
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2628 Session of
2024

INTRODUCED BY D. MILLER, HILL-EVANS, GIRAL, PROBST, SANCHEZ,
SCHLOSSBERG AND HOHENSTEIN, OCTOBER 9, 2024

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 9, 2024

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in juvenile matters,
3 further providing for disposition of delinquent child and for
4 limitation on and change in place of commitment; and making
5 editorial changes.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Sections 6352(a)(6) and 6353 heading and (a) of
9 Title 42 of the Pennsylvania Consolidated Statutes are amended
10 and the sections are amended by adding subsections to read:

11 § 6352. Disposition of delinquent child.

12 (a) General rule.--If the child is found to be a delinquent
13 child the court may make any of the following orders of
14 disposition determined to be consistent with the protection of
15 the public interest and best suited to the child's treatment,
16 supervision, rehabilitation and welfare, which disposition
17 shall, as appropriate to the individual circumstances of the
18 child's case, provide balanced attention to the protection of
19 the community, the imposition of accountability for offenses

1 committed and the development of competencies to enable the
2 child to become a responsible and productive member of the
3 community:

4 * * *

5 (6) An order of the terms of probation may include an
6 appropriate fine considering the nature of the act committed
7 or restitution not in excess of actual damages caused by the
8 child which shall be paid from the earnings of the child
9 received through participation in a constructive program of
10 service or education acceptable to the victim and the court
11 whereby, during the course of such service, the child shall
12 be paid not less than the minimum wage of this Commonwealth.
13 In ordering such service, the court shall take into
14 consideration the age, physical and mental capacity of the
15 child and the service shall be designed to impress upon the
16 child a sense of responsibility for the injuries caused to
17 the person or property of another. The order of the court
18 shall be limited in duration consistent with the limitations
19 in section 6353 (relating to limitation on and change in
20 place of commitment and disposition review) and in the act of
21 May 13, 1915 (P.L.286, No.177), known as the Child Labor Law.
22 The court order shall specify the nature of the work[,] and
23 the number of hours to be spent performing the assigned
24 tasks, and [shall further specify that as part of a plan of
25 treatment and rehabilitation that up to 75% of the earnings
26 of the child be used for restitution in order to provide
27 positive reinforcement for the work performed.] there shall
28 be no financial condition incorporated into a child's case
29 except for a contribution to the Crime Victim Services and
30 Compensation Fund or a \$10.00 county restitution fund

1 assignment and any reasonable amount of restitution.
2 Restitution and payments under the Crime Victim Services and
3 Compensation Fund include insurance deductibles paid by the
4 victim and losses incurred by the victim found to not
5 otherwise be covered by insurance.

6 * * *

7 (d) Restitution.--

8 (1) After determining that actual damages were suffered
9 by the victim due to the delinquent child's actions, the
10 court shall:

11 (i) Determine if the requested restitution is
12 reasonable.

13 (ii) Determine if the delinquent child will be able
14 to pay the restitution in the time that the delinquent
15 child is reasonably expected to be under supervision and:

16 (A) Shall consider the age of the delinquent
17 child and whether the delinquent child is able to
18 legally obtain employment.

19 (B) Shall not consider the income of the parents
20 or legal guardians.

21 (C) Shall consider what efforts the court and
22 probation department are able to make to assist the
23 delinquent child in paying the restitution, including
24 the existence of restitution funds or community or
25 work programs.

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

29 (2) Restitution may only be ordered to an actual victim,
30 but nothing in this section shall be consistent to limit the

1 rights of any parties to pursue other claims.

2 (3) At every post-disposition review proceeding, the
3 court shall make findings as to the progress a delinquent
4 child has made toward satisfying the order for restitution
5 and shall inquire as to the assistance given to the
6 delinquent child by the probation department and placement
7 providers.

8 (4) The court may modify the order for restitution at
9 any post-dispositional proceeding, provided that the victim
10 has an opportunity to object by receiving notice of the
11 hearing at which the order for restitution may be modified.

12 (5) If a delinquent child has satisfied all conditions
13 of supervision other than the payment of restitution in full,
14 the court may forgive the unpaid amount of restitution and
15 enter an order for termination of supervision, provided that
16 the victim has an opportunity to object by receiving notice
17 of the hearing at which the court would consider terminating
18 supervision and forgiving outstanding restitution. The court
19 shall make findings on the record with regard to the reason
20 for the termination of supervision and forgiveness of
21 restitution. The court may not index a civil judgment against
22 the delinquent child.

23 (6) Nothing in this section shall preclude a victim from
24 pursuing civil judgments against a responsible party.

25 § 6353. Limitation on and change in place of commitment and
26 disposition review.

27 (a) General rule.--~~[No child shall]~~ Except as otherwise
28 provided in this section, a child may not initially be committed
29 to an institution for a period longer than four years or a
30 period longer than he could have been sentenced by the court if

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

10 (a.1) Disposition review.--

11 (1) The court shall conduct a disposition review hearing
12 when a child is at home at least every six months.

13 (2) The court shall conduct a disposition review of a
14 child's out-of-home commitment at least every three months.

15 (3) At a disposition review under paragraph (2), the
16 court shall, at a minimum, determine:

17 (i) whether the child is receiving the necessary
18 services or treatment contemplated by the court's
19 disposition or whether additional treatment or services
20 are needed;

21 (ii) whether the child continues to pose a threat to
22 the community;

23 (iii) whether the child's educational goals are
24 being met, including supports and accommodations
25 specified in an individualized education program or a
26 plan under section 504 of the Rehabilitation Act of 1973
27 (Public Law 93-112, 29 U.S.C. § 701 et seq.);

28 (iv) whether the child should continue in placement
29 or be released from placement under aftercare
30 supervision; and

1 (v) the date of the next disposition review.

2 (4) At the conclusion of a disposition review under
3 paragraph (2), and prior to entering an order, the court
4 shall state the determinations required under paragraph (3),
5 along with the reason for each determination, on the record
6 in open court.

7 (a.2) Removal from home.--

8 (1) A child may not be removed from home as disposition
9 for an adjudication of delinquency under subsection (a),
10 unless the court determines that at least one of the
11 following applies:

12 (i) The child poses a risk to the safety of a victim
13 or the community for an offense committed. In determining
14 whether the child poses a risk to the safety of a victim
15 or the community, the court shall consider all of the
16 following:

17 (A) The results of a validated risk and needs
18 assessment.

19 (B) Whether the child used a deadly weapon in
20 the commission of the offenses.

21 (C) Whether the child intentional inflicted
22 significantly bodily injury upon another person in
23 the commission of the offenses.

24 (D) The nature of the offenses.

25 (E) Community-based services that can provide
26 the treatment and services, mitigating factors and
27 any additional level of support that may decrease
28 risk.

29 (ii) The child has been adjudicated of a sexual
30 offense and residential treatment is the most appropriate

1 and least restrictive dispositional option, after an
2 appropriate evaluation or assessment.

3 (iii) The court determines that the child is
4 medically in need of residential drug and alcohol
5 treatment or mental health services after an appropriate
6 evaluation or assessment.

7 (2) If, upon determination, the court finds it
8 appropriate to remove the child from home and has assigned
9 the least restrictive dispositional option available, the
10 finding shall be placed on the record.

11 (a.3) Placement out of home prohibited.--

12 (1) The court may not remove a child from home:

13 (i) Solely for a technical violation of the terms
14 and conditions of probation. A technical violation under
15 this subsection does not include any of the following:

16 (A) The violation of a no contact order that
17 places the safety of a victim or the community at
18 risk.

19 (B) Repeated violations of probation for an
20 offense involving the threat to use, use of or
21 possession of a deadly weapon or the intentional
22 infliction of significant bodily injury to a victim.

23 (C) The violation of probation for a sexual
24 offense.

25 (2) If the court determines that the child is medically
26 in need of residential drug and alcohol treatment or mental
27 health services, after an appropriate evaluation or
28 assessment.

29 (3) The court may not commit a child to out-of-home
30 placement solely because treatment is not available in the

1 community.

2 (4) Matters relating to dependency shall be referred to
3 the appropriate child welfare agency.

4 (5) A delinquent child shall not be committed to an out-
5 of-home placement without a court determination that the
6 education program available to that child ensures their right
7 to a free and appropriate public education, which includes
8 any services or accommodations that may be prescribed in a
9 child's individualized education program or plan or under
10 section 504 of the Rehabilitation Act of 1973 as required by
11 20 U.S.C. Ch. 33 (relating to education of individuals with
12 disabilities).

13 (a.4) Placement out of State.--A child removed from home
14 under this section may not be placed out-of-State unless
15 medically needed services deemed necessary by an independent
16 assessment are not otherwise accessible in this Commonwealth.

17 (a.5) Placement not be extended.--

18 (1) If the court imposes a disposition of out-of-home
19 placement in response to an adjudication of delinquency, the
20 rebuttable presumptive period of commitment shall not exceed
21 six months. The court may extend the period of placement if
22 the court finds any of the following:

23 (i) An extension is necessary to complete an
24 evidence-based program or a program rated by a
25 standardized tool as effective for reducing recidivism,
26 consistent with the child's assessed criminogenic needs,
27 that is already underway, and that the program cannot be
28 completed in the community.

29 (ii) The child is found to be a significant risk to
30 a victim or the community or was adjudicated for murder

1 or a sex offense designated as a felony of the first
2 degree if committed by an adult and poses a threat to the
3 community in consideration of subsection (a.1).

4 (iii) The child has been adjudicated delinquent for
5 murder or a sexual offense or an attempt to commit murder
6 or a sexual offense.

7 (2) In cases where the court has determined that is
8 necessary and appropriate to extend placement, the court
9 shall provide its reasoning on the record.

10 (3) Manifestation of a disability may not serve as
11 grounds for a probation violation, technical violation, an
12 allegation of a failure to adjust or the unwanted transfer of
13 a child to a different out-of-home placement unless placement
14 remains justified through assessment and the new placement
15 can accommodate the child's disability appropriately. A
16 placement that cannot accommodate a child's disability is not
17 an appropriate placement. The following apply:

18 (i) A manifest determination review shall be
19 conducted when the behavior of a child with a disability
20 known to the court forms all or part of an allegation of
21 a probation violation, technical violation or failure to
22 adjust. At a minimum, the court shall review the most
23 recent functional behavioral assessment or positive
24 behavioral support plan, individualized education program
25 or plan under section 504 of the Rehabilitation Act of
26 1973 and any relevant documentation from therapists or
27 related assessments.

28 (ii) If the court determines that the behavior under
29 subparagraph (i) was a manifestation of the child's
30 disability, no probation violation, technical violation

1 or failure to adjust may be established. The court shall
2 take all necessary steps to ensure that appropriate
3 accommodations or supports are in place if out-of-home
4 placement is deemed necessary to continue or otherwise
5 return the child home.

6 (4) Nothing in this subsection shall be construed to
7 alter or limit related rights under Federal or State law.

8 * * *

9 Section 2. Sections 6358(e) and 9728(c) of Title 42 are
10 amended to read:

11 § 6358. Assessment of delinquent children by the State Sexual
12 Offenders Assessment Board.

13 * * *

14 (e) Dispositional review hearing.--Where the board has
15 concluded that the child is in need of involuntary treatment
16 pursuant to the provisions of Chapter 64 (relating to court-
17 ordered involuntary treatment of certain sexually violent
18 persons), the court shall conduct a hearing at which the county
19 solicitor or a designee, the probation officer and the child's
20 attorney are present. The court shall consider the assessment,
21 treatment information and any other relevant information
22 regarding the delinquent child at the dispositional review
23 [hearing] pursuant to section 6353 (relating to limitation on
24 and change in place of commitment and disposition review), which
25 shall be held no later than 180 days before the 21st birthday of
26 the child. Where the submission of the report was delayed
27 pursuant to subsection (c), the dispositional review hearing
28 shall be held no later than 90 days before the 21st birthday of
29 the child.

30 * * *

1 § 9728. Collection of restitution, reparation, fees, costs,
2 fines and penalties.

3 * * *

4 (c) Period of time.--Notwithstanding section 6353 (relating
5 to limitation on and change in place of commitment and
6 disposition review) or 18 Pa.C.S. § 1106(c)(2) (relating to
7 restitution for injuries to person or property), the period of
8 time during which such judgments shall have full effect may
9 exceed the maximum term of imprisonment to which the offender
10 could have been sentenced for the crimes of which he was
11 convicted or the maximum term of confinement to which the
12 offender was committed.

13 * * *

14 Section 3. This act shall take effect in 180 days.