the child has been adjudicated delinquent

1 by a court as a result of an act or acts committed when  
2 the child was 14 years of age or older and [the conduct  
3 would have constituted one or more of the following  
4 offenses if committed by an adult:

5 (A) Murder.

6 (B) Voluntary manslaughter.

7 (C) Aggravated assault as defined in 18 Pa.C.S.  
8 § 2702(a)(1) or (2) (relating to aggravated assault).

9 (D) Sexual Assault as defined in 18 Pa.C.S. §  
10 3124.1 (relating to sexual assault).

11 (E) Aggravated indecent assault as defined in 18  
12 Pa.C.S. § 3125 (relating to aggravated indecent  
13 assault).

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

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

19 (H) Involuntary deviate sexual intercourse.

20 (I) Kidnapping.

21 (J) Rape.

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

24 (L) Robbery of motor vehicle.

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

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

29 (ii) A petition alleging delinquency has been filed  
30 alleging that the child has committed an act or acts

1 subject to a hearing pursuant to section 6336(e)  
2 (relating to conduct of hearings) and the child  
3 previously has been adjudicated delinquent by a court as  
4 a result of an act or acts committed when the child was  
5 14 years of age or older and the conduct would have  
6 constituted one or more of the following offenses if  
7 committed by an adult:

8 (A) Murder.

9 (B) Voluntary manslaughter.

10 (C) Aggravated assault as defined in 18 Pa.C.S.  
11 § 2702(a)(1) or (2).

12 (D) Sexual Assault as defined in 18 Pa.C.S. §  
13 3124.1.

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

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

17 (G) Burglary as a felony in the first degree as  
18 defined in 18 Pa.C.S. § 3502(c)(1).

19 (H) Involuntary deviate sexual intercourse.

20 (I) Kidnapping.

21 (J) Rape.

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

24 (L) Robbery of motor vehicle.

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

26 (N) Attempt or conspiracy to commit any of the  
27 offenses in this subparagraph.] was adjudicated  
28 delinquent for an offense that cannot be expunged  
29 from the child's record.

30 (2) If the conduct of the child meets the requirements

1 for disclosure as set forth in paragraph (1.1), then the  
2 court shall disclose the name, age and address of the child,  
3 the offenses charged and the disposition of the case. The  
4 judge who adjudicates a child delinquent shall specify the  
5 particular offenses and counts thereof which the child is  
6 found to have committed, and such information shall be  
7 inserted on any court or law enforcement records or files  
8 disclosed to the public as provided for in this section or in  
9 section 6308(b)(2) (relating to law enforcement records).

10 \* \* \*

11 § 6311. Guardian ad litem for child in court proceedings.

12 \* \* \*

13 (b) Powers and duties.--The guardian ad litem shall be  
14 charged with representation of the legal interests and the best  
15 interests of the child at every stage of the proceedings and  
16 shall do all of the following:

17 \* \* \*

18 (2) On a timely basis, be given access to relevant court  
19 and county agency records, reports of examination of the  
20 parents or other custodian of the child pursuant to this  
21 chapter and medical, psychological and school records,  
22 including an existing Individualized Education Program or 504  
23 plan.

24 \* \* \*

25 § 6322. Transfer from criminal proceedings.

26 [(a) General rule.--Except as provided in 75 Pa.C.S. § 6303  
27 (relating to rights and liabilities of minors) or in the event  
28 the child is charged with murder or any of the offenses excluded  
29 by paragraph (2)(ii) or (iii) of the definition of "delinquent  
30 act" in section 6302 (relating to definitions) or has been found

1 guilty in a criminal proceeding, if it appears to the court in a  
2 criminal proceeding that the defendant is a child, this chapter  
3 shall immediately become applicable, and the court shall  
4 forthwith halt further criminal proceedings, and, where  
5 appropriate, transfer the case to the division or a judge of the  
6 court assigned to conduct juvenile hearings, together with a  
7 copy of the accusatory pleading and other papers, documents, and  
8 transcripts of testimony relating to the case. If it appears to  
9 the court in a criminal proceeding charging murder or any of the  
10 offenses excluded by paragraph (2)(ii) or (iii) of the  
11 definition of "delinquent act" in section 6302, that the  
12 defendant is a child, the case may similarly be transferred and  
13 the provisions of this chapter applied. In determining whether  
14 to transfer a case charging murder or any of the offenses  
15 excluded from the definition of "delinquent act" in section  
16 6302, the child shall be required to establish by a  
17 preponderance of the evidence that the transfer will serve the  
18 public interest. In determining whether the child has so  
19 established that the transfer will serve the public interest,  
20 the court shall consider the factors contained in section  
21 6355(a)(4)(iii) (relating to transfer to criminal proceedings).

22 (b) Order.--If the court finds that the child has met the  
23 burden under subsection (a), the court shall make findings of  
24 fact, including specific references to the evidence, and  
25 conclusions of law in support of the transfer order. If the  
26 court does not make its finding within 20 days of the hearing on  
27 the petition to transfer the case, the defendant's petition to  
28 transfer the case shall be denied by operation of law.

29 (c) Expedited review of transfer orders.--The transfer order  
30 shall be subject to the same expedited review applicable to

1 orders granting or denying release or modifying the conditions  
2 of release prior to sentence, as provided in Rule 1762 of the  
3 Pennsylvania Rules of Appellate Procedure.

4 (d) Effect of transfer order.--Where review of the transfer  
5 order is not sought or where the transfer order is upheld the  
6 defendant shall be taken forthwith to the probation officer or  
7 to a place of detention designated by the court or released to  
8 the custody of his parent, guardian, custodian, or other person  
9 legally responsible for him, to be brought before the court at a  
10 time to be designated. The accusatory pleading may serve in lieu  
11 of a petition otherwise required by this chapter, unless the  
12 court directs the filing of a petition.

13 (e) Transfer of convicted criminal cases.--]If in a criminal  
14 proceeding, the child is found guilty of a crime classified as a  
15 misdemeanor, and the child and the attorney for the Commonwealth  
16 agree to the transfer, the case may be transferred for  
17 disposition to the division or a judge of the court assigned to  
18 conduct juvenile hearings.

19 § 6323. Informal adjustment and diversion.

20 (a) General rule.--

21 (1) Before a petition is filed, the probation officer or  
22 other officer of the court designated by it, subject to its  
23 direction, shall, in the case of a dependent child where the  
24 jurisdiction of the court is premised upon the provisions of  
25 paragraph (1), (2), (3), (4), (5) or (7) of the definition of  
26 "dependent child" in section 6302 (relating to definitions)  
27 and if otherwise appropriate, refer the child and his or her  
28 parents to any public or private social agency available for  
29 assisting in the matter. Upon referral, the agency shall  
30 indicate its willingness to accept the child and shall report

1 back to the referring officer within three months concerning  
2 the status of the referral.

3 (2) Similarly, the probation officer may in the case of  
4 a delinquent child, or a dependent child where the  
5 jurisdiction of the court is permitted under paragraph (6) of  
6 the definition of "dependent child" in section 6302, refer  
7 the child and his or her parents to an agency for assisting  
8 in the matter.

9 (3) The agency may return the referral to the probation  
10 officer or other officer for further informal adjustment or  
11 other prepetition diversion program if it is in the best  
12 interests of the child.

13 (b) Counsel and advice.--Such social agencies and the  
14 probation officer or other officer of the court [may]:

15 (1) May give counsel and advice to the parties with a  
16 view to an informal adjustment or other diversion program if  
17 it appears:

18 [(1)] (i) that counsel and advice without an  
19 adjudication would be in the best interest of the public  
20 and the child;

21 [(2)] (ii) the child and [his] the child's parents,  
22 guardian, or other custodian consent thereto with  
23 knowledge that consent is not obligatory; and

24 [(3)] (iii) in the case of the probation officer or  
25 other officer of the court, the admitted facts bring the  
26 case within the jurisdiction of the court.

27 (2) Shall give counsel and advice to the parties and  
28 offer the child an opportunity to complete an informal  
29 adjustment or other diversion program if:

30 (i) the child has fewer than three prior informal

1 adjustments or prepetition diversions in the past three  
2 years;

3 (ii) the child is referred for a misdemeanor or a  
4 nonviolent felony;

5 (iii) the child and the child's parents, guardian or  
6 other custodian provide informed consent, with knowledge  
7 that consent is not obligatory; and

8 (iv) in the case of the probation officer or other  
9 officer of the court, the admitted facts bring the case  
10 within the jurisdiction of the court.

11 (b.1) Construction.--Nothing in subsection (b) shall be  
12 construed to prevent a probation officer from offering an  
13 informal adjustment or other diversion program when it is in the  
14 best interest of the child and the public.

15 (c) Limitation on duration of counsel and advice.--The  
16 giving of counsel and advice by the probation or other officer  
17 of the court shall not extend beyond [~~six~~] four months from the  
18 day commenced unless extended by an order of court for an  
19 additional period not to exceed [~~three~~] two months.

20 (d) No detention authorized or admission of guilt.--Nothing  
21 contained in this section shall authorize the detention of the  
22 child[.] or require an admission of guilt.

23 (d.1) No monetary obligations other than restitution  
24 authorized.--Notwithstanding any other provision of law, an  
25 informal adjustment or other diversion program under this  
26 section shall not incorporate fines, fees, costs or other  
27 monetary obligation, nor shall a child with an informal  
28 adjustment be ordered to participate in a program or service  
29 that requires the child or the child's family to pay a fee, cost  
30 or other monetary obligation.

1 (e) Privileged statements.--An incriminating statement made  
2 by a participant to the person giving counsel or advice and in  
3 the discussions or conferences incident thereto shall not be  
4 used against the declarant over objection in any criminal  
5 proceeding or hearing under this chapter.

6 (f) Terms and conditions.--The terms and conditions of an  
7 informal adjustment may include payment by the child of  
8 reasonable amounts of [money as costs, fees or] restitution,  
9 including a [supervision fee and] contribution of not more than  
10 \$10 to a restitution fund established by the president judge of  
11 the court of common pleas pursuant to section 6352(a)(5)  
12 (relating to disposition of delinquent child).  
13 § 6324. Taking into custody.

14 A child may be taken into custody:

15 (1) Pursuant to an order of the court under this  
16 chapter. Prior to entering a protective custody order  
17 removing a child from the home of the parent, guardian or  
18 custodian, the court must determine that to allow the child  
19 to remain in the home is contrary to the welfare of the  
20 child.

21 (2) Pursuant to the laws of arrest.

22 (3) By a law enforcement officer or duly authorized  
23 officer of the court if there are reasonable grounds to  
24 believe that the child is suffering from illness or injury or  
25 is in imminent danger from his or her surroundings, and that  
26 his or her removal is necessary.

27 (4) By a law enforcement officer or duly authorized  
28 officer of the court if there are reasonable grounds to  
29 believe that the child has run away from his or her parents,  
30 guardian, or other custodian.

1 (5) By a law enforcement officer or duly authorized  
2 officer of the court if there are reasonable grounds to  
3 believe that the child has violated conditions of [his] the  
4 child's probation by posing a substantial risk of serious  
5 bodily harm to a specific individual and there is no  
6 alternative to reduce the risk of harm to others.

7 § 6325. Detention of child.

8 [A child taken into custody shall not be detained or placed  
9 in shelter care prior to the hearing on the petition unless his  
10 detention or care is required to protect the person or property  
11 of others or of the child or because the child may abscond or be  
12 removed from the jurisdiction of the court or because he has no  
13 parent, guardian, or custodian or other person able to provide  
14 supervision and care for him and return him to the court when  
15 required, or an order for his detention or shelter care has been  
16 made by the court pursuant to this chapter.]

17 (a) General rule.--The following shall apply to the  
18 detention of a child:

19 (1) The following children shall not be placed in  
20 detention prior to adjudication:

21 (i) A child under 14 years of age.

22 (ii) A child on a written allegation of a  
23 misdemeanor offense or nonviolent felony.

24 (iii) A child charged with a status offense,  
25 probation violation or nonpayment of fines, fees or  
26 restitution.

27 (iv) A child who is pregnant or is the parent to a  
28 child born in the past year.

29 (v) A child who does not pose an articulable risk of  
30 harm to another person.

1 (2) No child shall be placed in detention solely due to:

2 (i) A lack of supervision alternatives or service  
3 options.

4 (ii) A parent or guardian avoiding legal  
5 responsibility or obligations.

6 (iii) A risk of self-harm.

7 (iv) Contempt of court.

8 (v) Violations of a valid court order.

9 (vi) Technical violations of probation or aftercare  
10 unless there is probable cause that the child poses a  
11 specific, immediate and substantial risk of harm to  
12 another person.

13 (3) At a detention hearing, a child shall not be placed  
14 or allowed to remain in detention unless:

15 (i) the child has scored as detention-eligible on a  
16 validated detention risk and needs assessment which may  
17 not be overridden to place a child in detention; or

18 (ii) there is clear and convincing evidence that  
19 community-based alternatives to detention are  
20 insufficient to:

21 (A) secure the presence of the child at the next  
22 hearing as demonstrated by the record; or

23 (B) protect the safety of another person from  
24 serious threat.

25 (b) Maximum length of time.--A child may not spend more than  
26 20 cumulative days in detention prior to adjudication. The 20-  
27 day maximum may only be extended at the request of the child  
28 through counsel or upon a written finding by a court of a record  
29 of a specific, immediate and substantial risk of harm to others.

30 (c) Construction.--Nothing in this section shall be

1 construed to require the detention of a child.

2 (d) Shelter care.--A child pending a dependency petition  
3 shall be placed in shelter care after:

4 (1) A finding that a county agency had reasonably  
5 engaged in family finding.

6 (2) A copy of the shelter care application had been  
7 furnished to all parties.

8 (3) All parties have been notified of the right to  
9 counsel.

10 (4) Custody of the child is warranted after  
11 consideration of the following:

12 (i) Remaining in the home would be contrary to the  
13 welfare and best interest of the child.

14 (ii) Reasonable efforts were made by the county  
15 agency to prevent the child's placement in shelter care.

16 (iii) The child's placement is the least restrictive  
17 placement that meets the needs of the child, supported by  
18 reasons why there are no less restrictive alternatives  
19 available.

20 (iv) The lack of effort was reasonable in the case  
21 of an emergency placement where services were not  
22 offered.

23 § 6326. Release or delivery to court.

24 \* \* \*

25 (b) Detention in police lockup generally prohibited.--Unless  
26 a child taken into custody is alleged to have committed a crime  
27 [or summary offense or to be in violation of conditions of  
28 probation or other supervision following an adjudication of  
29 delinquency], the child may not be detained in a municipal  
30 police lockup or cell or otherwise held securely within a law

1 enforcement facility or structure which houses an adult lockup.  
2 A child shall be deemed to be held securely only when physically  
3 detained or confined in a locked room or cell or when secured to  
4 a cuffing rail or other stationary object within the facility.

5 (c) Detention in police lockup under certain  
6 circumstances.--A child alleged to have committed a crime [or  
7 summary offense or to be in violation of conditions of probation  
8 or other supervision following an adjudication of delinquency]  
9 may be held securely in a municipal police lockup or other  
10 facility which houses an adult lockup only under the following  
11 conditions:

12 (1) the secure holding shall only be for the purpose of  
13 identification, investigation, processing, releasing or  
14 transferring the child to a parent, guardian, other  
15 custodian, or juvenile court or county children and youth  
16 official, or to a shelter care or juvenile detention center;

17 (2) the secure holding shall be limited to the minimum  
18 time necessary to complete the procedures listed in paragraph  
19 (1), but in no case may such holding exceed six hours; and

20 (3) if so held, a child must be separated by sight and  
21 sound from incarcerated adult offenders and must be under the  
22 continuous visual supervision of law enforcement officials or  
23 facility staff.

24 \* \* \*

25 § 6327. Place of detention.

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

28 (1) A licensed foster home or a home approved by the  
29 court.

30 (2) A facility operated by a licensed child welfare

1 agency or one approved by the court.

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

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

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

13 (b) Report by correctional officer of receipt of child.--The  
14 official in charge of a jail or other facility for the detention  
15 of adult offenders or persons charged with crime shall inform  
16 the court immediately if a person who is or appears to be under  
17 the age of 18 years is received at the facility and shall bring  
18 [him] the person before the court upon request or deliver [him]  
19 the person to a detention or shelter care facility designated by  
20 the court.

21 (c) Detention in jail prohibited.--It is unlawful for any  
22 person in charge of or employed by a jail knowingly to receive  
23 for detention or to detain in the jail any person whom he or she  
24 has or should have reason to believe is a child [unless, in a  
25 criminal proceeding, the child has been charged with or has been  
26 found guilty of an act set forth in paragraph (2)(i), (ii),  
27 (iii) or (v) of the definition of "delinquent act" in section  
28 6302 (relating to definitions)].

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

30 (1) A child who is subject to criminal proceedings

1 having been charged with an act [set forth under paragraph  
2 (2) (i), (ii) or (iii) of] under the definition of "delinquent  
3 act" in section 6302, who has not been released on bail and  
4 who may seek or is seeking transfer to juvenile proceedings  
5 under section 6322 (relating to transfer from criminal  
6 proceedings) [may] shall be detained in a secure detention  
7 facility approved by the Department of [Public Welfare] Human  
8 Services for the detention of alleged and adjudicated  
9 delinquent children if the attorney for the Commonwealth has  
10 consented to and the court has ordered the detention.

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

13 (3) For a child held in secure detention under this  
14 subsection, the court [shall] may order the immediate  
15 transfer of the child to the county jail if [any of the  
16 following apply:

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

19 (ii) The court denies the motion filed under section  
20 6322.

21 (iii) The] the child attains 18 years of age. This  
22 [subparagraph] paragraph does not apply if:

23 [(A)] (i) the court has granted the motion filed  
24 under section 6322; or

25 [(B)] (ii) the child is otherwise under order of  
26 commitment to the secure detention facility pursuant  
27 to the jurisdiction of the court in a delinquency  
28 matter.

29 (d) Transfer of child subject to criminal proceedings.--If a  
30 case is transferred for criminal [prosecution] proceedings and

1 the child is 18 years of age or older, the child [may] shall be  
2 transferred to the appropriate officer or detention facility in  
3 accordance with the law governing the detention of persons  
4 charged with crime. [The court in making the transfer may order  
5 continued detention as a juvenile pending trial if the child is  
6 unable to provide bail.] Secure detention ordered under this  
7 subsection shall not affect a child's eligibility for or ability  
8 to post bail.

9 (e) Detention of dependent child.--A child alleged to be  
10 dependent may be detained or placed only in a Department of  
11 [Public Welfare] Human Services approved shelter care facility  
12 as stated in subsection (a) (1), (2) and (4), and shall not be  
13 detained in a jail or other facility intended or used for the  
14 detention of adults charged with criminal offenses, but may be  
15 [detained] housed in the same shelter care facilities with  
16 alleged or adjudicated delinquent children.

17 (f) Development of approved shelter care programs.--The  
18 Department of [Public Welfare] Human Services shall develop or  
19 assist in the development in each county of this Commonwealth  
20 approved programs for the provision of shelter care for children  
21 needing these services who have been taken into custody under  
22 section 6324 (relating to taking into custody) and for children  
23 referred to or under the jurisdiction of the court.

24 Section 4. Title 42 is amended by adding a section to read:  
25 § 6329. Confinement in juvenile treatment facilities.

26 (a) Confinement.--

27 (1) A staff member from the Bureau of Juvenile Justice  
28 Services within the Department of Human Services, the Bureau  
29 of Human Services Licensing within the Department of Human  
30 Services, a facility operated primarily for the detention of

1 children who have been adjudicated delinquent or any other  
2 secure facility may not subject a child to room confinement  
3 for the purposes of discipline, punishment, retaliation,  
4 coercion, convenience or any other reason as a result of:

5 (i) An adjudication of delinquency or disposition of  
6 the child.

7 (ii) Detention of the child prior to the  
8 adjudication of delinquency or disposition of the child.

9 (2) Paragraph (1) shall not apply if room confinement is  
10 used as a temporary response to a child's behavior which  
11 poses a serious and immediate risk of physical harm to the  
12 child or another individual.

13 (b) Techniques.--Before a child is placed in room  
14 confinement under this section, a staff member shall attempt to  
15 use less restrictive techniques, including:

16 (1) Conversing with the child to de-escalate the serious  
17 and immediate risk of physical harm to the child or another  
18 individual.

19 (2) Permitting a qualified mental health professional to  
20 converse with the child to de-escalate the serious and  
21 immediate risk of physical harm to the child or another  
22 individual.

23 (c) Explanation.--If a less restrictive technique under  
24 subsection (b) fails to de-escalate the serious and immediate  
25 risk of physical harm to the child or another individual, prior  
26 to placing the child in room confinement, a staff member shall  
27 inform the child of the following:

28 (1) The reasons why the child will be placed in room  
29 confinement.

30 (2) That the child will be released from room

1 confinement immediately when the child's behavior conforms to  
2 subsection (d) (1) or not later than after the expiration of  
3 the time period specified under subsection (d) (2), whichever  
4 occurs first.

5 (d) Confinement period.--If a child is placed in room  
6 confinement, the child shall be released either:

7 (1) upon a staff member determining that the child does  
8 not pose a serious and immediate risk of physical harm to the  
9 child or another individual; or

10 (2) if the child does not control the child's behavior,  
11 not later than:

12 (i) three hours after being placed in room  
13 confinement in the case of a child who poses a serious  
14 and immediate risk of physical harm to others; or

15 (ii) thirty minutes after being placed in room  
16 confinement in the case of a child who poses a serious  
17 and immediate risk of physical harm to self.

18 (e) Transfers.--If the time period under subsection (d) (2)  
19 has expired and the child continues to pose a serious and  
20 immediate risk of physical harm to the child or another  
21 individual, the child shall be timely transferred to another  
22 juvenile facility or internal location where services can be  
23 provided to the child without relying on room confinement.

24 (f) Consecutive periods.--A child may not be subject to  
25 consecutive periods of room confinement.

26 (g) Notice to attorney.--If a child is placed in room  
27 confinement, the child's attorney shall be given notice of the  
28 room confinement by the next business day.

29 (h) Definitions.--As used in this section, the term "room  
30 confinement" means the involuntary placement of a child alone in

1 a cell, room or other area.

2 Section 5. Section 6336.1(b) (3) introductory paragraph and  
3 (xii) of Title 42 are amended to read:

4 § 6336.1. Notice and hearing.

5 \* \* \*

6 (b) Permanency hearings.--

7 \* \* \*

8 (3) The Department of [Public Welfare] Human Services  
9 shall develop a form for use by a foster parent or parents,  
10 preadoptive parent or relative providing care for the child,  
11 including, but not limited to, the following information:

12 \* \* \*

13 (xii) Description of educational status, grades,  
14 existing Individualized Education Plan or 504 plan,  
15 attendance and behavior of child in school or child's  
16 experience in a child day-care setting or early childhood  
17 development program.

18 \* \* \*

19 Section 6. Title 42 is amended by adding a section to read:

20 § 6338.1. Questioning and interrogating a child.

21 (a) Consultation with counsel.--A child shall be provided  
22 secure and private access to in-person, telephone or video  
23 conference meetings with an attorney for consultation before the  
24 child waives a constitutional right if a law enforcement  
25 officer:

26 (1) questions a child during a custodial interrogation;

27 (2) detains a child based on probable cause of  
28 involvement in criminal activity; or

29 (3) requests that the child provide consent to an  
30 evidentiary search of the child or the child's property,

1 dwellings or vehicle under the child's control.

2 (b) Prohibition.--A consultation required under subsection

3 (a) may not be waived by the child.

4 (c) Statements made by child.--Statements made by a child to

5 a law enforcement officer in a manner described under subsection

6 (a) are not admissible in a juvenile offender or adult criminal

7 court proceeding, unless:

8 (1) the child has been provided with access to an

9 attorney for consultation and the child provides an express

10 waiver knowingly, intelligently and voluntarily after the

11 child has been fully informed of the rights being waived;

12 (2) the statement is for impeachment purposes; or

13 (3) the statement was made spontaneously.

14 (d) Exception.--Under the following circumstances, a law

15 enforcement officer may question a child without the

16 requirements of this section. The questioning shall be truthful

17 and without deception or use of patently false assertions if:

18 (1) the law enforcement officer believes the child is a

19 victim of trafficking and information obtained from the child

20 under this paragraph may not be used in the prosecution of

21 the child;

22 (2) all of the following are thought to be true:

23 (i) the law enforcement officer believes that the

24 information sought is necessary to protect an

25 individual's life from an imminent threat;

26 (ii) a delay to allow legal consultation would

27 impede the protection of an individual's life from an

28 imminent threat; and

29 (iii) the questioning by the law enforcement officer

30 is limited to matters reasonably expected to obtain

1 information necessary to protect an individual's life  
2 from an imminent threat; or

3 (3) the law enforcement officer needs to establish a  
4 child's or suspected child's name, address, age, guardian  
5 information or health-related concerns and the questions are  
6 limited in scope to reasonably obtain only that information.

7 (e) Instructions.--

8 (1) If the requirements of subsection (a) are satisfied  
9 or an exception under subsection (d) applies, a law  
10 enforcement officer shall read the simplified instructions  
11 below relating to a child's constitutional rights:

12 You have the right to remain silent, which means it  
13 is okay if you do not want to talk with me. If you  
14 talk to me, I can tell people what you said and it  
15 could be used against you and it might get you into  
16 trouble. You have the right to get help from a  
17 lawyer. If your family cannot afford a lawyer, the  
18 court will give you one for free who will work just  
19 for you. If you start to answer my questions, you can  
20 change your mind and stop at any time and I will not  
21 ask you any more questions.

22 (2) Once the simplified instructions have been read, the  
23 law enforcement officer questioning the child shall ask the  
24 following questions of the child:

25 (i) Do you understand? If the child answers yes, the  
26 law enforcement officer shall ask the question under  
27 subparagraph (ii).

28 (ii) Do you want help from a lawyer before we talk?  
29 If the child answers no, the law enforcement officer  
30 shall ask the question under subparagraph (iii).

1           (iii) Do you want to answer my questions? If the  
2           child answers yes, the law enforcement officer may  
3           proceed with questioning.

4           Section 7. Section 6340(c), (c.1) and (d) of Title 42 are  
5 amended and the section is amended by adding a subsection to  
6 read:

7 § 6340. Consent decree.

8           \* \* \*

9           (c) Duration of decree.--A consent decree [shall] may remain  
10 in force for [six] up to four months [unless] and the child [is]  
11 may be discharged sooner by probation services with the approval  
12 of the court. Any evidence-based programs, community service or  
13 other conditions of a consent decree shall be designed to be  
14 completed within the consent decree time frame. Upon application  
15 of the probation services or other agency supervising the child,  
16 made before expiration of the [six-month period] consent decree,  
17 a consent decree may be extended by the court for an additional  
18 [six months.] three months to allow for the completion of the  
19 evidence-based program assessed as necessary for that child or  
20 to complete community service. No extensions shall be granted  
21 solely for nonpayment of financial obligations unless the  
22 Commonwealth proves that the child was able to pay and failed to  
23 do so.

24           (c.1) Terms and conditions.--Consistent with the protection  
25 of the public interest, the terms and conditions of a consent  
26 decree may include payment by the child of reasonable amounts of  
27 money as [costs, fees or] restitution, including a [supervision  
28 fee and] contribution not to exceed \$10 to a restitution fund  
29 established by the president judge of the court of common pleas  
30 pursuant to section 6352(a)(5) (relating to disposition of

1 delinquent child), and shall, as appropriate to the  
2 circumstances of each case, include provisions which provide  
3 balanced attention to the protection of the community,  
4 accountability for offenses committed and the development of  
5 competencies to enable the child to become a responsible and  
6 productive member of the community.

7 (c.2) No monetary obligations other than restitution  
8 authorized.--Notwithstanding any other provision of law, the  
9 court, juvenile probation or other officer of the court may not  
10 incorporate fines, fees, costs or other monetary obligations  
11 other than restitution in a consent decree.

12 (d) Reinstatement of petition.--If prior to discharge by the  
13 probation services or expiration of the consent decree, a new  
14 petition is filed against the child, or the child otherwise  
15 fails to fulfill express nonfinancial terms and conditions of  
16 the decree, the petition under which the child was continued  
17 under supervision may, in the discretion of the district  
18 attorney following consultation with the probation services, be  
19 reinstated and the child held accountable as if the consent  
20 decree had never been entered.

21 \* \* \*

22 Section 8. Title 42 is amended by adding a section to read:  
23 § 6343. School stability for certain students.

24 (a) Before adjudication.--Before a court rules that a child  
25 is delinquent or a child has been adjudged to have committed a  
26 crime under an adult criminal proceeding that is likely to  
27 affect the child's school placement, the court shall consider  
28 the child's educational needs and stability. The court shall  
29 determine on the record the school placement that is in the  
30 child's best interest and protective of the community,

1 prioritizing in the following order:

2 (1) The child remaining in the child's school of origin  
3 in the community.

4 (2) The child participating virtually in the child's  
5 school of origin.

6 (3) The child attending the least restrictive school  
7 setting that is in the child's best interest and protective  
8 of the community.

9 (b) Child's best interest.--In determining the best interest  
10 of the child under subsection (a), the court shall consider how  
11 the school placement will address the child's needs, including a  
12 504 plan or an individualized education plan.

13 (c) Transition and graduation plan.--The following shall  
14 occur at least 30 days prior to the release of a delinquent  
15 child ordered to an out-of-home placement or adjudged to have  
16 committed a crime under an adult criminal proceeding:

17 (1) The child, the child's parent or guardian or  
18 educational decision maker, the child's attorney, a  
19 representative of the child's school of origin and a  
20 representative of probation shall participate in a best-  
21 interest determination meeting to discuss school placement  
22 options and make a recommendation to the court that  
23 prioritizes education in the least restrictive setting with  
24 appropriate support. Additional interested parties to the  
25 child's case, including, if applicable, a victim or victim's  
26 representative and any other advocates for the child, may  
27 also provide input or participate in the meeting.

28 (2) The child's school of origin shall develop a  
29 transition and graduation plan for the child, subject to the  
30 requirements of section 1331.1 of the act of March 10, 1949

1 (P.L.30, No.14), known as the Public School Code of 1949, and  
2 any individualized education plan or 504 plan. The transition  
3 and graduation plan shall include academic goals and  
4 information on credit transfers, identify school and  
5 community services appropriate to the needs of the child and  
6 establish any other remaining graduation requirements.

7 (3) The court shall hold a hearing to determine the  
8 appropriate educational placement for the child upon the  
9 student's release from out-of-home placement, subject to the  
10 requirements under subsection (d).

11 (d) Return to school of origin.--A delinquent child  
12 returning from placement or who has been adjudged to have  
13 committed a crime under an adult criminal proceeding shall be  
14 returned directly to the child's school of origin unless the  
15 court finds, by clear and convincing evidence and enters those  
16 findings in the record orally and in writing, that returning to  
17 the school of origin is not in the best interest of the child or  
18 protective of the community. If the court finds that it is not  
19 in the best interest of the child or protective of the community  
20 for the child to return to the child's school of origin, the  
21 court shall order the child to be enrolled in the least  
22 restrictive school setting that best meets the child's needs.  
23 The child shall be permitted to attend a public school if the  
24 child so chooses, unless the court finds that a public school is  
25 not in the best interest of the child or protective of the  
26 community. Factors guiding a determination under this subsection  
27 shall include:

28 (1) The recommendation resulting from the best-interest  
29 determination meeting under subsection (c)(1).

30 (2) The transition and graduation plans developed under

1 subsection (c)(2).

2 (3) The appropriateness of the current educational  
3 setting considering the child's needs, including any needs  
4 identified as part of a 504 plan or an individualized  
5 education plan.

6 (4) The proximity of the school of origin relative to  
7 the location of the child's residence after returning from  
8 placement.

9 (5) The protection of the community.

10 (e) School disciplinary action.--A child may not be subject  
11 to any school disciplinary action upon returning to the child's  
12 school of origin for conduct that occurred prior to the child  
13 entering placement.

14 Section 9. Sections 6352, 6353(a) and 6355(a)(1) and (4)  
15 (iii), (e) and (g) of Title 42 are amended to read:

16 § 6352. Disposition of delinquent child.

17 (a) General rule.--If the child is found to be a delinquent  
18 child the court may make any of the following orders of  
19 disposition determined to be consistent with the protection of  
20 the public interest and best suited to the child's treatment,  
21 supervision, rehabilitation and welfare, which disposition  
22 shall, as appropriate to the individual circumstances of the  
23 child's case, provide balanced attention to the protection of  
24 the community, the imposition of accountability for offenses  
25 committed and the development of competencies to enable the  
26 child to become a responsible and productive member of the  
27 community:

28 (1) Any order authorized by section 6351 (relating to  
29 disposition of dependent child).

30 (2) Placing the child on probation under supervision of

1 the probation officer of the court or the court of another  
2 state as provided in section 6363 (relating to ordering  
3 foreign supervision), under conditions and limitations the  
4 court prescribes[.] in accordance with the following:

5 (i) For misdemeanors, a term of probation may not  
6 exceed four months per petition or course of conduct. A  
7 term of probation may be extended up to an additional  
8 four months in order to complete an evidence-based  
9 program or court-approved program.

10 (ii) For felonies, a term of probation may not  
11 exceed eight months per petition or course of conduct. A  
12 term of probation may be extended up to an additional  
13 four months to complete an evidence-based program or  
14 court-approved program.

15 (iii) Upon completion of the original probation term  
16 or extension, the court shall close probation. The court  
17 may refer the child to dependency if warranted.

18 (3) [Committing] In accordance with subsection (a.1),  
19 committing the child to an institution, youth development  
20 center, camp, or other facility for delinquent children  
21 operated under the direction or supervision of the court or  
22 other public authority and approved by the Department of  
23 [Public Welfare] Human Services.

24 (4) [If] In accordance with subsection (a.1), if the  
25 child is [12] 13 years of age or older, committing the child  
26 to an institution operated by the Department of [Public  
27 Welfare] Human Services.

28 (5) Ordering payment by the child of reasonable amounts  
29 of [money as fines, costs, fees or] restitution as deemed  
30 appropriate as part of the plan of rehabilitation

1 [considering the nature of the acts committed and the earning  
2 capacity of the child] and subject to the requirements under  
3 subsection (d), including a contribution to a restitution  
4 fund not to exceed \$10. The president judge of the court of  
5 common pleas shall establish a restitution fund for the  
6 deposit of all contributions to the restitution fund which  
7 are received or collected. The president judge of the court  
8 of common pleas shall promulgate written guidelines for the  
9 administration of the fund. Disbursements from the fund shall  
10 be made, subject to the written guidelines and the  
11 limitations of this chapter, at the discretion of the  
12 president judge and used to reimburse crime victims for  
13 financial losses resulting from delinquent acts. For an order  
14 made under this subsection, the court [shall] may retain  
15 jurisdiction until there has been full compliance with the  
16 order or until the delinquent child attains 21 years of age.  
17 Any restitution order which remains unpaid at the time the  
18 child attains 21 years of age [shall] may continue to be  
19 collectible under section 9728 (relating to collection of  
20 restitution, reparation, fees, costs, fines and penalties).  
21 No restitution may be forgiven without providing a victim  
22 with timely notice of a hearing on the forgiveness of  
23 restitution and without the court issuing findings on the  
24 record.

25 (6) An order of the terms of probation may include [an  
26 appropriate fine considering the nature of the act committed  
27 or] restitution not in excess of actual damages caused by the  
28 child and subject to the requirements under subsection (d),  
29 which shall be paid from the earnings of the child received  
30 through participation in a constructive program of service or

1 education acceptable to the victim and the court whereby,  
2 during the course of such service, the child shall be paid  
3 not less than the minimum wage of this Commonwealth. In  
4 ordering such service, the court shall take into  
5 consideration the age, physical and mental capacity of the  
6 child and the service shall be designed to impress upon the  
7 child a sense of responsibility for the injuries caused to  
8 the person or property of another. The order of the court  
9 shall be limited in duration consistent with the limitations  
10 in section 6353 (relating to limitation on and change in  
11 place of commitment) and in the former act of May 13, 1915  
12 (P.L.286, No.177), known as the Child Labor Law. The court  
13 order shall specify the nature of the work, the number of  
14 hours to be spent performing the assigned tasks, and shall  
15 further specify that as part of a plan of treatment and  
16 rehabilitation that up to 75% of the earnings of the child be  
17 used for restitution in order to provide positive  
18 reinforcement for the work performed.

19 In selecting from the alternatives set forth in this section,  
20 the court shall follow the general principle that the  
21 disposition imposed should provide the means through which the  
22 provisions of this chapter are executed and enforced consistent  
23 with section 6301(b) (relating to [purposes] short title and  
24 purposes of chapter) and when confinement is necessary, the  
25 court shall impose the minimum amount of confinement that is  
26 consistent with the protection of the public and the  
27 rehabilitation needs of the child.

28 (a.1) Removal from home.--

29 (1) A child may not be removed from the child's home as  
30 disposition for an adjudication of delinquency under

1 subsection (a), unless the court determines that at least one  
2 of the following applies:

3 (i) The child poses a significant risk to the safety  
4 of a victim. In determining whether the child poses a  
5 significant risk to the safety of a victim, the court  
6 shall consider:

7 (A) The community and family supports for the  
8 child.

9 (B) All possible community-based services and  
10 supports that would lessen the risk of physical harm.

11 (C) Mitigating evidence on behalf of the child.

12 (D) Whether the child used a deadly weapon in  
13 the commission of the offense.

14 (E) Whether the child intentionally inflicted  
15 serious bodily injury upon another person in the  
16 commission of the offense.

17 (F) The nature of the offense.

18 (ii) By assessment, the child is medically in need  
19 of residential drug and alcohol treatment or mental  
20 health services.

21 (iii) By assessment, residential treatment is the  
22 most appropriate and least restrictive setting for a  
23 child adjudicated delinquent of a sexual offense.

24 (2) In cases where the court has determined, after  
25 consideration, that removal and placement of the child is  
26 found to be appropriate and has assigned the least  
27 restrictive dispositional option available, the court shall  
28 provide the court's reasons for removal and placement of the  
29 child on the record and in writing.

30 (a.2) Placement out of home prohibited.--The court may not

1 remove a child from the child's home:

2 (1) For a technical violation of the terms and  
3 conditions of an order of probation, which shall not include:

4 (i) The commission of a new offense in which the  
5 child is adjudicated delinquent or convicted in a court  
6 of record.

7 (ii) The violation of a no-contact order which  
8 places the safety of the community or a victim at risk.

9 (iii) Repeated violations of probation for an  
10 offense involving the threat to or use or possession of a  
11 deadly weapon or the intentional infliction of serious  
12 bodily injury to a victim.

13 (2) For lack of outpatient treatment options in the  
14 community absent a recommendation to do so through an  
15 independent assessment which determines drug, alcohol or  
16 mental health services are medically necessary.

17 (3) For concerns related to the welfare, safety, neglect  
18 or health of the child. Concerns under this paragraph shall  
19 be referred to the appropriate child welfare agency.

20 (a.3) Placement out of State.--A child removed from the  
21 child's home under subsection (a.2) may not be placed out of  
22 State unless medically needed services recommended by assessment  
23 are not available in State.

24 (a.4) Placement not to be extended.--

25 (1) If the court imposes a disposition of out-of-home  
26 placement in response to an adjudication of delinquency, the  
27 period of commitment shall not exceed four months. The court  
28 may extend the period of placement for an additional three  
29 months if the court finds:

30 (i) An extension is necessary to complete an

1 evidence-based program or a program rated by a  
2 standardized tool as effective for reducing recidivism,  
3 consistent with the child's assessed criminogenic needs  
4 that is already underway, and that the program cannot be  
5 completed in the community.

6 (ii) A child adjudicated for murder or a sex offense  
7 designated as a felony of the first degree if committed  
8 by an adult poses a threat to the safety of the community  
9 or a victim in consideration of subsection (a.1)(1)(i),  
10 (ii) and (iii).

11 (2) In cases where the court has determined that it is  
12 necessary and appropriate to extend placement beyond four  
13 months, the court shall contemporaneously state the reasons  
14 for the continued placement of the child on the record and in  
15 writing.

16 (3) The court shall not extend a period of commitment in  
17 out-of-home placement, nor remove a child from placement, due  
18 to behavior that is a manifestation of the child's  
19 disability, unless agreed to by the child or upon court  
20 finding that the placement is not able to provide necessary  
21 accommodations and support for the child's disability. Under  
22 no circumstances shall a manifestation of disability serve as  
23 grounds for a probation violation, technical violation or a  
24 finding of failure to adjust. The following apply:

25 (i) In cases where a child with a disability's  
26 behavior in an out-of-home placement forms a part of an  
27 allegation of a probation violation, technical violation  
28 or a failure to adjust, the court shall conduct a  
29 manifest determination review with the child and the  
30 child's parents or guardians, to determine whether the

1 behavior in question reflected a manifestation of the  
2 child's disability. At a minimum, the court shall review:

3 (A) Current or most recent Individualized  
4 Education Plan, 504 plan, functional behavioral  
5 assessment or positive behavioral support plan.

6 (B) Teacher observations, therapist  
7 recommendations and most recent assessments.

8 (C) Related information as to whether the  
9 conduct in question was caused by, or had a direct  
10 and substantial relationship to, the child's  
11 disability.

12 (D) Related information as to whether the  
13 conduct in question was the direct result of the  
14 failure to implement a current Individualized  
15 Education Plan, 504 plan or any recommended  
16 therapeutic support or reasonable extension of  
17 therapeutic support.

18 (ii) If the court determines that the conduct was a  
19 manifestation of the child's disability:

20 (A) the court shall:

21 (I) return the child to the placement with  
22 proper supports;

23 (II) transfer the child without support to a  
24 more appropriate placement if the child agrees;

25 or

26 (III) return the child to the child's home;

27 and

28 (B) the court shall either:

29 (I) conduct a functional behavioral  
30 assessment, unless a functional behavioral

1 assessment had occurred before the behavior  
2 inquisition and a behavioral intervention plan  
3 for the child was implemented; or

4 (II) review the behavioral intervention plan  
5 and modify it, as necessary, to address the  
6 behavior.

7 (4) Nothing in this subsection is intended to alter or  
8 limit related rights under Federal or State law or to limit  
9 consideration of matters in any aspect of the dependency or  
10 delinquency systems.

11 (b) Limitation on place of commitment.--A child shall not be  
12 committed or transferred to a penal institution or other  
13 facility used primarily for the execution of sentences of adults  
14 convicted of a crime.

15 (c) Required statement of reasons.--Prior to entering an  
16 order of disposition under subsection (a), the court shall state  
17 its disposition and the reasons for its disposition on the  
18 record in open court, together with the goals, terms and  
19 conditions of that disposition. If the child is to be committed  
20 to out-of-home placement, the court shall also state the name of  
21 the specific facility or type of facility to which the child  
22 will be committed and its findings and conclusions of law that  
23 formed the basis of its decision consistent with subsection (a)  
24 and section 6301, including the reasons why commitment to that  
25 facility or type of facility was determined to be the least  
26 restrictive placement that is consistent with the protection of  
27 the public and best suited to the child's treatment,  
28 supervision, rehabilitation and welfare. The following apply:

29 (1) Prior to entering an order committing a child with  
30 an Individualized Education Plan or 504 plan to an out-of-

1 home placement, the court shall make an independent  
2 determination on the record if the child will be provided a  
3 free appropriate public education while in the placement,  
4 including receiving services prescribed in the child's  
5 current Individualized Education Plan or 504 plan.

6 (2) If a child's Individualized Education Plan or 504  
7 plan cannot be implemented, followed or measured to provide  
8 a free and appropriate public education as required under 20  
9 U.S.C. Ch. 33 (relating to education of individuals with  
10 disabilities) at an out-of-home placement, the out-of-home  
11 placement shall be deemed an inappropriate placement for the  
12 child and the child shall not be mandated to that placement.

13 (d) Restitution.--

14 (1) Restitution shall be ordered after a finding that  
15 the requested restitution constitutes a material loss and is  
16 owed to the actual victim and a hearing is held on the  
17 child's ability to pay. In determining whether the child will  
18 be able to pay restitution, the court:

19 (i) Shall consider the age of the child and whether  
20 the child is able to legally obtain employment.

21 (ii) May not consider the income of the parents of  
22 the child.

23 (iii) Shall consider the ability of the court and  
24 probation department to assist the child in paying the  
25 restitution, including the existence of restitution  
26 funds, community service or work programs.

27 (iv) Shall consider whether the victim is willing to  
28 accept another form of restorative justice in lieu of  
29 payment of money.

30 (v) Shall consider whether the child will be able to

1           pay restitution in the time that the child is reasonably  
2           expected to be under supervision.

3           (2) If restitution cannot be paid in full by the child,  
4           the court shall implement an installment plan consistent with  
5           the probation goals deemed necessary for the child. No child  
6           who has the ability to pay shall be ordered to pay a monthly  
7           installment amount greater than three hours of minimum wage  
8           of this Commonwealth.

9           (3) At every postdisposition review proceeding, the  
10          court shall make findings of the progress a child has made  
11          toward satisfying the order for restitution and shall inquire  
12          as to the assistance given to the child by the probation  
13          department and placement providers. A child shall have at  
14          least one review hearing every four months. The court may  
15          schedule a review hearing at any time or upon motion of a  
16          parent or legal guardian.

17          (4) The court may modify the order for restitution at  
18          any postdispositional proceeding, provided the victim has an  
19          opportunity to object by receiving notice of the hearing.

20          (5) If a child has satisfied all conditions of  
21          supervision other than payment of restitution in full, the  
22          court shall enter an order for termination of supervision,  
23          provided the victim has an opportunity to object by receiving  
24          notice of the hearing. The court shall make findings on the  
25          record with regard to the reason for the termination of  
26          supervision. The court shall not index a civil judgment  
27          against the child. Nothing in this paragraph shall be  
28          construed to preclude a victim from pursuing civil judgments  
29          against a responsible party.

30          (e) Educational stability.--

1           (1) An order resulting in the removal of a child from  
2 the child's home or a change in placement shall address the  
3 educational stability of the child.

4           (2) A child removed from home shall remain in the  
5 child's school of origin unless the court finds remaining in  
6 the school of origin is not in the child's best interest or  
7 protection of the community. If the court finds that it is  
8 not in the best interest for the child or protection of the  
9 community to remain in the school of origin, then the court  
10 may order the child to be enrolled in another school that  
11 best meets the child's needs.

12           (3) If the court orders a child with a disability to be  
13 enrolled in another school, the best interest determination  
14 shall include a finding on the record that the school is  
15 willing and able to provide a free and appropriate public  
16 education under 20 U.S.C. Ch. 33 to the child, including  
17 following, monitoring and measuring Individualized Education  
18 Plan goals.

19           (4) If a court orders a child to be enrolled in another  
20 school under paragraph (2), the child shall attend a public  
21 school unless the court finds that a public school is not in  
22 the best interest of the child or protection of the  
23 community.

24           (f) Employment in placement.--A child employed by the  
25 placement shall not be paid less than the minimum wage under  
26 section 4 of the act of January 17, 1968 (P.L.11, No.5), known  
27 as The Minimum Wage Act of 1968.

28 § 6353. Limitation on and change in place of commitment.

29           (a) [General rule.--No child shall initially be committed to  
30 an institution for a period longer than four years or a period

1 longer than he could have been sentenced by the court if he had  
2 been convicted of the same offense as an adult, whichever is  
3 less. The initial commitment may be extended for a similar  
4 period of time, or modified, if the court finds after hearing  
5 that the extension or modification will effectuate the original  
6 purpose for which the order was entered. The child shall have  
7 notice of the extension or modification hearing and shall be  
8 given an opportunity to be heard.] Disposition review hearing.--  
9 The committing court shall [review each commitment every six  
10 months and shall] hold a disposition review hearing at least  
11 every [nine] three months.

12 \* \* \*

13 § 6355. Transfer to criminal proceedings.

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

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

25 \* \* \*

26 (4) The court finds:

27 \* \* \*

28 (iii) that there are reasonable grounds to believe  
29 that the public interest is served by the transfer of the  
30 case for criminal prosecution. In determining whether the

1 public interest can be served, the court shall consider  
2 the Commonwealth's argument of the following factors:

3 (A) the impact of the offense on the victim or  
4 victims;

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

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

8 (D) the nature and circumstances of the offense  
9 allegedly committed by the child;

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

11 (F) the adequacy and duration of dispositional  
12 alternatives available under this chapter and in the  
13 adult criminal justice system; and

14 (G) whether the child is amenable to treatment,  
15 supervision or rehabilitation as a juvenile by  
16 considering the following factors:

17 (I) age;

18 (II) mental capacity;

19 (III) maturity;

20 (IV) the degree of criminal sophistication  
21 exhibited by the child;

22 (V) previous records, if any;

23 (VI) the nature and extent of any prior  
24 delinquent history, including the success or  
25 failure of any previous attempts by the juvenile  
26 court to rehabilitate the child;

27 (VII) whether the child can be rehabilitated  
28 prior to the expiration of the juvenile court  
29 jurisdiction;

30 (VIII) probation or institutional reports,

1 if any;

2 (IX) any other relevant factors; and

3 \* \* \*

4 [(e) Murder and other excluded acts.--Where the petition  
5 alleges conduct which if proven would constitute murder, or any  
6 of the offenses excluded by paragraph (2)(ii) or (iii) of the  
7 definition of "delinquent act" in section 6302 (relating to  
8 definitions), the court shall require the offense to be  
9 prosecuted under the criminal law and procedures, except where  
10 the case has been transferred pursuant to section 6322 (relating  
11 to transfer from criminal proceedings) from the division or a  
12 judge of the court assigned to conduct criminal proceedings.]

13 \* \* \*

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

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

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

27 (2) there is a prima facie case that the child committed  
28 a delinquent act which, if committed by an adult, would be  
29 classified as rape, involuntary deviate sexual intercourse,  
30 aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or

1 (2) (relating to aggravated assault), robbery as defined in  
2 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to  
3 robbery), robbery of motor vehicle, aggravated indecent  
4 assault, kidnapping, voluntary manslaughter, an attempt,  
5 conspiracy or solicitation to commit any of these crimes or  
6 an attempt to commit murder as specified in paragraph (2)(ii)  
7 of the definition of "delinquent act" in section 6302.

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

13 Section 10. The amendment or addition of 42 Pa.C.S. §§  
14 6301(b)(1.1), 6302, 6303(b), 6304(a)(5) and (c), 6304.1,  
15 6307(b), 6311(b)(2), 6322, 6323, 6324, 6325, 6326(b) and (c),  
16 6327, 6329, 6336.1(b)(3) introductory paragraph and (xii),  
17 6338.1, 6340(c), (c.1), (c.2) and (d), 6343, 6352, 6353(a) and  
18 6355(a)(1) and (4)(iii), (e) and (g) shall apply to all juvenile  
19 proceedings initiated on or after the effective date of this  
20 section.

21 Section 11. This act shall take effect in six months.