

# **The Juvenile Act**

42 Pa. C.S. § 6301 et seq.



January 2013

## TITLE 42, CHAPTER 63: JUVENILE MATTERS

### Table of Contents

#### SUBCHAPTER A. GENERAL PROVISIONS

§ 6301.	Short title and purposes of chapter.	1
§ 6302.	Definitions.	3
§ 6303.	Scope of chapter.	9
§ 6304.	Powers and duties of probation officers.	11
§ 6304.1.	Summary offenses.	15
§ 6305.	Masters.	16
§ 6306.	Costs and expenses of care of child.	17
§ 6307.	Inspection of court files and records.	18
§ 6308.	Law enforcement records.	21
§ 6309.	Juvenile history record information.	26
§ 6310.	Parental participation.	28
§ 6311.	Guardian ad litem for child in court proceeding.	29

#### SUBCHAPTER B. JURISDICTION AND CUSTODY

§ 6321.	Commencement of proceedings.	31
§ 6322.	Transfer from criminal proceedings.	33
§ 6323.	Informal adjustment.	35
§ 6324.	Taking into custody.	37
§ 6325.	Detention of child.	38
§ 6326.	Release or delivery to court.	39
§ 6327.	Place of detention.	41

#### SUBCHAPTER C. PROCEDURES AND SAFEGUARDS

§ 6331.	Release from detention or commencement of proceedings.	44
§ 6332.	Informal hearing.	45
§ 6333.	Subpoena.	46
§ 6334.	Petition.	47
§ 6335.	Release or holding of hearing.	49
§ 6336.	Conduct of hearings.	52
§ 6336.1.	Notice and hearing.	55
§ 6336.2.	Use of restraints on children during court proceedings.	57
§ 6337.	Right to counsel.	58
§ 6337.1	Right to counsel for children in dependency & delinquency proceedings.	60
§ 6338.	Other basic rights.	61
§ 6339.	Investigation and report.	62
§ 6340.	Consent decree.	63
§ 6341.	Adjudication.	65

§ 6342.	Court-appointed special advocates.	69
---------	------------------------------------	----

#### **SUBCHAPTER D. DISPOSITION OF CHILDREN GENERALLY**

§ 6351.	Disposition of dependent child.	70
§ 6351.1.	Authority of court upon petition to remove child from foster parent.	78
§ 6352.	Disposition of delinquent child.	79
§ 6352.1.	Treatment records.	82
§ 6353.	Limitation on and change in place of commitment.	83
§ 6354.	Effect of adjudication.	85
§ 6355.	Transfer to criminal proceedings.	86
§ 6356.	Disposition of mentally ill or mentally retarded child.	89
§ 6357.	Rights and duties of legal custodian.	90
§ 6358.	Assessment of delinquent children by the State Sexual Offenders Assessment Board.	91

#### **SUBCHAPTER E. DISPOSITIONS AFFECTING OTHER JURISDICTIONS**

§ 6361.	Disposition of nonresident child.	93
§ 6362.	Disposition of resident child received from another state.	94
§ 6363.	Ordering foreign supervision.	95
§ 6364.	Supervision under foreign order.	96
§ 6365.	Powers of foreign probation officers.	97

#### **SUBCHAPTER F. JUVENILE COURT JUDGES' COMMISSION**

§ 6371.	Definitions.	98
§ 6372.	Juvenile Court Judges' Commission.	99
§ 6373.	Powers and duties.	101
§ 6374.	Power to make grants.	102
§ 6375.	Funding.	103

## § 6301. Short title and purposes of chapter

**(a) Short title.**--This chapter shall be known and may be cited as the "Juvenile Act."

**(b) Purposes.**--This chapter shall be interpreted and construed as to effectuate the following purposes:

(1) To preserve the unity of the family whenever possible or to provide another alternative permanent family when the unity of the family cannot be maintained.

(1.1) To provide for the care, protection, safety and wholesome mental and physical development of children coming within the provisions of this chapter.

(2) Consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community.

(3) To achieve the foregoing purposes in a family environment whenever possible, separating the child from parents only when necessary for his welfare, safety or health or in the interests of public safety, by doing all of the following:

(i) employing evidence-based practices whenever possible and, in the case of a delinquent child, by using the least restrictive intervention that is consistent with the protection of the community, the imposition of accountability for offenses committed and the rehabilitation, supervision and treatment needs of the child; and

(ii) imposing confinement only if necessary and for the minimum amount of time that is consistent with the purposes under paragraphs (1), (1.1) and (2).

(4) To provide means through which the provisions of this chapter are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended [1995, Nov. 17, P.L. 1127, No. 33 \(Spec. Sess. No. 1\), § 2](#), effective in 120 days; [1998, Dec. 15, P.L. 949, No. 126, § 3](#), effective Jan. 1, 1999; [2012, Oct. 25, P.L. \\_\\_\\_\\_\\_, No. 204, § 5](#), effective in 60 days [Dec. 24, 2012].

OFFICIAL COMMENT

**Subsection (a):** The above designation was adopted rather than the more usual "Juvenile Court Act" in view of the recent consolidation of original jurisdiction solely in the several courts of common pleas by [Section 5 of Article V of the Pennsylvania Constitution](#), as amended 1968. See Comment to Section 2(8) [[42 Pa.C.S. § 6302](#)--definition of "court"], *infra*.

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 1 ([11 P.S. § 50-101](#)).

HISTORICAL AND STATUTORY NOTES

Act 1995-33 (SS1) legislation

The 1995 amendment rewrote subd. (b)(2).

Section 8 of Act 1995, P.L. 1127, No. 33 (Spec. Sess. No. 1) provides that the act shall apply to all delinquent acts committed on or after the effective date of the act.

Act 1998-126 legislation

Act 1998-126 rewrote subsec. (b)(1) and designated the former text as (b)(1.1). Prior to amendment, subsec. (b)(1) read:

“(1) To preserve the unity of the family whenever possible and to provide for the care, protection, and wholesome mental and physical development of children coming within the provisions of this chapter.”

Act 2012-204 legislation

Act 2012-204, § 5, rewrote subsec. (b)(3), which prior thereto read:

“(3) To achieve the foregoing purposes in a family environment whenever possible, separating the child from parents only when necessary for his welfare, safety or health or in the interests of public safety.”

Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 1 ([11 P.S. § 50-101](#)).

## § 6302. Definitions

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

**“Aggravated circumstances.”** Any of the following circumstances:

(1) The child is in the custody of a county agency and either:

(i) the identity or whereabouts of the parents is unknown and cannot be ascertained and the parent does not claim the child within three months of the date the child was taken into custody; or

(ii) the identity or whereabouts of the parents is known and the parents have failed to maintain substantial and continuing contact with the child for a period of six months.

(2) The child or another child of the parent has been the victim of physical abuse resulting in serious bodily injury, sexual violence or aggravated physical neglect by the parent.

(3) The parent of the child has been convicted of any of the following offenses where the victim was a child:

(i) criminal homicide under 18 Pa.C.S. Ch. 25 (relating to criminal homicide);

(ii) a felony under [18 Pa.C.S. § 2702](#) (relating to aggravated assault), 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) or 3125 (relating to aggravated indecent assault).

(iii) A misdemeanor under [18 Pa.C.S. § 3126](#) (relating to indecent assault).

(iv) An equivalent crime in another jurisdiction.

(4) The attempt, solicitation or conspiracy to commit any of the offenses set forth in paragraph (3).

(5) The parental rights of the parent have been involuntarily terminated with respect to a child of the parent.

**“Aggravated physical neglect.”** Any omission in the care of a child which results in a life-threatening condition or seriously impairs the child's functioning.

**“Assessment.”** An individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse or co-occurring mental health and substance abuse disorders and recommendations for treatment. The term includes, but is not limited to, a drug and alcohol, psychological and psychiatric evaluation, records review, clinical interview and the administration of a formal test and instrument.

**“Board.”** The State Sexual Offenders Assessment Board.

**“Child.”** An individual who:

(1) is under the age of 18 years;

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

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

(i) completing secondary education or an equivalent credential;

(ii) enrolled in an institution which provides postsecondary or vocational education;

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

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

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

**“County agency.”** The term as defined in [23 Pa.C.S. § 6303](#) (relating to definitions).

**“Court.”** The court of common pleas.

**“Court-appointed special advocate” or “CASA.”** An individual appointed by the court to participate as an advocate for a child who is dependent or alleged to be dependent.

**“Custodian.”** A person other than a parent or legal guardian, who stands in loco parentis to the child, or a person to whom legal custody of the child has been given by order of a court.

**“Delinquent act.”**

(1) The term means an act designated a crime under the law of this Commonwealth, or of another state if the act occurred in that state, or under Federal law, or under local ordinances or an act which constitutes indirect criminal contempt under 23 Pa.C.S. Ch. 61 (relating to protection from abuse).

(2) The term shall not include:

(i) The crime of murder.

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

(A) Rape as defined in [18 Pa.C.S. § 3121](#) (relating to rape).

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

(C) Aggravated assault as defined in [18 Pa.C.S. § 2702\(a\)\(1\) or \(2\)](#) (relating to aggravated assault).

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

(E) Robbery of motor vehicle as defined in [18 Pa.C.S. § 3702](#) (relating to robbery of motor vehicle).

(F) Aggravated indecent assault as defined in [18 Pa.C.S. § 3125](#) (relating to aggravated indecent assault).

(G) Kidnapping as defined in [18 Pa.C.S. § 2901](#) (relating to kidnapping).

(H) Voluntary manslaughter.

(I) An attempt, conspiracy or solicitation to commit murder or any of these crimes, as provided in [18 Pa.C.S. §§ 901](#) (relating to criminal attempt), 902 (relating to criminal solicitation) and 903 (relating to criminal conspiracy).

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

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

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

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

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

(E) Aggravated indecent assault as defined in [18 Pa.C.S. § 3125](#).

(F) Kidnapping as defined in [18 Pa.C.S. § 2901](#).

(G) Voluntary manslaughter.

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

(iv) Summary offenses, unless the child fails to comply with a lawful sentence imposed thereunder, in which event notice of such fact shall be certified to the court.

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

**"Delinquent child."** A child ten years of age or older whom the court has found to have committed a delinquent act and is in need of treatment, supervision or rehabilitation.

**"Dependent child."** A child who:

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

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

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

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

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

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

(7) has committed a delinquent act or crime, other than a summary offense, while under the age of ten years;

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

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

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

**“Facility designed or operated for the benefit of delinquent children.”** A facility that either identifies itself by charter, articles of incorporation or program description as solely for delinquent children.

**“Protective supervision.”** Supervision ordered by the court of children found to be dependent.

**“Screening.”** A process, regardless of whether it includes the administration of a formal instrument, that is designed to identify a child who is at increased risk of having mental health, substance abuse or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention or more comprehensive assessment.

**“Serious bodily injury.”** Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

**“Sexual violence.”** Rape, indecent contact as defined in [18 Pa.C.S. § 3101](#) (relating to definitions), incest or using, causing, permitting, persuading or coercing the child to engage in a prohibited sexual act as defined in [18 Pa.C.S. § 6312\(a\)](#) (relating to sexual abuse of children) or a simulation of a prohibited sexual act for the purpose of photographing, videotaping, depicting on computer or filming involving the child.

**“Shelter care.”** Temporary care of a child in physically unrestricted facilities. A facility approved by the Department of Public Welfare to provide shelter care may be located in the same building as a facility approved to provide secure detention services provided that children receiving shelter care services are segregated from the children receiving secure detention services as required by the department.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 22, effective June 27, 1978; 1986, Dec. 11, P.L. 1521, No. 165, § 4, effective in 60

days; [1995, March 15, P.L. 972, No. 6 \(Spec. Sess. No. 1\), § 1](#), effective in 60 days; [1995, Nov. 17, P.L. 1127, No. 33 \(Spec. Sess. No. 1\), § 3](#), effective in 120 days; [1998, June 18, P.L. 640, No. 84, § 2](#), effective in 60 days; [1998, Dec. 15, P.L. 949, No. 126, § 4](#), effective Jan. 1, 1999; [1998, Dec. 15, P.L. 978, No. 128, § 1](#), effective in 60 days; [2000, Dec. 20, P.L. 946, No. 129, § 1](#), effective in 60 days; [2003, Aug. 14, P.L. 97, No. 21, § 1](#), effective Feb. 10, 2004; [2008, Oct. 9, P.L. 1396, No. 109, § 1](#), effective in 60 days [Dec. 8, 2008]; [2012, July 5, P.L. 880, No. 91, § 2.1](#), imd. effective; [2012, Oct. 25, P.L. \\_\\_\\_\\_\\_, No. 204, § 6](#), imd. effective.

#### OFFICIAL COMMENT

**“Child.”** This definition, derived from Section 2(1) continues existing jurisdiction of the juvenile law over minors under the age of 18 years, with two exceptions designed to promote greater flexibility in its application: Clause (ii) is intended to overcome the tendency to delay bringing children into court when the act committed was near age 18 in order to require criminal prosecution after reaching that age. For procedures for transferring a child from criminal prosecution to juvenile proceedings, see Section 7 [[42 Pa.C.S. § 6322\(a\)](#)], *infra*.

**“Court.”** The jurisdiction of the courts of common pleas is vested in [Section 5 of Article V of the Constitution of Pennsylvania](#) as amended in 1968, which provides that: “There shall be one court of common pleas for each judicial district (a) having such divisions ... and (b) having unlimited original jurisdiction in all cases ...” Except in the First and Fifth Judicial Districts, the court of common pleas will exercise its jurisdiction through a division designated “Juvenile Court Division.” See Order of Supreme Court dated February 8, 1969, docketed to No. 503 Misc.Dkt. No. 16, particularly clause (d) thereof. In the First Judicial District (Philadelphia), and the Fifth Judicial District (Allegheny County), the jurisdiction will be exercised by Family Court Divisions. See Pennsylvania Constitution, Art. V, Sch. §§ 16(q)(ii), 17(b)(ii) [suspended]; see also Act of 1968, December 2, Act No. 357 [[42 Pa.C.S. §§ 951\(b\), 953, 1722\(a\)\(1\), 1723](#)]; Act of 1969, March 27, Act No. 5 [[42 Pa.C.S. §§ 911, 951\(a\), \(e\), 1722\(a\)\(1\), 1723](#)].

**“Delinquent child.”** The definition of “delinquent child” derives from Section 2(3) of the Uniform Act where it is stated, in part that:

“The conjunctive ‘and’ should be noted. Before the child can be characterized as a ‘delinquent child’ he must be found (1) to have committed a ‘delinquent act’ and (2) to be in need of treatment or rehabilitation. The first finding is made in the adjudicative hearing on the merits of the allegations of delinquent acts ascribed to the child and involves all of the due process of law safeguards prescribed by [Gault \[387 U.S. 1, 87 S.Ct. 1428 \(1967\)\]](#). The second finding is made in the dispositional hearing and involves the ‘good will and compassion’ of the ‘kindly juvenile judge,’ taking into account the ‘emotional and psychological attitude’ of the child and having greater latitude in the information he may consider in making a disposition of the case. [Gault and Williams v. People, 337 U.S. 241, 69 S.Ct. 1079, ...](#)”

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 2 ([11 P.S. § 50-102](#)).

#### HISTORICAL AND STATUTORY NOTES

Act 1995-6 (SS1) legislation

Act 1995, No. 6 (Spec. Sess. No. 1) deleted the definition of “dangerous juvenile offender”.

Act 1995-33 (SS1) legislation

Act 1995, No. 33 (Spec. Sess. No. 1), in the definition of “delinquent act”, in par. (2), inserted new cls. (ii) and (iii) and redesignated former cls. (ii) and (iii) as cls. (iv) and (v).

Section 8 of Act 1995, P.L. 1127, No. 33, (Spec. Sess. No. 1) provides that the act shall apply to all delinquent acts committed on or after the effective date of the act.

Act 1998-84 legislation

Act 1998-84 in subsec. (1) of "Delinquent act." added "or an act which constitutes indirect criminal contempt under 23 Pa.C.S. Ch. 61 (relating to protection from abuse)"

Act 1998-126 legislation

Act 1998-126 added the definitions of "aggravated circumstances", "aggravated physical neglect", "county agency", "serious bodily injury", and "sexual violence" and, in the definition of "dependent child", added the second sentence in subsec. (1) and added subsec. (10).

Act 1998-128 legislation

Act 1998-128 added the definition of "court-appointed special advocate".

Act 2000-129 legislation

Act 2000-129 added the definition of "facility designed or operated for the benefit of delinquent children" and, in the definition of "shelter care", added the second sentence.

Act 2003-21 legislation

Act 2003-21, § 1, added the definition of board.

Act 2008-109 legislation

Act 2008-109, § 1, added definitions of "assessment" and "screening".

Act 2012-91 legislation

Act 2012-91, § 2.1, in the definition of "child", rewrote par. (3), which prior thereto read:

"(3) was adjudicated dependent before reaching the age of 18 years and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event shall a child remain in a course of instruction or treatment past the age of 21 years."

Act 2012-204 legislation

Act 2012-204, § 6, in the undefined of "dependent child", rewrote par. (7), which prior thereto read:

"(7) is under the age of ten years and has committed a delinquent act;"

Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.

1972, Dec. 6, P.L. 1464, No. 333, § 2 ([11 P.S. § 50-102](#)).

### § 6303. Scope of chapter

<Section effective until Jan. 23, 2013. See also, section effective Jan. 23, 2013.>

**(a) General rule.**--This chapter shall apply exclusively to the following:

- (1) Proceedings in which a child is alleged to be delinquent or dependent.
- (2) Transfers under [section 6322](#) (relating to transfer from criminal proceedings).
- (3) Proceedings arising under Subchapter E (relating to dispositions affecting other jurisdictions).
- (4) Proceedings under the Interstate Compact on Juveniles, as set forth in section 731 of the act of June 13, 1967 (P.L. 31, No. 21), known as the Public Welfare Code. [\[FN1\]](#)
- (5) Proceedings in which a child is charged with a summary offense arising out of the same episode or transaction involving a delinquent act for which a petition alleging delinquency is filed under this chapter. The summary offense shall be included in any petition regarding the accompanying delinquent act. Upon finding a child to have committed a summary offense, the court may utilize any disposition available to the minor judiciary where a child is found to have committed a summary offense, including a finding of guilt on the summary offense.

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

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 22, effective June 27, 1978; [1995, March 31, P.L. 983, No. 9 \(Spec. Sess. No. 1\), § 1](#), effective in 60 days; [1996, March 29, P.L. 51, No. 17, § 2](#), imd. effective; [2004, Nov. 30, P.L. 1618, No. 207, § 18](#), effective Jan. 31, 2005.

[\[FN1\] 62 P.S. § 731.](#)

SUSPENDED IN PART

<For purposes of delinquency proceedings, [Pa.R.J.C.P. No. 800](#) suspends 42 Pa.C.S.A. § 6303(b) insofar as inconsistent with [Pa.R.J.C.P. No. 210](#), which allows Magisterial District Judges to detain in limited circumstances.>

OFFICIAL COMMENT

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 3 ([11 P.S. § 50-103](#)).

HISTORICAL AND STATUTORY NOTES

The 1995 amendment, in subsec. (a), added cl. (5).

The 1996 amendment rewrote subsec. (b), which previously read:

"Minor judiciary.--No child shall be detained, committed or sentenced to imprisonment by a district justice or a judge of the minor judiciary."

Act 2004-207 legislation

Act 2004-207, § 18, amended the section to reflect the redesignation of district justices as magisterial district judges.

Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 3 ([11 P.S. § 50-103](#)).

## **§ 6304. Powers and duties of probation officers**

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

- (1) Make investigations, reports, and recommendations to the court.
- (2) Receive and examine complaints and charges of delinquency or dependency of a child for the purpose of considering the commencement of proceedings under this chapter.
- (3) Supervise and assist a child placed on probation or in his protective supervision or care by order of the court or other authority of law.
- (4) Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.
- (5) Take into custody and detain a child who is under his supervision or care as a delinquent or dependent child if the probation officer has reasonable cause to believe that the health or safety of the child is in imminent danger, or that he may abscond or be removed from the jurisdiction of the court, or when ordered by the court pursuant to this chapter or that he violated the conditions of his probation.
- (6) Perform all other functions designated by this chapter or by order of the court pursuant thereto.

### **(a.1) Authority to search.--**

- (1) Probation officers may search the person and property of children:
  - (i) under their supervision as delinquent children or pursuant to a consent decree in accordance with this section;
  - (ii) taken into custody pursuant to subsection (a) and [section 6324](#) (relating to taking into custody); and
  - (iii) detained pursuant to subsection (a) and [section 6325](#) (relating to detention of child) or during the intake process pursuant to subsection (a) and [section 6331](#) (relating to release from detention or commencement of proceedings) and in accordance with this section.
- (2) Nothing in this section shall be construed to permit searches or seizures in violation of the Constitution of the United States or [section 8 of Article I of the Constitution of Pennsylvania](#).
- (3) No violation of this section shall constitute an independent ground for suppression of evidence in any proceeding.
- (4) (i) A personal search of a child may be conducted by any probation officer:
  - (A) If there is a reasonable suspicion to believe that the child possesses contraband or other evidence of violations of the conditions of supervision.
  - (B) When a child is transported or taken into custody.
  - (C) When a child enters or leaves a detention center, institution or other facility for alleged or adjudicated delinquent children.

(ii) A property search may be conducted by any probation officer if there is reasonable suspicion to believe that the real or other property in the possession of or under the control of the child contains contraband or other evidence of violations of the conditions of supervision.

(iii) Prior approval of a supervisor shall be obtained for a property search absent exigent circumstances or unless the search is being conducted by a supervisor. No prior approval shall be required for a personal search.

(iv) A written report of every property search conducted without prior approval shall be prepared by the probation officer who conducted the search and filed in the child's case record. The exigent circumstances shall be stated in the report.

(v) The child may be detained if he is present during a property search. If the child is not present during a property search, the probation officer in charge of the search shall make a reasonable effort to provide the child with notice of the search, including a list of the items seized, after the search is completed.

(vi) The existence of reasonable suspicion to search shall be determined in accordance with constitutional search and seizure provisions as applied by judicial decision. In accordance with that case law, the following factors, where applicable, may be taken into account:

(A) The observations of officers.

(B) Information provided by others.

(C) The activities of the child.

(D) Information provided by the child.

(E) The experience of the probation officer with the child.

(F) The experience of probation officers in similar circumstances.

(G) The prior delinquent and supervisory history of the offender.

(H) The need to verify compliance with the conditions of supervision.

**(b) Foreign jurisdictions.**--Any of the functions specified in subsection (a) may be performed in another jurisdiction if authorized by the court of this Commonwealth and permitted by the laws of the other jurisdiction.

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

"Conditions of supervision." A term or condition of a child's supervision, whether imposed by the court or a probation officer, including compliance with all requirements of Federal, State and local law.

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

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

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

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

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

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

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

#### CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 22, effective June 27, 1978; [2002, Dec. 9, P.L. 1705, No. 215, § 3](#), effective in 60 days.

#### SUSPENDED IN PART

<For purposes of delinquency proceedings, [Pa.R.J.C.P. No. 800](#) suspends 42 Pa.C.S.A. § 6304(a)(2) insofar as inconsistent with Pa.R.J.C.P. Nos. 231 and 330, which provide that the District Attorney may file a certification that requires an attorney for the Commonwealth to initially receive and approve written allegations and petitions.>

#### OFFICIAL COMMENT

This section is derived from Section 6 of the Uniform Act where it is stated that:

"This section brings together the various functions of the probation officer under this Act. Specific powers also appear in other sections in the Act.

"The primary role of the probation officer is the care and protection of the child, and in delinquency cases, his treatment and rehabilitation as well. Incompatible roles such as the power of arrest, conducting the accusatory proceeding in juvenile court, representing the child in court, have been excluded.

"The several powers stated are subject to limitations imposed by the court.

"The second sentence of paragraph (6) complements the provisions of [Section 35] [[42 Pa.C.S. § 6365](#)]."

The probation officers as employees of the court, are appointed by it and compensated as provided by existing law. See, for example, the Act of 1911, June 19, P.L. 1055, § 3, as amended, 19 P.S. 1053 [[42 Pa.C.S. §§ 2301, 3722](#)]; the Act of 1913, July 12, P.L. 711, § 9, as amended, 17 P.S. 691 [Repealed]; the Act of 1915, March 19, P.L. 5, § 3, as amended, 17 P.S. 655 [Repealed].

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 4 ([11 P.S. § 50-201](#)).

#### HISTORICAL AND STATUTORY NOTES

Act 2002-215 legislation

Act 2002-215, § 3, added subsecs. (a.1) and (c).

Section 8 of 2002, Dec. 9, P.L. 1705, No. 215, effective in 60 days, provides that “[t]he Juvenile Court Judges' Commission shall develop best practice standards regarding searches of the person and property of children in order to implement the addition of 42 Pa.C.S. § 6304(a.1).”

Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.

1972, Dec. 6, P.L. 1464, No. 333, § 4 ([11 P.S. § 50-201](#)).

### **§ 6304.1. Summary offenses**

**(a) Review.**--Upon notice being certified to the court that a child has failed to comply with a lawful sentence imposed for a summary offense, a probation officer shall review the complaints and charges of delinquency pursuant to [section 6304](#) (relating to powers and duties of probation officers) for the purpose of considering the commencement of proceedings under this chapter.

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

CREDIT(S)

[2004, Nov. 30, P.L. 1703, No. 217, § 2](#), imd. effective.

## § 6305. Masters

**(a) General rule.**--The governing authority may promulgate rules for the selection and appointment of masters on a full-time or part-time basis. A master shall be a member of the bar of this Commonwealth. The number and compensation of masters shall be fixed by the governing authority, and their compensation shall be paid by the county.

**(b) Hearings before masters.**--The court of common pleas may direct that hearings in any case or class of cases be conducted in the first instance by the master in the manner provided in this chapter. Before commencing the hearing the master shall inform the parties who have appeared that they are entitled to have the matter heard by a judge. If a party objects, the hearing shall be conducted by a judge.

**(c) Recommendations of masters.**--Upon the conclusion of a hearing before a master, he shall transmit written findings and recommendations for disposition to the judge. Prompt written notice and copies of the findings and recommendations shall be given to the parties to the proceeding.

**(d) Rehearing before judge.**--A rehearing before the judge may be ordered by the judge at any time upon cause shown. Unless a rehearing is ordered, the findings and recommendations become the findings and order of the court when confirmed in writing by the judge.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 10(82.1), effective June 27, 1978.

SUSPENDED IN PART

<For purposes of delinquency proceedings, [Pa.R.J.C.P. No. 800](#) suspends 42 Pa.C.S.A. § 6305(b) insofar as inconsistent with [Pa.R.J.C.P. No. 187](#), which allows masters to hear only specific classes of cases.>

<For purposes of dependency proceedings, [Pa.R.J.C.P. No. 1800\(5\)](#) suspends 42 Pa.C.S.A. § 6305(b) insofar as inconsistent with [Pa.R.J.C.P. No. 1187](#), which allows masters to hear only specific classes of cases.>

OFFICIAL COMMENT

This section is derived from Section 7 of the Uniform Act, which makes available to the overburdened urban courts a technique to enable them to meet the demands of their juvenile caseload. It is believed that the utilization of masters will reduce court congestion while maintaining the quality of the juvenile proceedings.

Source: Subsection (a) derived from act of December 6, 1972 (No. 333), § 5(a)([11 P.S. § 50-301\(a\)](#)). Subsections (b) through (d) substantially a reenactment of act of December 6, 1972 (No. 333), § 5(b) through (d) ([11 P.S. § 50-301\(b\) through \(d\)](#)).

HISTORICAL AND STATUTORY NOTES

Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 5 ([11 P.S. § 50-301](#)).

## **§ 6306. Costs and expenses of care of child**

The costs and expenses of the care of the child shall be paid as provided by sections 704.1 and 704.2 of the act of June 13, 1967 (P.L. 31, No. 21), known as the "Public Welfare Code." [\[FN1\]](#)

CREDIT(S)

1978, April 28, P.L. 202, No. 53, § 10(84), effective June 27, 1978.

[\[FN1\]](#) [62 P.S. §§ 704.1, 704.2.](#)

OFFICIAL COMMENT

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 36 ([11 P.S. § 50-333](#)).

HISTORICAL AND STATUTORY NOTES

Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 36 ([11 P.S. § 50-333](#)).

A former § 6306, enacted by Act 1976, July 9, P.L. 586, No. 142, § 2, relating to the same subject matter, was repealed by Act 1978, April 28, P.L. 202, No. 53, § 10(83), effective Jan. 1, 1978.

## **§ 6307. Inspection of court files and records**

<Section effective until Jan. 23, 2013. See also, section effective Jan. 23, 2013.>

**(a) General rule.**--All files and records of the court in a proceeding under this chapter are open to inspection only by:

- (1) The judges, officers and professional staff of the court.
- (2) The parties to the proceeding and their counsel and representatives, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court.
- (3) A public or private agency or institution providing supervision or having custody of the child under order of the court.
- (4) A court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to a proceeding under this chapter.
- (5) A judge or issuing authority for use in determining bail, provided that such inspection is limited to orders of delinquency adjudications and dispositions and petitions relating thereto, orders resulting from disposition review hearings and histories of bench warrants and escapes.
- (6) The Administrative Office of Pennsylvania Courts.
  - (6.1) The judges, officers and professional staff of courts of other jurisdictions when necessary for the discharge of their official duties.
  - (6.2) Officials of the Department of Corrections or a State Correctional Institution or other penal institution to which an individual who was previously adjudicated delinquent in a proceeding under this chapter has been committed, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court.
  - (6.3) A parole board, court or county probation official in considering an individual's parole or in exercising supervision over any individual who was previously adjudicated delinquent in a proceeding under this chapter, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court.
  - (6.4) The board for use in completing assessments.
- (7) With leave of court, any other person or agency or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

**(b) Public availability.**--

- (1) The contents of court records and files concerning a child shall not be disclosed to the public unless any of the following apply:
  - (i) The child has been adjudicated delinquent by a court as a result of an act or acts committed:
    - (A) when the child was 14 years of age or older and the conduct would be considered a felony if committed by an adult; or

(B) when the child was 12 or 13 years of age and the conduct would have constituted one or more of the following offenses if committed by an adult:

(I) Murder.

(II) Voluntary manslaughter.

(III) Aggravated assault as defined in [18 Pa.C.S. § 2702\(a\)\(1\) or \(2\)](#) (relating to aggravated assault).

(IV) Arson as defined in [18 Pa.C.S. § 3301\(a\)\(1\)](#) (relating to arson and related offenses).

(V) Involuntary deviate sexual intercourse.

(VI) Kidnapping.

(VII) Rape.

(VIII) Robbery as defined in [18 Pa.C.S. § 3701\(a\)\(1\)\(i\), \(ii\) or \(iii\)](#) (relating to robbery).

(IX) Robbery of motor vehicle.

(X) Attempt or conspiracy to commit any of the offenses in this subparagraph.

(ii) A petition alleging delinquency has been filed alleging that the child has committed an act or acts subject to a hearing pursuant to [section 6336\(e\)](#) (relating to conduct of hearings) and the child previously has been adjudicated delinquent by a court as a result of an act or acts committed:

(A) when the child was 14 years of age or older and the conduct would be considered a felony if committed by an adult; or

(B) when the child was 12 or 13 years of age and the conduct would have constituted one or more of the following offenses if committed by an adult:

(I) Murder.

(II) Voluntary manslaughter.

(III) Aggravated assault as defined in [18 Pa.C.S. § 2702\(a\)\(1\) or \(2\)](#).

(IV) Arson as defined in [18 Pa.C.S. § 3301\(a\)\(1\)](#).

(V) Involuntary deviate sexual intercourse.

(VI) Kidnapping.

(VII) Rape.

(VIII) Robbery as defined in [18 Pa.C.S. § 3701\(a\)\(1\)\(i\), \(ii\) or \(iii\)](#).

(IX) Robbery of motor vehicle.

(X) Attempt or conspiracy to commit any of the offenses in this subparagraph.

(2) If the conduct of the child meets the requirements for disclosure as set forth in paragraph (1), then the court shall disclose the name, age and address of the child, the offenses charged and the disposition of the case. The judge who adjudicates a child delinquent shall specify the particular offenses and counts thereof which the child is found to have committed, and such information shall be inserted on any court or law enforcement records or files disclosed to the public as provided for in this section or in [section 6308\(b\)\(2\)](#) (relating to law enforcement records).

#### CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended [1995, Feb. 22, P.L. 959, No. 1 \(Spec. Sess. No. 1\), § 1](#), imd. effective; [2000, Dec. 20, P.L. 946, No. 129, § 2](#), effective in 60 days; [2002, Dec. 9, P.L. 1705, No. 215, § 3](#), effective in 60 days; [2003, Aug. 14, P.L. 97, No. 21, § 2](#), effective Feb. 10, 2004; [2006, July 7, P.L. 378, No. 81, § 3](#), effective in 7 days [July 14, 2006].

#### OFFICIAL COMMENT

Source: Derived from act of December 6, 1972 (No. 333), § 37 ([11 P.S. § 50-334](#)).

#### HISTORICAL AND STATUTORY NOTES

The 1995 amendment inserted cl. (5) and renumbered former cls. (5) and (6) to cls. (6) and (7).

#### Act 2006-81 legislation

Act 2006-81, § 3, designated existing text as subsec. (a) and inserted subsec. heading, and added subsec. (b).

Section 5 of 2006, July 7, P.L. 378, No. 81, effective in 7 days [July 14, 2006], provides that this act shall apply to all actions instituted on or after the effective date of this act.

#### 2000 Legislation

Act 2000-129 added par. (6.1).

#### Act 2002-215 legislation

Act 2002-215, § 3, added pars. (6.2) and (6.3).

#### Act 2003-21 legislation

Act 2003-21, § 2, added par. (6.4).

#### Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 37 ([11 P.S. § 50-334](#)).

## **§ 6308. Law enforcement records**

**(a) General rule.**--Law enforcement records and files concerning a child shall be kept separate from the records and files of arrests of adults. Unless a charge of delinquency is transferred for criminal prosecution under [section 6355](#) (relating to transfer to criminal proceedings), the interest of national security requires, or the court otherwise orders in the interest of the child, the records and files shall not be open to public inspection or their contents disclosed to the public except as provided in subsection (b); but inspection of the records and files is permitted by:

- (1) The court having the child before it in any proceeding.
- (2) Counsel for a party to the proceeding.
- (3) The officers of institutions or agencies to whom the child is committed.
- (4) Law enforcement officers of other jurisdictions when necessary for the discharge of their official duties.
- (5) A court in which the child is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him.

### **(b) Public availability.**--

(1) The contents of law enforcement records and files concerning a child shall not be disclosed to the public unless any of the following apply:

(i) The child has been adjudicated delinquent by a court as a result of an act or acts committed:

(A) when the child was 14 years of age or older and the conduct would be considered a felony if committed by an adult; or

(B) when the child was 12 or 13 years of age and the conduct would have constituted one or more of the following offenses if committed by an adult:

(I) Murder.

(II) Voluntary manslaughter.

(III) Aggravated assault as defined in [18 Pa.C.S. § 2702\(a\)\(1\) or \(2\)](#) (relating to aggravated assault).

(IV) Arson as defined in [18 Pa.C.S. § 3301\(a\)\(1\)](#) (relating to arson and related offenses).

(V) Involuntary deviate sexual intercourse.

(VI) Kidnapping.

(VII) Rape.

(VIII) Robbery as defined in [18 Pa.C.S. § 3701\(a\)\(1\)\(i\), \(ii\) or \(iii\)](#) (relating to robbery).

(IX) Robbery of motor vehicle.

(X) Attempt or conspiracy to commit any of the offenses in this subparagraph.

(ii) A petition alleging delinquency has been filed alleging that the child has committed an act or acts subject to a hearing pursuant to [section 6336\(e\)](#) (relating to conduct of hearings) and the child previously has been adjudicated delinquent by a court as a result of an act or acts committed:

(A) when the child was 14 years of age or older and the conduct would be considered a felony if committed by an adult; or

(B) when the child was 12 or 13 years of age and the conduct would have constituted one or more of the following offenses if committed by an adult:

(I) Murder.

(II) Voluntary manslaughter.

(III) Aggravated assault as defined in [18 Pa.C.S. § 2702\(a\)\(1\) or \(2\)](#).

(IV) Arson as defined in [18 Pa.C.S. § 3301\(a\)\(1\)](#).

(V) Involuntary deviate sexual intercourse.

(VI) Kidnapping.

(VII) Rape.

(VIII) Robbery as defined in [18 Pa.C.S. § 3701\(a\)\(1\)\(i\), \(ii\) or \(iii\)](#).

(IX) Robbery of motor vehicle.

(X) Attempt or conspiracy to commit any of the offenses in this subparagraph.

(2) If the conduct of the child meets the requirements for disclosure as set forth in paragraph (1), then the law enforcement agency shall disclose the name, age and address of the child, the offenses charged and the disposition of the case.

**(c) Fingerprints and photographs.--**

(1) Law enforcement officers shall have the authority to take or cause to be taken the fingerprints or photographs, or both, of any child who is alleged to have committed an act designated as a misdemeanor or felony under the laws of this Commonwealth or of another state if the act occurred in that state or under Federal law. If a child is found to be a delinquent child pursuant to [section 6341](#) (relating to adjudication) on the basis of an act designated as a misdemeanor or felony, or the child's case is transferred for criminal prosecution pursuant to [section 6355](#) (relating to transfer to criminal proceedings), the law enforcement agency that alleged the child to be a delinquent child shall take or cause to be taken the fingerprints and photographs of the child, if not previously taken pursuant to this case, and ensure that these records are forwarded to the central repository pursuant to [section 6309\(c\)](#) (relating to juvenile history record information). If a child was alleged to be delinquent by other than a law enforcement agency, the court shall direct the juvenile probation department to ensure that the delinquent child's fingerprints and photographs are taken by a law enforcement agency.

(2) Fingerprint and photographic records may be disseminated to law enforcement officers of other jurisdictions, the Pennsylvania State Police and the Federal Bureau of Investigation and may be used for investigative purposes.

(3) Fingerprints and photographic records of children shall be kept separately from adults and shall be immediately destroyed upon notice of the court as provided under [section 6341\(a\)](#) (relating to adjudication) by all persons and agencies having these records if the child is not adjudicated delinquent or not found guilty in a criminal proceeding for reason of the alleged acts.

**(d) Pennsylvania State Police registry.--**

(1) The contents of law enforcement records and files concerning a child shall not be disclosed to the public except if the child is 14 years of age or older at the time of the alleged conduct and if any of the following apply:

(i) The child has been adjudicated delinquent by a court as a result of any offense enumerated in [18 Pa.C.S. § 6105](#) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms).

(ii) A petition alleging delinquency has been filed by a law enforcement agency alleging that the child has committed any offense enumerated in [18 Pa.C.S. § 6105](#) and the child previously has been adjudicated delinquent by a court as a result of an act or acts which included the elements of one of such crimes.

(iii) Deleted.

(2) Repealed. [1995, Nov. 22, P.L. 621, No. 66, § 10.](#)

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 22, effective June 27, 1978; 1980, Feb. 29, P.L. 36, No. 12, § 1, effective in 60 days; 1981, June 26, P.L. 123, No. 41, § 2, effective in 60 days; 1986, Dec. 11, P.L. 1521, No. 165, § 5, effective in 60 days; [1989, Dec. 22, P.L. 727, No. 99, § 1](#), imd. effective; [1995, March 15, P.L. 972, No. 6 \(Spec. Sess. No. 1\), § 1](#), effective in 60 days; [1995, June 13, P.L. 1024, No. 17 \(Spec. Sess. No. 1\), § 10](#), effective in 120 days. Affected [1995, Nov. 22, P.L. 621, No. 66, § 10](#), imd. effective; [1996, May 22, P.L. 300, No. 46, § 1](#), imd. effective; [1998, Jan. 27, P.L. 20, No. 3, § 1](#), effective in 60 days; [2004, Nov. 29, P.L. 1364, No. 176, § 1](#), imd. effective; [2006, July 7, P.L. 378, No. 81, § 3](#), effective in 7 days [July 14, 2006].

OFFICIAL COMMENT

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 38 ([11 P.S. § 50-335](#)).

HISTORICAL AND STATUTORY NOTES

Act No. 6 of 1995 Special Session No. 1, at the beginning of subsec. (a), deleted "Except as provided in section 6309 (relating to juvenile history record information), the"; in subsec. (b), deleted cl. (iii); and rewrote subsec. (c), which read:

"Fingerprints and photographs.--

"(1) Law enforcement officers shall have the authority to take or cause to be taken the fingerprints or photographs, or both, of any child who is alleged to have committed a delinquent act that, but for the application of this chapter, would constitute a felony or a violation of 18 Pa.C.S. Ch. 61 Subch. A (relating to uniform firearms act).

“(2) Fingerprint and photographic records may be disseminated to law enforcement officers of other jurisdictions, the Pennsylvania State Police and the Federal Bureau of Investigation if a child has, on the basis of a felony or a violation of 18 Pa.C.S. Ch. 61 Subch. A, been adjudicated delinquent or found guilty in a criminal proceeding.

“(3) Fingerprints and photographic records of children shall be immediately destroyed by all persons and agencies having these records if the child is not adjudicated delinquent or not found guilty in a criminal proceeding for reason of the alleged acts.”

Act No. 17 of 1995 Special Session No. 1 added subsec. (d).

Section 10 of Act 1995, Nov. 22, P.L. 621, No. 66, repealed as much of subs. (d)(1)(i) and (d)(1)(ii) as read “an act or acts which constitute a crime of violence as defined in [18 Pa.C.S. § 6102](#) (relating to definitions) or”, and repealed subd. (d)(2). Repealed subd. (d)(2) provided:

“(d) Pennsylvania State Police registry.--”

“(2) Notwithstanding any provision of this section, the contents of law enforcement records and files concerning any child adjudicated delinquent for the commission of any criminal activity described in paragraph (1) shall be recorded in the registry of the Pennsylvania State Police for the limited purposes of 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles).”

The 1996 amendment, in subsec. (d), deleted par. (1)(iii).

The 1998 amendment, in par. (1) of subsec. (c), added the second sentence.

Act 2004-176 legislation

Act 2004-176, § 1, rewrote subsec. (b)(1) which prior thereto read:

“(1) The contents of law enforcement records and files concerning a child shall not be disclosed to the public except if the child is 14 or more years of age at the time of the alleged conduct and if any of the following apply:

“(i) The child has been adjudicated delinquent by a court as a result of an act or acts which include the elements of rape, kidnapping, murder, robbery, arson, burglary, violation of section 13(a)(30) of the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or other act involving the use of or threat of serious bodily harm.

“(ii) A petition alleging delinquency has been filed by a law enforcement agency alleging that the child has committed an act or acts which include the elements of rape, kidnapping, murder, robbery, arson, burglary, violation of section 13(a)(30) of The Controlled Substance, Drug, Device and Cosmetic Act, or other act involving the use of or threat of serious bodily harm and the child previously has been adjudicated delinquent by a court as a result of an act or acts which included the elements of one of such crimes.”

Section 4 of 2004, Nov. 29, P.L. 1364, No. 176, imd. effective, provides that “[a]ll acts and parts of acts are repealed insofar as they are inconsistent with this act.”

Act 2006-81 legislation

Act 2006-81, § 3, in subsec. (b)(1)(ii), deleted “by a law enforcement agency” following “has been filed”, and rewrote subsec. (b)(2), which prior thereto read:

“(2) If the conduct of the child meets the requirements for disclosure as set forth in paragraph (1), then the court or law enforcement agency, as the case may be, shall disclose the name, age and address of the child, the offenses charged and the disposition of the case. The master or judge who adjudicates a child delinquent shall specify the particular offenses and counts thereof which the child is found to have committed and such information shall be inserted on any law enforcement records or files disclosed to the public as provided for in this section.”

Section 5 of 2006, July 7, P.L. 378, No. 81, effective in 7 days [July 14, 2006], provides that this act shall apply to all actions instituted on or after the effective date of this act.

Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 38 ([11 P.S. § 50-335](#)).

## § 6309. Juvenile history record information

**(a) Applicability of Criminal History Record Information Act.**--Except for [18 Pa.C.S. §§ 9105](#) (relating to other criminal justice information), 9112(a) and (b) (relating to mandatory fingerprinting), 9113 (relating to disposition reporting by criminal justice agencies) and 9121(b) (relating to general regulations), the remaining provisions of 18 Pa.C.S. Ch. 91 (relating to criminal history record information) shall apply to all alleged delinquents and adjudicated delinquents whose fingerprints and photographs are taken pursuant to [section 6308\(c\)](#) (relating to law enforcement records) and to any juvenile justice agency which collects, maintains, disseminates or receives juvenile history record information. The disclosure to the public of the contents of law enforcement records and files concerning a child shall be governed by [section 6308\(b\)](#).

**(b) Central repository.**--The Pennsylvania State Police shall establish a Statewide central repository of fingerprints, photographs and juvenile history record information of alleged delinquents and adjudicated delinquents whose fingerprints and photographs are taken pursuant to [section 6308\(c\)](#).

**(c) Fingerprints and photographs.**--The arresting authority shall ensure that the fingerprints and photographs of alleged and adjudicated delinquents whose fingerprints and photographs have been taken by the arresting authority pursuant to [section 6308\(c\)](#) are forwarded to the central repository as required by the Pennsylvania State Police.

**(d) Disposition reporting.**--The division or judge of the court assigned to conduct juvenile hearings shall, within seven days after disposition of a case where the child has been alleged to be delinquent, notify the arresting authority of the disposition of the case. In addition, it shall collect and submit to the Juvenile Court Judges' Commission the disposition of cases where a child has been alleged to be delinquent, including the disposition of cases resulting in adjudication of delinquency which shall be submitted for inclusion in the central repository within 90 days of an adjudication of delinquency as required by the Juvenile Court Judges' Commission.

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

"Criminal history record information." In addition to the meaning in [18 Pa.C.S. § 9102](#) (relating to definitions), the term includes the meaning of juvenile history record information as defined in this subsection.

"Juvenile history record information." Information collected pursuant to this section concerning alleged delinquents and adjudicated delinquents whose fingerprints and photographs are taken pursuant to [section 6308\(c\)](#) and arising from the filing of a petition of delinquency, consisting of identifiable descriptions, dates and notations of arrests or other delinquency charges and any adjudication of delinquency or preadjudication disposition other than dismissal arising therefrom. This information shall also include the last known location and the juvenile court jurisdiction status of each adjudicated delinquent. Juvenile history record information shall not include intelligence information, investigative information, treatment information, including medical and psychiatric information, caution indicator information, modus operandi information, wanted persons information, stolen property information, missing persons information, employment history information, personal history information or presentence investigation information.

CREDIT(S)

1986, Dec. 11, P.L. 1521, No. 165, § 6, effective in 60 days. Amended [1995, March 15, P.L. 972, No. 6 \(Spec. Sess. No. 1\), § 1](#), effective in 60 days; [1995, Nov. 17, P.L. 1115, No. 30 \(Spec.](#)

[Sess. No. 1\), § 1](#), effective in 60 days; [1996, May 22, P.L. 300, No. 46, § 1](#), imd. effective; [2000, Dec. 20, P.L. 946, No. 129, § 3](#), effective in 60 days.

#### HISTORICAL AND STATUTORY NOTES

Act 1995, March 15, No. 6 (Spec. Sess. No. 1), throughout the section, substituted "alleged delinquents" for "dangerous juvenile offenders"; in subsec. (b), deleted the former last sentence, which read: "This repository may be combined with a repository of similar information on adult offenders, as provided in 18 Pa.C.S. Ch. 91."; and rewrote subsec. (c) and deleted subsec. (d), which read:

"(c) Fingerprints and photographs.--The court of proper jurisdiction shall ensure that the fingerprints and photographs of a dangerous juvenile offender whose fingerprints and photographs which have been taken by an arresting authority pursuant to section 6308(c) are forwarded to the central repository within 48 hours after a dangerous juvenile offender has been adjudicated delinquent.

"(d) Disposition reporting.--The division or judge of the court assigned to conduct juvenile hearings shall collect and submit juvenile history record information to the central repository within 90 days of an adjudication of delinquency. The division or judge of the court assigned to conduct juvenile hearings shall continually update juvenile history record information as required by the Juvenile Court Judges' Commission."

Act 1995, Nov. 17, No. 30 (Spec. Sess. No. 1), in subsec. (c), added "as required by the Pennsylvania State Police" at the end of the subsection; and added subsec. (d).

The 1996 amendment, in subsec. (a), inserted the reference to [18 Pa.C.S. § 9121\(b\)](#) (relating to general regulations), and added the last sentence.

#### 2000 Legislation

Act 2000-129, in subsec. (a), (b), and (c), extended application to adjudicated delinquents and, in subsec. (d), rewrote the second sentence, which formerly read:

"In addition, it shall collect and submit the disposition of cases resulting in adjudication of delinquency for inclusion in the central repository within 90 days of an adjudication of delinquency as required by the Juvenile Court Judges' Commission."

Act 2000-129 also, in subsec. (e) in the definition of "juvenile history record information", rewrote the first sentence and inserted the second sentence. The first sentence formerly read:

"Information collected pursuant to this section concerning alleged delinquents whose fingerprints and photographs are taken pursuant to section 6308(c) and arising from the filing of a petition of delinquency, consisting of identifiable descriptions, dates and notations of arrests, indictments, information or other delinquency charges and any adjudication of delinquency, informal adjustment, consent decree or preadjudication disposition other than dismissal arising therefrom."

## **§ 6310. Parental participation**

**(a) General rule.**--In any proceeding under this chapter, a court may order a parent, guardian or custodian to participate in the treatment, supervision or rehabilitation of a child, including, but not limited to, community service, restitution, counseling, treatment and education programs.

**(b) Presence at proceedings.**--The court may, when the court determines that it is in the best interests of the child, order a parent, guardian or custodian of a child to be present at and to bring the child to any proceeding under this chapter.

**(c) Contempt.**--A person who, without good cause, fails to comply with an order issued under this section may be found in contempt of court. The court may issue a bench warrant for any parent, guardian or custodian who, without good cause, fails to appear at any proceeding.

**(d) Intent.**--The General Assembly hereby declares that every parent, guardian or custodian of a child who is the subject of a proceeding under this chapter and a court-ordered program under this chapter should attend the proceeding and participate fully in the program.

**(e) Limitation.**--Nothing in this section shall be construed to create a right of a child to have his parent, guardian or custodian present at a proceeding under this chapter or participate in a court-ordered program.

CREDIT(S)

[1995, Nov. 17, P.L. 1109, No. 28 \(Spec. Sess. No. 1\), § 1](#), effective in 60 days.

## **§ 6311. Guardian ad litem for child in court proceedings**

**(a) Appointment.**--When a proceeding, including a master's hearing, has been initiated alleging that the child is a dependent child under paragraph (1), (2), (3), (4) or (10) of the definition of "dependent child" in [section 6302](#) (relating to definitions), the court shall appoint a guardian ad litem to represent the legal interests and the best interests of the child. The guardian ad litem must be an attorney at law.

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

- (1) Meet with the child as soon as possible following appointment pursuant to [section 6337](#) (relating to right to counsel) and on a regular basis thereafter in a manner appropriate to the child's age and maturity.
- (2) On a timely basis, be given access to relevant court and county agency records, reports of examination of the parents or other custodian of the child pursuant to this chapter and medical, psychological and school records.
- (3) Participate in all proceedings, including hearings before masters, and administrative hearings and reviews to the degree necessary to adequately represent the child.
- (4) Conduct such further investigation necessary to ascertain the facts.
- (5) Interview potential witnesses, including the child's parents, caretakers and foster parents, examine and cross-examine witnesses, and present witnesses and evidence necessary to protect the best interests of the child.
- (6) At the earliest possible date, be advised by the county agency having legal custody of the child of:
  - (i) any plan to relocate the child or modify custody or visitation arrangements, including the reasons therefor, prior to the relocation or change in custody or visitation; and
  - (ii) any proceeding, investigation or hearing under 23 Pa.C.S. Ch. 63 (relating to child protective services) or this chapter directly affecting the child.
- (7) Make specific recommendations to the court relating to the appropriateness and safety of the child's placement and services necessary to address the child's needs and safety.
- (8) Explain the proceedings to the child to the extent appropriate given the child's age mental condition and emotional condition.
- (9) Advise the court of the child's wishes to the extent that they can be ascertained and present to the court whatever evidence exists to support the child's wishes. When appropriate because of the age or mental and emotional condition of the child, determine to the fullest extent possible the wishes of the child and communicate this information to the court. A difference between the child's wishes under this paragraph and the recommendations under paragraph (7) shall not be considered a conflict of interest for the guardian ad litem.

CREDIT(S)

[2000, May 10, P.L. 74, No. 18, § 1](#), effective in 60 days.

SUSPENDED IN PART

<For purposes of dependency proceedings, [Pa.R.J.C.P. No. 1800\(3\)](#) suspends 42 Pa.C.S.A. § 6311(b)(9) insofar as inconsistent with Pa.R.J.C.P. Nos. 1151 and 1154, which allow for appointment of separate legal counsel and a guardian ad litem when the guardian ad litem determines there is a conflict of interest between the child's legal interest and best interest.>

**§ 6321. Commencement of proceedings**

**(a) General rule.**--A proceeding under this chapter may be commenced:

(1) By transfer of a case as provided in [section 6322](#) (relating to transfer from criminal proceedings).

(2) By the court accepting jurisdiction as provided in [section 6362](#) (relating to disposition of resident child received from another state) or accepting supervision of a child as provided in [section 6364](#) (relating to supervision under foreign order).

(2.1) By taking a child into custody in accordance with the provisions of [section 6324](#) (relating to taking into custody).

(3) The other cases by the filing of a petition as provided in this chapter. The petition and all other documents in the proceeding shall be entitled "In the interest of ....., a minor," and shall be captioned and docketed as provided by general rule.

**(b) Venue.**--A proceeding under this chapter may be commenced:

(1) In the county in which the child resides.

(2) If delinquency is alleged, in the county in which the acts constituting the alleged delinquency occurred.

(3) If dependency is alleged, in the county in which the child is present when it is commenced.

**(c) Transfer to another court within this Commonwealth.**--

(1) If the child resides in a county of this Commonwealth and the proceeding is commenced in a court of another county, the court, on motion of a party or on its own motion made after the adjudicatory hearing or at any time prior to final disposition, may transfer the proceeding to the county of the residence of the child for further action. Like transfers may be made if the residence of the child changes during the proceeding. The proceeding may be transferred if the child has been adjudicated delinquent and other proceedings involving the child are pending in the court of the county of his residence.

(2) Certified copies of all legal and social documents and records pertaining to the case on file with the court shall accompany the transfer.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 22, effective June 27, 1978; 1980, Feb. 29, P.L. 36, No. 12, § 1, effective in 60 days.

SUSPENDED IN PART

<For purposes of delinquency proceedings, [Pa.R.J.C.P. No. 800](#) suspends 42 Pa.C.S.A. § 6321 insofar as inconsistent with [Pa.R.J.C.P. No. 200](#), which provides the submission of a written allegation shall commence a proceeding.>

OFFICIAL COMMENT

**Subsection (a):** For docketing and filing, see order of Supreme Court, *supra*, Comment to Section 2(8) [[42 Pa.C.S. § 6302](#)--"court"].

**Subsection (b):** This section, derived from Section 11 of the Uniform Act, reflects the concept that the county where the child resides is the community primarily concerned with his welfare.

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), §§ 6, 9 and 10 ([11 P.S. §§ 50-302](#), [50-306](#) and [50-307](#)) after substituting references to §§ 32 and 34 for erroneous references to §§ 33 and 35.

#### HISTORICAL AND STATUTORY NOTES

##### Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.

1972, Dec. 6, P.L. 1464, No. 333, §§ 6, 9 and 10 ([11 P.S. §§ 50-302](#), [50-306](#) and [50-307](#)).

## § 6322. Transfer from criminal proceedings

**(a) General rule.**--Except as provided in [75 Pa.C.S. § 6303](#) (relating to rights and liabilities of minors) or in the event the child is charged with murder or any of the offenses excluded by paragraph (2)(ii) or (iii) of the definition of **"delinquent act"** in [section 6302](#) (relating to definitions) or has been found guilty in a criminal proceeding, if it appears to the court in a criminal proceeding that the defendant is a child, this chapter shall immediately become applicable, and the court shall forthwith halt further criminal proceedings, and, where appropriate, transfer the case to the division or a judge of the court assigned to conduct juvenile hearings, together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. If it appears to the court in a criminal proceeding charging murder or any of the offenses excluded by paragraph (2)(ii) or (iii) of the definition of **"delinquent act"** in [section 6302](#), that the defendant is a child, the case may similarly be transferred and the provisions of this chapter applied. In determining whether to transfer a case charging murder or any of the offenses excluded from the definition of **"delinquent act"** in [section 6302](#), the child shall be required to establish by a preponderance of the evidence that the transfer will serve the public interest. In determining whether the child has so established that the transfer will serve the public interest, the court shall consider the factors contained in [section 6355\(a\)\(4\)\(iii\)](#) (relating to transfer to criminal proceedings).

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

**(c) Expedited review of transfer orders.**--The transfer order shall be subject to the same expedited review applicable to orders granting or denying release or modifying the conditions of release prior to sentence, as provided in [Rule 1762 of the Pennsylvania Rules of Appellate Procedure](#).

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

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

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 10(85), effective June 27, 1978; 1986, Dec. 11, P.L. 1521, No. 165, § 7, effective in 60 days; [1995, Nov. 17, P.L. 1127, No. 33 \(Spec. Sess. No. 1\), § 4](#), effective in 120 days.

OFFICIAL COMMENT

**Subsection (a):** This section, derived from Section 9 of the Uniform Act, authorizes transfers where the defendant is a "child," see Section 2 [[42 Pa.C.S. § 6302](#)]; transfers are mandatory where the child was under the age of 18, and permissive where the child was under 21 but over 18 at the time of the alleged delinquent act. The latter authority should be exercised by the court

only in those cases where to continue the criminal prosecution would be manifestly unjust; the former authority requiring the exclusive application of this act, is subject to retransfer proceedings initiated by the district attorney pursuant to Section 28 [[42 Pa.C.S. § 6355](#)]. Of course, this section does not apply to a criminal prosecution initiated by the transfer proceedings under Section 28 [[42 Pa.C.S. § 6355](#)].

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 7 ([11 P.S. § 50-303](#)).

#### HISTORICAL AND STATUTORY NOTES

The 1995 amendment rewrote this section, which formerly read:

“(a) General rule.--Except as provided in [75 Pa.C.S. § 6303](#) (relating to rights and liabilities of minors) or in the event the child is charged with murder or has been found guilty in a criminal proceeding, if it appears to the court in a criminal proceeding that the defendant is a child, this chapter shall immediately become applicable, and the court shall forthwith halt further criminal proceedings, and, where appropriate, transfer the case to the division or a judge of the court assigned to conduct juvenile hearings, together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. If it appears to the court in a criminal proceeding charging murder, that the defendant is a child, the case may similarly be transferred and the provisions of this chapter applied. In determining whether to transfer a case charging murder, the court shall apply the criteria in section 6355(a)(4)(iii)(A) (relating to transfer to criminal proceedings). However, the child shall be required to show the court that the child is amenable to treatment, supervision or rehabilitation as a juvenile by meeting the criteria listed in section 6355(a)(4)(iii)(A). If the court orders the case to be transferred to the division or a judge of the court assigned to conduct juvenile hearings, the defendant shall be taken forthwith to the probation officer or to a place of detention designated by the court or released to the custody of his parent, guardian, custodian, or other person legally responsible for him, to be brought before the court at a time to be designated. The accusatory pleading may serve in lieu of a petition otherwise required by this chapter, unless the court directs the filing of a petition.

“(b) Transfer of convicted criminal cases.--If in a criminal proceeding charging murder the child is convicted of a crime less than murder, the case may be transferred for disposition to the division or a judge of the court assigned to conduct juvenile hearings. If, in a criminal proceeding resulting from a transfer under section 6355(a), the child is convicted of a lesser charge which is classified as a misdemeanor, the case may be transferred for disposition to the division or a judge of the court assigned to conduct juvenile hearings.”

Section 8 of Act 1995, P.L. 1127, No. 33 (Spec. Sess. No. 1) provides that the act shall apply to all delinquent acts committed on or after the effective date of the act.

Prior Laws:

1972, Dec. 6 P.S. 1464, No. 333, § 7 (11 P.S. § 50--[303](#)).

## **§ 6323. Informal adjustment**

### **(a) General rule.--**

(1) Before a petition is filed, the probation officer or other officer of the court designated by it, subject to its direction, shall, in the case of a dependent child where the jurisdiction of the court is premised upon the provisions of paragraph (1), (2), (3), (4), (5) or (7) of the definition of "dependent child" in [section 6302](#) (relating to definitions) and if otherwise appropriate, refer the child and his parents to any public or private social agency available for assisting in the matter. Upon referral, the agency shall indicate its willingness to accept the child and shall report back to the referring officer within three months concerning the status of the referral.

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

(3) The agency may return the referral to the probation officer or other officer for further informal adjustment if it is in the best interests of the child.

**(b) Counsel and advice.--**Such social agencies and the probation officer or other officer of the court may give counsel and advice to the parties with a view to an informal adjustment if it appears:

(1) counsel and advice without an adjudication would be in the best interest of the public and the child;

(2) the child and his parents, guardian, or other custodian consent thereto with knowledge that consent is not obligatory; and

(3) in the case of the probation officer or other officer of the court, the admitted facts bring the case within the jurisdiction of the court.

**(c) Limitation on duration of counsel and advice.--**The giving of counsel and advice by the probation or other officer of the court shall not extend beyond six months from the day commenced unless extended by an order of court for an additional period not to exceed three months.

**(d) No detention authorized.--**Nothing contained in this section shall authorize the detention of the child.

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

**(f) Terms and conditions.--**The terms and conditions of an informal adjustment may include payment by the child of reasonable amounts of money as costs, fees or restitution, including a supervision fee and contribution to a restitution fund established by the president judge of the court of common pleas pursuant to [section 6352\(a\)\(5\)](#) (relating to disposition of delinquent child).

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 22, effective June 27, 1978; [2004, Nov. 30, P.L. 1703, No. 217, § 3](#), imd. effective.

#### SUSPENDED IN PART

<For purposes of delinquency proceedings, [Pa.R.J.C.P. No. 800](#) suspends 42 Pa.C.S.A. § 6323(a)(2) insofar as inconsistent with [Pa.R.J.C.P. No. 312](#), which provides that only an alleged delinquent child may be referred for an informal adjustment because the filing of informal adjustment shall occur prior to the filing of a petition.>

#### OFFICIAL COMMENT

This section is derived from Section 10 of the Uniform Act. Subsection (a) contemplates that in most cases a child alleged to be delinquent will be referred to a public or private social agency for evaluation and assistance prior to the institution of formal proceedings under this act. It does, however, authorize a probation officer to file a petition immediately in delinquency cases such as those of extreme seriousness, or where repeated misbehavior would require immediate detention and hearing.

Subsections (b) and (c) describe and limit the "informal adjustment" procedures, attempting to avoid possible abuses resulting from participation by the child in an informal adjustment as a product of implicit compulsion.

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 8 ([11 P.S. § 50-304](#)).

#### HISTORICAL AND STATUTORY NOTES

Act 2004-217 legislation

Act 2004-217, § 3, added subsec. (f).

Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.

1972, Dec. 6, P.L. 1464, No. 333, § 8 ([11 P.S. § 50-304](#)).

## § 6324. Taking into custody

A child may be taken into custody:

- (1) Pursuant to an order of the court under this chapter. Prior to entering a protective custody order removing a child from the home of the parent, guardian or custodian, the court must determine that to allow the child to remain in the home is contrary to the welfare of the child.
- (2) Pursuant to the laws of arrest.
- (3) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child is suffering from illness or injury or is in imminent danger from his surroundings, and that his removal is necessary.
- (4) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child has run away from his parents, guardian, or other custodian.
- (5) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child has violated conditions of his probation.

### CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended [2002, Dec. 9, P.L. 1705, No. 215, § 3](#), effective in 60 days.

### SUSPENDED IN PART

<For purposes of dependency proceedings, [Pa.R.J.C.P. No. 1800\(6\)](#) suspends 42 Pa.C.S.A. § 6324 insofar as inconsistent with [Pa.R.J.C.P. No. 1202](#), which provides for police officers taking a child into custody.>

### OFFICIAL COMMENT

This section is derived from Section 13 of the Uniform Act; subsection (b) of Section 13 of the Uniform Act, which specifically provides that the taking of a child into custody is not an arrest except for purposes of determining its constitutional validity, was omitted as unnecessary under existing law.

Source: Reenactment of act of December 6, 1972 (No. 333), § 11 ([11 P.S. § 50-308](#)).

### HISTORICAL AND STATUTORY NOTES

Act 2002-215 legislation

Act 2002-215, § 3, in par. (1), added the second sentence.

Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 11, ([11 P.S. § 50-308](#)).

## **§ 6325. Detention of child**

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

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

### OFFICIAL COMMENT

This section and Sections 13, 14 and 15 [[42 Pa.C.S. §§ 6326, 6327, 6331](#) and [6332](#)], derived from Sections 14, 15, 16 and 17 of the Uniform Act, prescribe the conditions for prehearing detention. The restrictions imposed upon custodial detention reflect the absence of a "sworn complaint" and the absence of a right to immediate bail, constitutional safeguards not applicable in proceedings under this act.

Source: Reenactment of act of December 6, 1972 (No. 333), § 12 ([11 P.S. § 50-309](#)).

### HISTORICAL AND STATUTORY NOTES

Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 12 ([11 P.S. § 50-309](#)).

## **§ 6326. Release or delivery to court**

**(a) General rule.**--A person taking a child into custody, with all reasonable speed and without first taking the child elsewhere, shall:

- (1) notify the parent, guardian or other custodian of the apprehension of the child and his whereabouts;
- (2) release the child to his parents, guardian, or other custodian upon their promise to bring the child before the court when requested by the court, unless his detention or shelter care is warranted or required under [section 6325](#) (relating to detention of child); or
- (3) bring the child before the court or deliver him to a detention or shelter care facility designated by the court or to a medical facility if the child is believed to suffer from a serious physical condition or illness which requires prompt treatment. He shall promptly give written notice, together with a statement of the reason for taking the child into custody, to a parent, guardian, or other custodian and to the court.

Any temporary detention or questioning of the child necessary to comply with this subsection shall conform to the procedures and conditions prescribed by this chapter and other provisions of law.

**(b) Detention in police lockup generally prohibited.**--Unless a child taken into custody is alleged to have committed a crime or summary offense or to be in violation of conditions of probation or other supervision following an adjudication of delinquency, the child may not be detained in a municipal police lockup or cell or otherwise held securely within a law enforcement facility or structure which houses an adult lockup. A child shall be deemed to be held securely only when physically detained or confined in a locked room or cell or when secured to a cuffing rail or other stationary object within the facility.

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

- (1) the secure holding shall only be for the purpose of identification, investigation, processing, releasing or transferring the child to a parent, guardian, other custodian, or juvenile court or county children and youth official, or to a shelter care or juvenile detention center;
- (2) the secure holding shall be limited to the minimum time necessary to complete the procedures listed in paragraph (1), but in no case may such holding exceed six hours; and
- (3) if so held, a child must be separated by sight and sound from incarcerated adult offenders and must be under the continuous visual supervision of law enforcement officials or facility staff.

**(d) Conditions of detention.**--Notwithstanding other provisions of law, a child held in nonsecure custody in a building or facility which houses an adult lockup may be so held only under the following conditions:

- (1) the area where the child is held is an unlocked multipurpose area which is not designated or used as a secure detention area or is not part of a secure detention area; or, if the area is a secure booking or similar area, it is used only for processing purposes;
- (2) the child is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility;

(3) the area is limited to providing nonsecure custody only long enough for the purposes of identification, investigation, processing or release to parents or for arranging transfer to another agency or appropriate facility; and

(4) the child must be under continuous visual supervision by a law enforcement officer or other facility staff during the period of nonsecure custody.

**(e) Reports regarding children held in custody.**--Law enforcement agencies shall provide information and reports regarding children held in secure and nonsecure custody under subsections (c) and (d) as requested by the Pennsylvania Commission on Crime and Delinquency.

**(f) Enforcement of undertaking to produce child.**--If a parent, guardian, or other custodian, when requested, fails to bring the child before the court as provided in subsection (a), the court may issue its warrant directing that the child be taken into custody and brought before the court.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended [1991, June 14, P.L. 68, No. 9, § 1](#), effective in 60 days; [1998, Dec. 15, P.L. 949, No. 126, § 5](#), effective Jan. 1, 1999.

OFFICIAL COMMENT

This section requires that the parent be notified of a child's apprehension and whereabouts prior to taking him anywhere other than before the court, except in the case where the child is suffering from a physical illness which requires prompt treatment. As noted in the Comment to the Uniform Act, this section "... does not authorize police detention for questioning except for the purpose stated in subsection (a)."

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 13 ([11 P.S. § 50-310](#)).

HISTORICAL AND STATUTORY NOTES

The 1991 amendment added subsecs. (b) to (e), and designated former subsec. (b) as subsec. (f).

Act 1998-126, in subsec. (c)(1), inserted "other custodian,".

Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 13 ([11 P.S. § 50-310](#)).

## **§ 6327. Place of detention**

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

- (1) A licensed foster home or a home approved by the court.
- (2) A facility operated by a licensed child welfare agency or one approved by the court.
- (3) A detention home, camp, center or other facility for delinquent children which is under the direction or supervision of the court or other public authority or private agency, and is approved by the Department of Public Welfare.
- (4) Any other suitable place or facility, designated or operated by the court and approved by the Department of Public Welfare.

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

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

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

### **(c.1) Detention of child.**--

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

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

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

- (i) The court determines that the child is no longer seeking transfer under [section 6322](#).
- (ii) The court denies the motion filed under [section 6322](#).
- (iii) The child attains 18 years of age. This subparagraph does not apply if:
  - (A) the court has granted the motion filed under [section 6322](#); or

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

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

**(e) Detention of dependent child.--**A child alleged to be dependent may be detained or placed only in a Department of Public Welfare approved shelter care facility as stated in subsection (a)(1), (2) and (4), and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses, but may be detained in the same shelter care facilities with alleged or adjudicated delinquent children.

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

#### CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, §§ 22, 24, 26, effective June 27, 1978; [1991, June 14, P.L. 68, No. 9, § 1](#), effective in 60 days; [1996, March 29, P.L. 51, No. 17, § 2](#), imd. effective; [2000, Dec. 20, P.L. 946, No. 129, § 3](#), effective in 60 days; [2010, Oct. 27, P.L. 949, No. 96, § 2](#), imd. effective.

#### OFFICIAL COMMENT

The limitations imposed upon the place of detention reflect that this is custodial detention prior to adjudication of delinquency and, as stated in the Comment to the Uniform Act, "These provisions are designed to avoid the harm resulting from exposing children to adult criminals and the degrading effect of jails, lockups, and the like."

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 14 ([11 P.S. § 50-311](#)).

#### HISTORICAL AND STATUTORY NOTES

##### Act 1991-9 legislation

The 1991 amendment, in subsec. (f), inserted the reference to "children needing these services who have been taken into custody under section 6324 (relating to taking into custody)".

##### Act 1996-17 legislation

The 1996 amendment rewrote subsec. (c).

##### Act 2000-129 legislation

Act 2000-129, in subsec. (e) following "facilities with alleged", inserted "or adjudicated".

##### Act 2010-96 legislation

Act 2010-96, § 2, added subsec. (c.1).

Section 4(2) of 2010, Oct. 27, P.L. 949, No. 96, imd. effective, provides that “[t]he addition of 42 Pa.C.S. § 6327(c.1) shall apply to a criminal proceeding commenced on or after the effective date of this paragraph.”

Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.

1972, Dec. 6, P.L. 1464, No. 333, § 14 ([11 P.S. § 50-311](#)).

## **§ 6331. Release from detention or commencement of proceedings**

If a child is brought before the court or delivered to a detention or shelter care facility designated by the court, the intake or other authorized officer of the court shall immediately make an investigation and release the child unless it appears that his detention or shelter care is warranted or required under [section 6325](#) (relating to detention of child). The release of the child shall not prevent the subsequent filing of a petition as provided in this chapter. If he is not so released, a petition shall be promptly made and presented to the court within 24 hours or the next court business day of the admission of the child to detention or shelter care.

### CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 29, effective June 27, 1978.

### SUSPENDED IN PART

<For purposes of delinquency proceedings, [Pa.R.J.C.P. No. 800](#) suspends 42 Pa.C.S.A. § 6331 insofar as inconsistent with the filing of a petition within twenty-four hours or the next business day from the detention hearing if the juvenile is detained under [Pa.R.J.C.P. No. 242](#).>

<For purposes of dependency proceedings, [Pa.R.J.C.P. No. 1800\(7\)](#) suspends 42 Pa.C.S.A. § 6331 insofar as inconsistent with the filing of a petition within twenty-four hours or the next business day from the shelter care hearing if the child is in protective custody under Pa.R.J.C.P. Nos. 1242 and 1330(A).>

### OFFICIAL COMMENT

This section [and [42 Pa.C.S. § 6332](#)] provide the procedures for ensuring the release of the child from detention or shelter care at the earliest possible time where the hearing on the merits of the petition of alleged delinquency cannot be held immediately.

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 15(a) ([11 P.S. § 50-312\(a\)](#)).

### HISTORICAL AND STATUTORY NOTES

#### Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.  
1972, Dec. 6, P.L. 1464, No. 333, § 15(a) ([11 P.S. § 50-312\(a\)](#)).

## § 6332. Informal hearing

**(a) General rule.**--An informal hearing shall be held promptly by the court or master and not later than 72 hours after the child is placed in detention or shelter care to determine whether his detention or shelter care is required under [section 6325](#) (relating to detention of child), whether to allow the child to remain in the home would be contrary to the welfare of the child and, if the child is alleged to be delinquent, whether probable cause exists that the child has committed a delinquent act. Reasonable notice thereof, either oral or written, stating the time, place, and purpose of the hearing shall be given to the child and if they can be found, to his parents, guardian, or other custodian. Prior to the commencement of the hearing the court or master shall inform the parties of their right to counsel and to appointed counsel if they are needy persons, and of the right of the child to remain silent with respect to any allegations of delinquency. If the child is alleged to be a dependent child, the court or master shall also determine whether reasonable efforts were made to prevent such placement or, in the case of an emergency placement where services were not offered and could not have prevented the necessity of placement, whether this level of effort was reasonable due to the emergency nature of the situation, safety considerations and circumstances of the family.

**(b) Rehearing.**--If the child is not so released and a parent, guardian or other custodian has not been notified of the hearing, did not appear or waive appearance at the hearing, and files his affidavit showing these facts, the court or master shall rehear the matter without unnecessary delay and order release of the child, unless it appears from the hearing that his detention or shelter care is required under [section 6325](#).

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 29, effective June 27, 1978; 1986, Dec. 15, P.L. 1598, No. 177, § 1, effective in 60 days; [2002, Dec. 9, P.L. 1705, No. 215, § 3](#), effective in 60 days.

OFFICIAL COMMENT

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 15(b) and (c) ([11 P.S. § 50-312\(b\) and \(c\)](#) ).

HISTORICAL AND STATUTORY NOTES

Act 2002-215 legislation

Act 2002-215, § 3, in subsec. (a), substituted “, whether to allow the child to remain in the home would be contrary to the welfare of the child and, if the child is alleged to be delinquent, whether” for “and, if the child is alleged to be delinquent, that” and substituted “this level of effort was reasonable due to the emergency nature of the situation, safety considerations and circumstances of the family” for “such lack of efforts was reasonable”.

Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.

1972, Dec. 6, P.L. 1464, No. 333, § 15(b), (c) ([11 P.S. § 50-312\(b\), \(c\)](#) ).

### § 6333. Subpoena

**(a) General rule.**--Upon application of a child, parent, guardian, custodian, probation officer, district attorney, or other party to the proceedings, the court, master, or the clerk of the court shall issue, or the court or master may on its own motion issue, subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing under this chapter.

**(b) Copy to parents, guardians and custodians.--**

(1) A copy of the subpoena requiring attendance and testimony of a witness who is under 18 years of age shall be issued to the parent, guardian or other custodian of the witness in addition to the issuance of the subpoena for the witness.

(2) The court may waive issuance of the copy under paragraph (1) for cause shown in a specific case.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended [2008, Oct. 9, P.L. 1352, No. 98, § 7](#), effective in 60 days [Dec. 8, 2008].

OFFICIAL COMMENT

Source: Reenactment of act of December 6, 1972 (No. 333), § 16 ([11 P.S. § 50-313](#)).

HISTORICAL AND STATUTORY NOTES

Act 2008-98 legislation

Act 2008-98, § 7, designated the existing text as subsec. (a), and added subsec. (b).

Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 16 ([11 P.S. § 50-313](#)).

## **§ 6334. Petition**

**(a) Contents of petition.--**A petition, which shall be verified and may be on information and belief, may be brought by any person including a law enforcement officer. It shall set forth plainly:

(1) The facts which bring the child within the jurisdiction of the court and this chapter, with a statement that it is in the best interest of the child and the public that the proceeding be brought and, if delinquency is alleged, that the child is in need of treatment, supervision or rehabilitation.

(2) The name, age, and residence address, if any, of the child on whose behalf the petition is brought.

(3) The names and residence addresses, if known to the petitioner, of the parents, guardian, or custodian of the child and of the spouse, if any, of the child. If none of his parents, guardian, or custodian resides or can be found within this Commonwealth, or if their respective places of residence address are unknown, the name of any known adult relative residing within the county, or if there be none, the known adult relative residing nearest to the location of the court.

(4) If the child is in custody and, if so, the place of his detention and the time he was taken into custody.

### **(b) Aggravated circumstances.--**

(1) An allegation that aggravated circumstances exist may be brought:

(i) in a petition for dependency with regard to a child who is alleged to be a dependent child; or

(ii) in a petition for a permanency hearing with regard to a child who has been determined to be a dependent child.

(2) The existence of aggravated circumstances may be alleged by the county agency or the child's attorney. If the county agency reasonably believes that aggravated circumstances exist, it shall file the appropriate petition as soon as possible but no later than 21 days from the determination by the county agency that aggravated circumstances exist.

(3) A petition for dependency or a permanency hearing that alleges aggravated circumstances shall include a statement of the facts the county agency or the child's attorney intends to prove to support the allegation. A criminal conviction shall not be required to allege the existence of aggravated physical neglect or physical abuse resulting in serious bodily injury or sexual violence committed by the parent.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended [1998, Dec. 15, P.L. 949, No. 126, § 5](#), effective Jan. 1, 1999.

SUSPENDED IN PART

<For purposes of delinquency proceedings, [Pa.R.J.C.P. No. 800](#) suspends 42 Pa.C.S.A. § 6334 insofar as inconsistent with Pa.R.J.C.P. Nos. 231, 233 and 330, which provide for a person other than a law enforcement officer to submit a private written allegation to the juvenile probation office or an attorney for the Commonwealth, if elected for approval, and that only a juvenile probation officer or attorney for the Commonwealth may file a petition.>

<For purposes of dependency proceedings, [Pa.R.J.C.P. No. 1800\(8\)](#) suspends 42 Pa.C.S.A. § 6334 insofar as inconsistent with Pa.R.J.C.P. Nos. 1320, 1321, and 1330, which provide that the county agency may file a petition and any other person shall file an application to file a petition.>

#### OFFICIAL COMMENT

This section is derived from Sections 19, 20, and 21 of the Uniform Act. As stated in the Comments to the latter:

“The allegation that the child is in need of treatment or rehabilitation is a necessary one and, in the light of the *Gault* case, must be established if the proceedings are to retain their non-criminal character ....

“Juvenile court acts rarely have provisions for a formal answer to the petition. The parties simply appear at the hearing and state whether they admit or deny allegations. If admitted, the hearing proceeds to the disposition stage. If denied, the hearing continues to determine the facts. There is likewise no provision for default for non-appearance. If the child is before the court, the appropriate disposition is made without the non-appearing party. If the appearance of a party such as a parent, is deemed essential, he can be brought in by subpoena under [Section 16] [[42 Pa.C.S. § 6333](#)] or by order on the summons under [Section 18] [[42 Pa.C.S. § 6335](#)].”

Source: Reenactment of act of December 6, 1972 (No. 333), § 17 ([11 P.S. § 50-314](#)).

#### HISTORICAL AND STATUTORY NOTES

Act 1998-126 added subsec. (b).

#### Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 17 ([11 P.S. § 50-314](#)).

## **§ 6335. Release or holding of hearing**

**(a) General rule.**--After the petition has been filed alleging the child to be dependent or delinquent, the court shall fix a time for hearing thereon, which, if the child is in detention or shelter care shall not be later than ten days after the filing of the petition. Except as provided in subsection (f), if the hearing is not held within such time, the child shall be immediately released from detention or shelter care. A child may be detained or kept in shelter care for an additional single period not to exceed ten days where:

(1) the court determines at a hearing that:

(i) evidence material to the case is unavailable;

(ii) due diligence to obtain such evidence has been exercised; and

(iii) there are reasonable grounds to believe that such evidence will be available at a later date; and

(2) the court finds by clear and convincing evidence that:

(i) the life of the child would be in danger;

(ii) the community would be exposed to a specific danger; or

(iii) the child will abscond or be removed from the jurisdiction of the court.

The court shall direct the issuance of a summons to the parents, guardian, or other custodian, a guardian ad litem, and any other persons as appear to the court to be proper or necessary parties to the proceeding, requiring them to appear before the court at the time fixed to answer the allegations of the petition. The summons shall also be directed to the child if he is 14 or more years of age or is alleged to be a delinquent. A copy of the petition shall accompany the summons.

**(b) Personal appearance.**--The court may endorse upon the summons an order:

(1) Directing the parents, guardian, or other custodian of the child to appear personally at the hearing.

(2) Directing the person having the physical custody or control of the child to bring the child to the hearing.

**(c) Warrant of arrest.**--If it appears from affidavit filed or from sworn testimony before the court that the conduct, condition, or surroundings of the child are endangering his health or welfare or those of others, or that he may abscond or be removed from the jurisdiction of the court or will not be brought before the court notwithstanding the service of the summons, the court may issue a warrant of arrest.

**(d) Form.**--A summons and warrant of arrest shall be in such form and shall be served as prescribed by general rules.

**(e) Waiver of service.**--A party, other than the child, may waive service of summons by written stipulation or by voluntary appearance at the hearing. If the child is present at the hearing, his counsel, with the consent of the parent, guardian, or other custodian, or guardian ad litem, may waive service of summons in his behalf.

**(f) Limitations on release.**--The child shall not be released from detention or shelter care under authority of subsection (a) if the failure to hold a hearing within ten days after the filing of the petition is the result of delay caused by the child. Delay caused by the child shall include, but not be limited to:

- (1) Delay caused by the unavailability of the child or his attorney.
- (2) Delay caused by any continuance granted at the request of the child or his attorney.
- (3) Delay caused by the unavailability of a witness resulting from conduct by or on behalf of the child.

At the conclusion of any court proceeding in which the scheduled hearing is not held, the court shall state on the record whether the failure to hold the hearing resulted from delay caused by the child. Where the court determines that failure to hold a hearing is the result of delay caused by the child, the child may continue to be held in detention or shelter care. However, the additional period of detention shall not exceed ten days, provided that such detention may be continued by the court for successive ten-day intervals.

#### CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 29, effective June 27, 1978; 1986, Dec. 11, P.L. 1521, No. 165, § 8, effective in 60 days; [1995, Oct. 11, P.L. 1058, No. 21 \(Spec. Sess. No. 1\), § 2](#), effective in 60 days; [1998, Dec. 15, P.L. 949, No. 126, § 5](#), effective Jan. 1, 1999.

#### SUSPENDED IN PART

<For purposes of delinquency proceedings, [Pa.R.J.C.P. No. 800\(2\)](#) suspends 42 Pa.C.S.A. § 6335(c), insofar as inconsistent with Pa.R.J.C.P. Nos. 124, 140 and 364, which require a summoned person to fail to appear and the court to find that sufficient notice was given.>

<For purposes of delinquency proceedings, [Pa.R.J.C.P. No. 800\(14\)](#) suspends 42 Pa.C.S. § 6335 insofar as inconsistent with [Pa.R.J.C.P. No. 391](#), which provides for an additional ten days of detention if a notice of intent for transfer to criminal proceedings has been filed.>

<For purposes of dependency proceedings, [Pa.R.J.C.P. No. 1800\(1\)](#) suspends 42 Pa.C.S.A. § 6335(c), insofar as inconsistent with Pa.R.J.C.P. Nos. 1124, 1140 and 1364, which require a summoned person to fail to appear and the court to find that sufficient notice was given.>

<For purposes of dependency proceedings, [Pa.R.J.C.P. No. 1800\(10\)](#) suspends 42 Pa.C.S.A. § 6335 insofar as inconsistent with [Pa.R.J.C.P. No. 1360](#), which provides that the summons is to include a copy of the petition unless the petition has been previously served.>

#### OFFICIAL COMMENT

Section 18 [42 Pa.C.S. § 6335] derives from Section 22 of the Uniform Act; subsection (c) incorporates Pennsylvania procedures authorizing the court to issue warrants of arrest under certain conditions.

Subsection (d) provides that summons and warrants of arrest shall be in such form and shall be served as prescribed by the Rules of Criminal Procedure: See, e.g., Pa.R.Crim.P., Nos. 110, 111 and 112.

Source: Reenactment of act of December 6, 1972 (No. 333), § 18 ([11 P.S. § 50-315](#)).

## HISTORICAL AND STATUTORY NOTES

The 1995 amendment rewrote subsec. (f), which formerly read:

“Limitations on release.--The child shall not be released from detention or shelter care under authority of subsection (a) if the failure to hold a hearing within ten days after the filing of the petition is the result of delay caused by the child. Delay shall be deemed to be caused by the child if it results from any one of the following:

“(1) The unavailability of the child or his attorney.

“(2) Any continuance granted at the request of the child or his attorney.

“At the conclusion of any court proceeding in which the scheduled hearing is not held, the court shall state on the record whether the failure to hold the hearing resulted from delay caused by the child.”

Act 1998-126, in subsec. (a), in the first sentence, inserted “alleging the child to be dependent or delinquent,”.

Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.

1972, Dec. 6, P.L. 1464, No. 333, § 18 ([11 P.S. § 50-315](#)).

## § 6336. Conduct of hearings

<Section effective until Jan. 23, 2013. See also, section effective Jan. 23, 2013.>

**(a) General rule.**--Hearings under this chapter shall be conducted by the court without a jury, in an informal but orderly manner, and separate from other proceedings not included in [section 6303](#) (relating to scope of chapter).

**(b) Functions of district attorney.**--The district attorney, upon request of the court, shall present the evidence in support of the petition and otherwise conduct the proceedings on behalf of the Commonwealth.

**(c) Record.**--If requested by the party or ordered by the court the proceedings shall be recorded by appropriate means. If not so recorded, full minutes of the proceedings shall be kept by the court.

**(d) Proceeding in camera.**--Except in hearings to declare a person in contempt of court and in hearings as specified in subsection (e), the general public shall be excluded from hearings under this chapter. Only the parties, their counsel, witnesses, the victim and counsel for the victim, other persons accompanying a party or a victim for his or her assistance, and any other person as the court finds have a proper interest in the proceeding or in the work of the court shall be admitted by the court. The court may temporarily exclude the child from the hearing except while allegations of his delinquency are being heard.

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

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

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

(i) Murder.

(ii) Voluntary manslaughter.

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

(iv) Arson as defined in [18 Pa.C.S. § 3301\(a\)\(1\)](#) (relating to arson and related offenses).

(v) Involuntary deviate sexual intercourse.

(vi) Kidnapping.

(vii) Rape.

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

(ix) Robbery of motor vehicle.

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

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

**(f) Discretion of court.**--The court at any disposition proceeding under subsection (e) shall have discretion to maintain the confidentiality of mental health, medical or juvenile institutional documents or juvenile probation reports.

#### CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1986, Dec. 11, P.L. 1521, No. 165, § 9, effective in 60 days; [1995, April 6, P.L. 997, No. 11 \(Spec. Sess. No. 1\), § 1](#), effective in 60 days.

#### SUSPENDED IN PART

<For purposes of delinquency proceedings, [Pa.R.J.C.P. No. 800](#) suspends 42 Pa.C.S.A. § 6336(c), insofar as inconsistent with [Pa.R.J.C.P. No. 127\(A\)](#), which requires all proceedings to be recorded, except for detention hearings.>

<For purposes of dependency proceedings, [Pa.R.J.C.P. No. 1800\(2\)](#) suspends 42 Pa.C.S.A. § 6336(c) insofar as inconsistent with [Pa.R.J.C.P. No. 1127\(A\)](#) and [1242\(B\)\(2\)](#), which require all proceedings to be recorded, except for shelter care hearings.>

#### OFFICIAL COMMENT

This section is derived from Section 24 of the Uniform Act. Subsection (a) continues existing law which does not authorize a jury trial: [Commonwealth v. Johnson, 211 Pa.Superior Ct. 62, 234 A.2d 9 \(1969\)](#). In [Debacker v. Brainard, 90 S.Ct. 163, 164 \(1969\)](#), the United States Supreme Court dismissed the appeal as an inappropriate case to decide the issue of a juvenile's constitutional right to a jury trial.

In subsection (b) the duty is placed upon the district attorney upon the request of the court to present the evidence in support of the petition to ensure that the probation officer who must in most cases subsequently supervise the treatment of the adjudged delinquent is not also his prosecutor. Since under this act in delinquency cases the Commonwealth has a burden of proof and must go forward with the evidence, except in the simplest cases participation by a "Commonwealth" attorney is necessary.

Subsection (c) requires the recording of the proceedings or the keeping of minutes without specifying the method by which the record is made. In *Gault* the need for an adequate record as a basis for review was noted. The final orders of the court would, of course, be subject to appeal as provided in the Act of 1895, June 24, P.L. 212, § 7, as amended, 17 P.S. 181, 182, 184, 184.1 and 190 [Repealed].

In connection with subsection (d), the Comment to Section 24 of the Uniform Act notes:

"There has been some recent tendency to permit publicity [of] juvenile court proceedings on the theory that this will act as a curb to juvenile delinquency. There is little evidence to support this theory and considerable indication that it affords the hard-core delinquent the kind of recognition he wants. On the other hand, the harm it causes may be great in the case of the repentant offender.

"The section as drawn permits the court in its discretion to admit news reporters. This is frequently done with the understanding that the identity of the cases observed will not be published, a procedure generally satisfactory to the news media.

"The exception in contempt cases is probably required in [\*In re Oliver\*, 333 U.S. 257, 68 S.Ct. 499, ...](#)"

Source: Reenactment of act of December 6, 1972 (No. 333), § 19 (11 P.S. § 50-316).

#### HISTORICAL AND STATUTORY NOTES

The 1995 amendment, in subsec. (d), first sentence, inserted the reference to hearings as specified in subsec. (e); in the second sentence, following "court", substituted "shall" for "may"; and added subsecs. (e) and (f).

#### Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 19 (11 P.S. § 50-316).

## **§ 6336.1. Notice and hearing**

**(a) General rule.--**The court shall direct the county agency or juvenile probation department to provide the child's foster parent, preadoptive parent or relative providing care for the child with timely notice of the hearing. The court shall provide the child's foster parent, preadoptive parent or relative providing care for the child the right to be heard at any hearing under this chapter. Unless a foster parent, preadoptive parent or relative providing care for a child has been awarded legal custody pursuant to [section 6357](#) (relating to rights and duties of legal custodian), nothing in this section shall give the foster parent, preadoptive parent or relative providing care for the child legal standing in the matter being heard by the court.

### **(b) Permanency hearings.--**

(1) Prior to a permanency hearing under [section 6351\(e\)](#) (relating to disposition of dependent child), a child's foster parent or parents, preadoptive parent or relative providing care for the child may submit to the court a report in regard to the child's adjustment, progress and condition.

(2) The county agency shall notify the foster parent or parents, preadoptive parent or relative providing care for the child of the right to submit a report under this subsection to the court on a form under paragraph (3). The county agency shall provide the foster parent or parents, preadoptive parent or relative providing care for the child with information identifying the name of the judge or officer of the court, along with mailing address, to whom the report is to be submitted.

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

(i) Date of completion.

(ii) Name and address of child.

(iii) Name and address of foster parent or parents, preadoptive parent or relative providing care for the child. The information under this subparagraph shall be considered confidential except at the discretion of the court.

(iv) Name of primary caseworker and agency.

(v) Description of child's adjustment in the home.

(vi) Description of child's interaction with foster parent or parents, preadoptive parent or relative providing care and with family members of individuals referred to in this subparagraph.

(vii) Description of child's interaction with others.

(viii) Evaluation of child's respect for property.

(ix) Description of physical and emotional condition of child.

(x) Description of child's interaction with the primary caseworker.

(xi) Description of caseworker's interaction with the child and foster parent or parents, preadoptive parent or relative providing care for the child and with family members of individuals referred to in this paragraph.

(xii) Description of educational status, grades, attendance and behavior of child in school or child's experience in a child day-care setting or early childhood development program.

(xiii) Description of child's experience involving visitation with birth parents, specifying if visitation is supervised or unsupervised and any significant events which occurred.

(xiv) Opinion on overall adjustment, progress and condition of the child.

(xv) Other concerns, comments or recommendations.

(4) The report shall be reviewed by the court and is subject to review by other persons and agencies under [sections 6307](#) (relating to inspection of court files and records) and 6342(d)(1) (relating to court-appointed special advocates).

(5) A county agency or a private agency as defined under [23 Pa.C.S. § 6303](#) (relating to definitions) shall not take any retaliatory action against a foster parent, preadoptive parent or relative for any information, comments or concerns provided in good faith in a report under this subsection. This paragraph shall not be construed to prevent any agency from taking any action if the report contains information that the foster parent, preadoptive parent or relative has engaged in any conduct that is contrary to any regulation or law or is not in the child's best interest.

#### CREDIT(S)

[1998, Dec. 15, P.L. 949, No. 126, § 6](#), effective Jan. 1, 1999. Amended [2002, Dec. 9, P.L. 1705, No. 215, § 3](#), effective in 60 days; [2007, Dec. 18, P.L. 484, No. 76, § 1](#), effective Jan. 1, 2008; [2008, Oct. 9, P.L. 1396, No. 109, § 2](#), effective in 60 days [Dec. 8, 2008].

#### SUSPENDED IN PART

<For purposes of dependency proceedings, [Pa.R.J.C.P. No. 1800\(11\)](#) suspends 42 Pa.C.S.A. § 6336.1(b)(2), relating to right of foster parents, preadoptive parents or relatives to submit a report to the court, insofar as inconsistent with [Pa.R.J.C.P. No. 1604](#), which requires the report to be submitted to a court designee who files the report and submits it to the judge, attorneys, parties, and if appointed, a court appointed special advocate.>

#### HISTORICAL AND STATUTORY NOTES

##### Act 2002-215 legislation

Act 2002-215, § 3, substituted "Unless a foster parent, preadoptive parent or relative providing care for a child has been awarded legal custody pursuant to section 6357 (relating to rights and duties of legal custodian), nothing" for "Nothing".

##### Act 2007-76 legislation

Act 2007-76, § 1, substituted "right to be heard" for "opportunity to be heard".

##### Act 2008-109 legislation

Act 2008-109, § 2, designated the existing text as subsec. (a) and added subsec. (b).

## **§ 6336.2. Use of restraints on children during court proceedings**

**(a) Use of restraints.**--Except as provided for in subsection (b), restraints such as handcuffs, chains, shackles, irons or straitjackets shall be removed prior to the commencement of a court proceeding.

**(b) Exception.**--Restraints may be used during a court proceeding if the court determines on the record, after providing the child with an opportunity to be heard, that they are necessary:

(1) to prevent physical harm to the child or another person;

(2) to prevent disruptive courtroom behavior, evidenced by a history of behavior that created potentially harmful situations or presented substantial risk of physical harm; or

(3) to prevent the child, evidenced by an escape history or other relevant factors, from fleeing the courtroom.

CREDIT(S)

[2012, May 29, P.L. 570, No. 56, § 1](#), effective in 60 days [July 30, 2012].

42 Pa.C.S.A. § 6336.2, PA ST 42 Pa.C.S.A. § 6336.2

Current through 2012 Regular Session Act 150 and 153 to 169, 171 to 180, 183 to 187, 189 to 191, 193 to 206 and 208 to 211

## § 6337. Right to counsel

Except as provided under this section and in [section 6311](#) (relating to guardian ad litem for child in court proceedings), a party is entitled to representation by legal counsel at all stages of any proceedings under this chapter and if he is without financial resources or otherwise unable to employ counsel, to have the court provide counsel for him. If a party other than a child appears at a hearing without counsel the court shall ascertain whether he knows of his right thereto and to be provided with counsel by the court if applicable. The court may continue the proceeding to enable a party to obtain counsel. Except as provided under [section 6337.1](#) (relating to right to counsel for children in dependency and delinquency proceedings), counsel must be provided for a child. If the interests of two or more parties may conflict, separate counsel shall be provided for each of them.

### CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended [2000, May 10, P.L. 74, No. 18, § 2](#), effective in 60 days; [2012, April 9, P.L. 223, No. 23, § 1](#), effective in 60 days [June 8, 2012].

### OFFICIAL COMMENT

This section is derived from subsection (a) of Section 26 of the Uniform Act. As noted in the Comment to that section:

"Due process requires the appointment of counsel for a needy child charged with delinquency. See [Kent \[383 U.S. 541, 86 S.Ct. 1045 \(1966\)\]](#) and *Gault*, [*supra*]."

Source: Reenactment of act of December 6, 1972 (No. 333), § 20 ([11 P.S. § 50-317](#)).

### HISTORICAL AND STATUTORY NOTES

#### Act 2000-18 legislation

Act 2000-18, § 2, in the first sentence, deleted "otherwise" and substituted "in section 6311 (relating to guardian ad litem for child in court proceedings)," for "under this chapter".

#### Act 2012-23 legislation

Act 2012-23, § 1, rewrote the section, which prior thereto read:

"Except as provided in section 6311 (relating to guardian ad litem for child in court proceedings), a party is entitled to representation by legal counsel at all stages of any proceedings under this chapter and if he is without financial resources or otherwise unable to employ counsel, to have the court provide counsel for him. If a party appears without counsel the court shall ascertain whether he knows of his right thereto and to be provided with counsel by the court if applicable. The court may continue the proceeding to enable a party to obtain counsel. Counsel must be provided for a child unless his parent, guardian, or custodian is present in court and affirmatively waive it. However, the parent, guardian, or custodian may not waive counsel for a child when their interest may be in conflict with the interest or interests of the child. If the interests of two or more parties may conflict, separate counsel shall be provided for each of them."

Prior to amendment by Act 2012-23, § 1, 42 Pa.C.S.A. § 6337 was suspended for purposes of delinquency proceedings by [Pa.R.J.C.P. No. 800](#), insofar as inconsistent with [Pa.R.J.C.P. No. 152](#) which does not allow a guardian to waive the juvenile's right to counsel.

Prior to amendment by Act 2012-23, § 1, 42 Pa.C.S.A. § 6337 was suspended for purposes of dependency proceedings by [Pa.R.J.C.P. No. 1800\(4\)](#), insofar as inconsistent with [Pa.R.J.C.P. No. 1152](#) which does not allow a guardian to waive the child's right to counsel or a child to waive the right to a guardian ad litem.

Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 20 ([11 P.S. § 50-317](#)).

## **§ 6337.1. Right to counsel for children in dependency and delinquency proceedings**

**(a) Children in dependency proceedings.--**Legal counsel shall be provided for a child who is alleged or has been found to be a dependent child in accordance with the Pennsylvania Rules of Juvenile Court Procedure.

### **(b) Children in delinquency proceedings.--**

(1) In delinquency cases, all children shall be presumed indigent. If a child appears at any hearing without counsel, the court shall appoint counsel for the child prior to the commencement of the hearing. The presumption that a child is indigent may be rebutted if the court ascertains that the child has the financial resources to retain counsel of his choice at his own expense. The court may not consider the financial resources of the child's parent, guardian or custodian when ascertaining whether the child has the financial resources to retain counsel of his choice at his own expense.

(2) Although a child alleged to be delinquent may appear with counsel at the intake conference conducted by a juvenile probation officer following the submission of a written allegation, counsel shall not be mandatory at the proceeding.

(3) Notwithstanding paragraph (1), a child who is 14 years of age or older may waive the right to counsel if the court has determined that the waiver is knowingly, intelligently and voluntarily made after having conducted a colloquy with the child on the record, in accordance with the Pennsylvania Rules of Juvenile Court Procedure, and the hearing for which waiver is sought is not one of the following:

(i) An informal detention or shelter hearing under [section 6332](#) (relating to informal hearing).

(ii) A hearing to consider transfer to criminal proceedings under [section 6355](#) (relating to transfer to criminal proceedings).

(iii) A hearing to consider evidence on the petition or accept an admission to an alleged delinquent act under [section 6341](#) (relating to adjudication).

(iv) A hearing to consider evidence as to whether the child is in need of treatment, supervision or rehabilitation under [section 6341](#).

(v) A disposition hearing under [section 6341](#) or [6352](#) (relating to disposition of delinquent child).

(vi) A hearing to modify or revoke probation or other disposition entered under [section 6352](#).

(4) The court may assign stand-by counsel if the child waives counsel at any hearing.

(5) If a child waives counsel for any hearing, the waiver shall only apply to that hearing and the child may revoke the waiver of counsel at any time. At any subsequent hearing, the child shall be informed of the right to counsel.

CREDIT(S)

[2012, April 9, P.L. 223, No. 23, § 2](#), effective in 60 days [June 8, 2012].

## § 6338. Other basic rights

**(a) General rule.**--A party is entitled to the opportunity to introduce evidence and otherwise be heard in his own behalf and to cross-examine witnesses.

**(b) Self-incrimination.**--A child charged with a delinquent act need not be a witness against or otherwise incriminate himself. An extrajudicial statement, if obtained in the course of violation of this chapter or which could be constitutionally inadmissible in a criminal proceeding, shall not be used against him. Evidence illegally seized or obtained shall not be received over objection to establish the allegations made against him. A confession validly made by a child out of court at a time when the child is under 18 years of age shall be insufficient to support an adjudication of delinquency unless it is corroborated by other evidence.

### **(c) Statements and information obtained during screening or assessment.--**

(1) No statements, admissions or confessions made by or incriminating information obtained from a child in the course of a screening or assessment that is undertaken in conjunction with any proceedings under this chapter, including, but not limited to, that which is court ordered, shall be admitted into evidence against the child on the issue of whether the child committed a delinquent act under this chapter or on the issue of guilt in any criminal proceeding.

(2) The provisions of paragraph (1) are in addition to and do not override any existing statutory and constitutional prohibition on the admission into evidence in delinquency and criminal proceedings of information obtained during screening, assessment or treatment.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended [2008, Oct. 9, P.L. 1396, No. 109, § 3](#), effective in 60 days [Dec. 8, 2008].

OFFICIAL COMMENT

Derived from Section 27 of the Uniform Act. The provisions against self-incrimination and the right to cross-examine adverse witnesses are required by *Gault, supra*. Subsection (b) ensures to a child at least the same constitutional test of admissibility as that used in a criminal proceeding with the further limitation that even a confession *validly* made by a child out of court when he is under 18 years of age shall be insufficient of itself to support an adjudication of delinquency.

Source: Reenactment of act of December 6, 1972 (No. 333), § 21 ([11 P.S. § 50-318](#)).

HISTORICAL AND STATUTORY NOTES

Act 2008-109 legislation

Act 2008-109, § 3, added subsec. (c).

Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 21 ([11 P.S. § 50-318](#)).

## § 6339. Investigation and report

**(a) General rule.**--If the allegations of a petition are admitted by a party or notice of hearing under [section 6355](#) (relating to transfer to criminal proceedings) has been given, the court, prior to the hearing on need for treatment or disposition, may direct that a social study and report in writing to the court be made by an officer of the court or other person designated by the court, concerning the child, his family, his environment, and other matters relevant to disposition of the case. If the allegations of the petition are not admitted and notice of a hearing under [section 6355](#) has not been given, the court shall not direct the making of the study and report until after the court has held a hearing on the petition upon notice of hearing given pursuant to this chapter and the court has found that the child committed a delinquent act or is a dependent child.

**(b) Physical and mental examinations and treatment.**--During the pendency of any proceeding the court may order the child to be examined at a suitable place by a physician or psychologist and may also order medical or surgical treatment of a child who is suffering from a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, even if the parent, guardian, or other custodian has not been given notice of a hearing, is not available, or without good cause informs the court of his refusal to consent to the treatment.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 29, effective June 27, 1978.

OFFICIAL COMMENT

This section derives from Section 28 of the Uniform Act, where it was stated that: "These reports are for the purposes of disposition. Their use during the hearing on the petition would violate the hearsay rule and the due process clause, since cross-examination of the sources of the information contained in the report would not be available. This section protects the privacy of a party denying the petition until adjudication or notice of hearing to transfer for criminal prosecution is given ...."

Source: Reenactment of act of December 6, 1972 (No. 333), § 22 ([11 P.S. § 50-319](#)).

HISTORICAL AND STATUTORY NOTES

Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.  
1972, Dec. 6, P.L. 1464, No. 333, § 22 ([11 P.S. § 50-319](#)).

## § 6340. Consent decree

**(a) General rule.**--At any time after the filing of a petition and before the entry of an adjudication order, the court may, on motion of the district attorney or of counsel for the child, suspend the proceedings, and continue the child under supervision in his own home, under terms and conditions negotiated with the probation services and agreed to by all parties affected. The order of the court continuing the child under supervision shall be known as a consent decree.

**(b) Objection.**--Where the child or the district attorney objects to a consent decree, the court shall proceed to findings, adjudication and disposition.

**(c) Duration of decree.**--A consent decree shall remain in force for six months unless the child is discharged sooner by probation services with the approval of the court. Upon application of the probation services or other agency supervising the child, made before expiration of the six-month period, a consent decree may be extended by the court for an additional six months.

**(c.1) Terms and conditions.**--Consistent with the protection of the public interest, the terms and conditions of a consent decree may include payment by the child of reasonable amounts of money as costs, fees or restitution, including a supervision fee and contribution to a restitution fund established by the president judge of the court of common pleas pursuant to [section 6352\(a\)\(5\)](#) (relating to disposition of delinquent child), and shall, as appropriate to the circumstances of each case, include provisions which provide balanced attention to the protection of the community, accountability for offenses committed and the development of competencies to enable the child to become a responsible and productive member of the community.

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

**(e) Effect of decree.**--A child who is discharged by the probation services, or who completes a period of supervision without reinstatement of the original petition, shall not again be proceeded against in any court for the same offense alleged in the petition or an offense based upon the same conduct.

### CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 29, effective June 27, 1978; 1986, Dec. 11, P.L. 1521, No. 165, § 9, effective in 60 days; [1995, Nov. 17, P.L. 1127, No. 33 \(Spec. Sess. No. 1\), § 5](#), effective in 120 days; [2004, Nov. 30, P.L. 1703, No. 217, § 4](#), imd. effective.

### SUSPENDED IN PART

<For purposes of delinquency proceedings, [Pa.R.J.C.P. No. 800\(13\)](#) suspends 42 Pa.C.S. § 6340(c), which provides consent decree shall remain in force for six months unless the child is discharged sooner by probation services with the approval of the court, insofar as it is inconsistent with the requirement of Rule 373 that a motion for early discharge is to be made to the court.>

### OFFICIAL COMMENT

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 8.1 ([11 P.S. § 50-305](#)).

## HISTORICAL AND STATUTORY NOTES

The 1995 amendment added subsec. (c.1).

Section 8 of Act 1995, No. 33 (Spec. Sess. No. 1) provides that the act shall apply to all delinquent acts committed on or after the effective date of the act.

Act 2004-217 legislation

Act 2004-217, § 4, in subsec. (c.1) inserted "may include payment by the child of reasonable amounts of money as costs, fees or restitution, including a supervision fee and contribution to a restitution fund established by the president judge of the court of common pleas pursuant to section 6352(a)(5) (relating to disposition of delinquent child), and".

Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.

1972, Dec. 6, P.L. 1464, No. 333, § 8.1 ([11 P.S. § 50-305](#)).

## **§ 6341. Adjudication**

**(a) General rule.**--After hearing the evidence on the petition the court shall make and file its findings as to whether the child is a dependent child. If the petition alleges that the child is delinquent, within seven days of hearing the evidence on the petition, the court shall make and file its findings whether the acts ascribed to the child were committed by him. This time limitation may only be extended pursuant to the agreement of the child and the attorney for the Commonwealth. The court's failure to comply with the time limitations stated in this section shall not be grounds for discharging the child or dismissing the proceeding. If the court finds that the child is not a dependent child or that the allegations of delinquency have not been established it shall dismiss the petition and order the child discharged from any detention or other restriction theretofore ordered in the proceeding. For cases involving allegations of delinquency where fingerprints or photographs or both have been taken by a law enforcement agency and where it is determined that acts ascribed to the child were not committed by him, the court shall direct that those records be immediately destroyed by law enforcement agencies.

**(b) Finding of delinquency.**--If the court finds on proof beyond a reasonable doubt that the child committed the acts by reason of which he is alleged to be delinquent it shall enter such finding on the record and shall specify the particular offenses, including the grading and counts thereof which the child is found to have committed. The court shall then proceed immediately or at a postponed hearing, which shall occur not later than 20 days after such finding if the child is in detention or not more than 60 days after such finding if the child is not in detention, to hear evidence as to whether the child is in need of treatment, supervision or rehabilitation and to make and file its findings thereon. This time limitation may only be extended pursuant to the agreement of the child and the attorney for the Commonwealth. The court's failure to comply with the time limitations stated in this section shall not be grounds for discharging the child or dismissing the proceeding. In the absence of evidence to the contrary, evidence of the commission of acts which constitute a felony shall be sufficient to sustain a finding that the child is in need of treatment, supervision or rehabilitation. If the court finds that the child is not in need of treatment, supervision or rehabilitation it shall dismiss the proceeding and discharge the child from any detention or other restriction theretofore ordered.

### **(b.1) School notification.--**

(1) Upon finding a child to be a delinquent child, the court shall, through the juvenile probation department, provide the following information to the building principal or his or her designee of any public, private or parochial school in which the child is enrolled:

- (i) Name and address of the child.
- (ii) The delinquent act or acts which the child was found to have committed.
- (iii) A brief description of the delinquent act or acts.
- (iv) The disposition of the case.

(2) If the child is adjudicated delinquent for an act or acts which if committed by an adult would be classified as a felony, the court through the juvenile probation department shall additionally provide to the building principal or his or her designee relevant information contained in the juvenile probation or treatment reports pertaining to the adjudication, prior delinquent history and the supervision plan of the delinquent child.

(3) Notwithstanding any provision set forth herein, the court or juvenile probation department shall have the authority to share any additional information regarding the delinquent child under its jurisdiction with the building principal or his or her designee as deemed necessary to protect

public safety or to enable appropriate treatment, supervision or rehabilitation of the delinquent child.

(4) Information provided under this subsection is for the limited purposes of protecting school personnel and students from danger from the delinquent child and of arranging appropriate counseling and education for the delinquent child. The building principal or his or her designee shall inform the child's teacher of all information received under this subsection. Information obtained under this subsection may not be used for admissions or disciplinary decisions concerning the delinquent child unless the act or acts surrounding the adjudication took place on or within 1,500 feet of the school property.

(5) Any information provided to and maintained by the building principal or his or her designee under this subsection shall be transferred to the building principal or his or her designee of any public, private or parochial school to which the child transfers enrollment.

(6) Any information provided to the building principal or his or her designee under this subsection shall be maintained separately from the child's official school record. Such information shall be secured and disseminated by the building principal or his or her designee only as appropriate in paragraphs (4) and (5).

**(b.2) Evidence on the finding of delinquency.--**

(1) No statements, admissions or confessions made by or incriminating information obtained from a child in the course of a screening or assessment that is undertaken in conjunction with any proceedings under this chapter, including, but not limited to, that which is court ordered, shall be admitted into evidence against the child on the issue of whether the child committed a delinquent act under this chapter or on the issue of guilt in any criminal proceeding.

(2) The provisions of paragraph (1) are in addition to and do not override any existing statutory and constitutional prohibition on the admission into evidence in delinquency and criminal proceedings of information obtained during screening, assessment or treatment.

**(c) Finding of dependency.--**If the court finds from clear and convincing evidence that the child is dependent, the court shall proceed immediately or at a postponed hearing, which shall occur not later than 20 days after adjudication if the child has been removed from his home, to make a proper disposition of the case.

**(c.1) Aggravated circumstances.--**If the county agency or the child's attorney alleges the existence of aggravated circumstances and the court determines that the child is dependent, the court shall also determine if aggravated circumstances exist. If the court finds from clear and convincing evidence that aggravated circumstances exist, the court shall determine whether or not reasonable efforts to prevent or eliminate the need for removing the child from the home or to preserve and reunify the family shall be made or continue to be made and schedule a hearing as required in [section 6351\(e\)\(3\)](#) (relating to disposition of dependent child).

**(d) Evidence on issue of disposition.--**

(1)(i) In disposition hearings under subsections (b) and (c) all evidence helpful in determining the questions presented, including oral and written reports, may be received by the court and relied upon to the extent of its probative value even though not otherwise competent in the hearing on the petition.

(ii) Subparagraph (i) includes any screening and assessment examinations ordered by the court to aid in disposition, even though no statements or admissions made during the course thereof may be admitted into evidence against the child on the issue of whether the child committed a delinquent act.

(2) The parties or their counsel shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making the reports. Sources of information given in confidence need not be disclosed.

**(e) Continued hearings.**--On its motion or that of a party the court may continue the hearings under this section for a reasonable period, within the time limitations imposed by this section, to receive reports and other evidence bearing on the disposition or the need for treatment, supervision or rehabilitation. In this event the court shall make an appropriate order for detention of the child or his release from detention subject to supervision of the court during the period of the continuance. In scheduling investigations and hearings the court shall give priority to proceedings in which a child is in detention or has otherwise been removed from his home before an order of disposition has been made.

#### CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 29, effective June 27, 1978; [1995, March 15, P.L. 972, No. 6 \(Spec. Sess. No. 1\), § 1](#), effective in 60 days; [1995, Nov. 17, P.L. 1115, No. 30 \(Spec. Sess. No. 1\), § 2](#), effective in 60 days; [1998, Dec. 15, P.L. 949, No. 126, § 7](#), effective Jan. 1, 1999; [2000, May 10, P.L. 74, No. 18, § 2](#), effective in 60 days; [2002, Dec. 9, P.L. 1705, No. 215, § 3](#), effective in 60 days; [2008, Oct. 9, P.L. 1396, No. 109, § 4](#), effective in 60 days [Dec. 8, 2008].

#### OFFICIAL COMMENT

This section is derived from Section 29 of the Uniform Act, where it is noted that, "... when delinquency ... is alleged, the court must find further that the child is in need of treatment or rehabilitation before the dispositions authorized by the Act can be resorted to ..." As to the extent of a right to treatment, see [Rouse v. Cameron, 373 F.2d 451 \(D.D.C., 1966\)](#).

The requirement in subsection (b) that the delinquent acts be found by the court "on proof beyond a reasonable doubt" modifies existing law, which previously required "sufficient competent evidence." [In re Holmes, 379 Pa. 599, 606, 109 A.2d 523 \(1954\)](#); [Jackson Appeal, 214 Pa.Superior Ct. 156, 159, 251 A.2d 711 \(1969\)](#).

The question of the standard of proof in juvenile proceedings is currently pending before the United States Supreme Court in *In the Matter of Samuel Winship*, which decision should not affect the "reasonable doubt" standard set forth above, which may be required by that court in any event.

Subsections (d) and (e) continue existing practice of using "social reports" by the court in determining the disposition of a delinquent or deprived child. Subsection (d) specifically grants the child or his counsel access to the reports, which appears to be required by *Kent, supra*.

Findings of delinquency or deprivation, as well as the orders of disposition, are orders of the common pleas court and as such are appealable to the Superior Court as a matter of right under [Article V, Section 9 of the Pennsylvania Constitution](#) and Section 7 of the Act of 1895, June 24, P.L. 212, as amended [Repealed].

Source: Reenactment of act of December 6, 1972 (No. 333), § 23 ([11 P.S. § 50-320](#)).

#### HISTORICAL AND STATUTORY NOTES

Act 1995-6 (SS1) legislation

Act 1995, March 15, No. 6 (Spec. Sess. No. 1) in subsec. (a), added the last sentence.

Act 1995-30 (SS1) legislation

Act 1995, Nov. 17, No. 30 (Spec. Sess. No. 1) added subsec. (b.1).

Act 1998-126 legislation

Act 1998-126 added subsec. (c.1).

Act 2000-18 legislation

Act 2000-18, in subsec. (a), rewrote the first sentence which previously read "After hearing the evidence on the petition the court shall make and file its findings as to whether the child is a dependent child, or if the petition alleges that the child is delinquent, whether the acts ascribed to the child were committed by him.", and inserted the second, third and fourth sentences; in subsec. (b), in the first sentence, inserted "or not more than 60 days after adjudication if the child is not in detention" and inserted the second sentence; and in subsec. (e), inserted "within the time limitations imposed by this section".

Act 2002-215 legislation

Act 2002-215, § 3, in subsec. (b), substituted "shall specify the particular offenses, including the grading and counts thereof which the child is found to have committed. The court shall then proceed immediately or at a postponed hearing, which shall occur not later than 20 days after such finding if the child is in detention or not more than 60 days after such finding" for "it shall then proceed immediately or at a postponed hearing, which shall occur not later than 20 days after adjudication if the child is in detention or not more than 60 days after adjudication".

Act 2008-109 legislation

Act 2008-109, § 4, added subsec. (b.2); and in subsec. (d), designated the former first sentence as subsec. (d)(1)(i), added subsec. (d)(1)(ii), and designated the former second and third sentences as (d)(2).

Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.

1972, Dec. 6, P.L. 1464, No. 333, § 23 ([11 P.S. § 50-320](#)).

## **§ 6342. Court-appointed special advocates**

**(a) General rule.**--The court may appoint or discharge a CASA at any time during a proceeding or investigation regarding dependency under this chapter.

**(b) Immunity.**--A court-appointed special advocate shall be immune from civil liability for actions taken in good faith to carry out the duties of the CASA under this chapter except for gross negligence, intentional misconduct or reckless, willful or wanton misconduct.

**(c) Qualifications.**--Prior to appointment a CASA shall:

(1) Be 21 years of age or older.

(2) Successfully pass screening requirements, including criminal history and child abuse background checks.

(3) Successfully complete the training requirements established under subsection (f) and by the court of common pleas of the county where the CASA will serve.

**(d) Powers and duties.**--Following appointment by the court, the CASA shall:

(1) have full access to and review all records, including records under 23 Pa.C.S. Ch. 63 (relating to child protective services) relating to the child and other information, unless otherwise restricted by the court;

(2) interview the child and other appropriate persons as necessary to develop its recommendations;

(3) receive reasonable prior notice of all hearings, staff meetings, investigations or other proceedings relating to the child;

(4) receive reasonable prior notice of the movement of the child from one placement to another placement, the return of a child to the home, the removal of a child from the home or any action that materially affects the treatment of the child;

(5) submit written reports to the court to assist the court in determining the disposition best suited to the health, safety and welfare of the child; and

(6) submit copies of all written reports and recommendations to all parties and any attorney of a party.

**(e) Confidentiality.**--All records and information received under this section shall be confidential and only used by the CASA in the performance of his duties.

**(f) Standards.**--The Juvenile Court Judges' Commission established under the act of December 21, 1959 (P.L. 1962, No. 717), [\[FN1\]](#) entitled "An act providing for the creation and operation of the Juvenile Court Judges' Commission in the Department of Justice; prescribing its powers and duties; and making an appropriation," shall develop standards governing the qualifications and training of court-appointed special advocates.

CREDIT(S)

[1998, Dec. 15, P.L. 978, No. 128, § 2](#), effective in 60 days.

[\[FN1\] 11 P.S. § 270-1 et seq.](#)

## **§ 6351. Disposition of dependent child**

**(a) General rule.**--If the child is found to be a dependent child the court may make any of the following orders of disposition best suited to the safety, protection and physical, mental, and moral welfare of the child:

(1) Permit the child to remain with his parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child.

(2) Subject to conditions and limitations as the court prescribes transfer temporary legal custody to any of the following:

(i) Any individual resident within or without this Commonwealth, including any relative, who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child.

(ii) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child.

(iii) A public agency authorized by law to receive and provide care for the child.

(2.1) Subject to conditions and limitations as the court prescribes, transfer permanent legal custody to an individual resident in or outside this Commonwealth, including any relative, who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child. A court order under this paragraph may set forth the temporary visitation rights of the parents. The court shall refer issues related to support and continuing visitation by the parent to the section of the court of common pleas that regularly determines support and visitation.

(3) Without making any of the foregoing orders transfer custody of the child to the juvenile court of another state if authorized by and in accordance with [section 6363](#) (relating to ordering foreign supervision).

**(b) Required preplacement findings.**--Prior to entering any order of disposition under subsection (a) that would remove a dependent child from his home, the court shall enter findings on the record or in the order of court as follows:

(1) that continuation of the child in his home would be contrary to the welfare, safety or health of the child; and

(2) whether reasonable efforts were made prior to the placement of the child to prevent or eliminate the need for removal of the child from his home, if the child has remained in his home pending such disposition; or

(3) if preventive services were not offered due to the necessity for an emergency placement, whether such lack of services was reasonable under the circumstances; or

(4) if the court has previously determined pursuant to [section 6332](#) (relating to informal hearing) that reasonable efforts were not made to prevent the initial removal of the child from his home, whether reasonable efforts are under way to make it possible for the child to return home; and

(5) if the child has a sibling who is subject to removal from his home, whether reasonable efforts were made prior to the placement of the child to place the siblings together or whether such joint placement is contrary to the safety or well-being of the child or sibling.

The court shall not enter findings under paragraph (2), (3) or (4) if the court previously determined that aggravated circumstances exist and no new or additional reasonable efforts to prevent or eliminate the need for removing the child from the home or to preserve and reunify the family are required.

**(b.1) Visitation for child and sibling.--**If a sibling of a child has been removed from his home and is in a different placement setting than the child, the court shall enter an order that ensures visitation between the child and the child's sibling no less than twice a month, unless a finding is made that visitation is contrary to the safety or well-being of the child or sibling.

**(c) Limitation on confinement.--**Unless a child found to be dependent is found also to be delinquent he shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children.

**(d) County programs.--**Every county of this Commonwealth shall develop programs for children under paragraph (5) or (6) of the definition of "dependent child" in [section 6302](#) (relating to definitions).

**(e) Permanency hearings.--**

(1) The court shall conduct a permanency hearing for the purpose of determining or reviewing the permanency plan of the child, the date by which the goal of permanency for the child might be achieved and whether placement continues to be best suited to the safety, protection and physical, mental and moral welfare of the child. In any permanency hearing held with respect to the child, the court shall consult with the child regarding the child's permanency plan in a manner appropriate to the child's age and maturity. If the court does not consult personally with the child, the court shall ensure that the views of the child regarding the permanency plan have been ascertained to the fullest extent possible and communicated to the court by the guardian ad litem under [section 6311](#) (relating to guardian ad litem for child in court proceedings) or, as appropriate to the circumstances of the case by the child's counsel, the court-appointed special advocate or other person as designated by the court.

(2) If the county agency or the child's attorney alleges the existence of aggravated circumstances and the court determines that the child has been adjudicated dependent, the court shall then determine if aggravated circumstances exist. If the court finds from clear and convincing evidence that aggravated circumstances exist, the court shall determine whether or not reasonable efforts to prevent or eliminate the need for removing the child from the child's parent, guardian or custodian or to preserve and reunify the family shall be made or continue to be made and schedule a hearing as provided in paragraph (3).

(3) The court shall conduct permanency hearings as follows:

(i) Within six months of:

(A) the date of the child's removal from the child's parent, guardian or custodian for placement under [section 6324](#) (relating to taking into custody) or 6332 or pursuant to a transfer of temporary legal custody or other disposition under subsection (a)(2), whichever is the earliest; or

(B) each previous permanency hearing until the child is returned to the child's parent, guardian or custodian or removed from the jurisdiction of the court.

(ii) Within 30 days of:

(A) an adjudication of dependency at which the court determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's parent, guardian or custodian or to preserve and reunify the family need not be made or continue to be made;

(B) a permanency hearing at which the court determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's parent, guardian or custodian or to preserve and reunify the family need not be made or continue to be made and the permanency plan for the child is incomplete or inconsistent with the court's determination;

(C) an allegation that aggravated circumstances exist regarding a child who has been adjudicated dependent, filed under [section 6334\(b\)](#) (relating to petition); or

(D) a petition alleging that the hearing is necessary to protect the safety or physical, mental or moral welfare of a dependent child.

(iii) If the court resumes jurisdiction of the child pursuant to subsection (j), permanency hearings shall be scheduled in accordance with applicable law until court jurisdiction is terminated, but no later than when the child attains 21 years of age.

**(f) Matters to be determined at permanency hearing.--** At each permanency hearing, a court shall determine all of the following:

(1) The continuing necessity for and appropriateness of the placement.

(2) The appropriateness, feasibility and extent of compliance with the permanency plan developed for the child.

(3) The extent of progress made toward alleviating the circumstances which necessitated the original placement.

(4) The appropriateness and feasibility of the current placement goal for the child.

(5) The likely date by which the placement goal for the child might be achieved.

(5.1) Whether reasonable efforts were made to finalize the permanency plan in effect.

(6) Whether the child is safe.

(7) If the child has been placed outside the Commonwealth, whether the placement continues to be best suited to the safety, protection and physical, mental and moral welfare of the child.

(8) The services needed to assist a child who is 16 years of age or older to make the transition to independent living.

(8.1) Whether the child continues to meet the definition of 'child' and has requested that the court continue jurisdiction pursuant to [section 6302](#) if the child is between 18 and 21 years of age.

(8.2) That a transition plan has been presented in accordance with section 475 of the Social Security Act (49 Stat. 620, [42 U.S.C. § 675\(5\)\(H\)](#)).

(9) If the child has been in placement for at least 15 of the last 22 months or the court has determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's parent, guardian or custodian or to preserve and reunify the family need not be made or continue to be made, whether the county agency has filed or sought to join a petition to terminate parental rights and to identify, recruit, process and approve a qualified family to adopt the child unless:

(i) the child is being cared for by a relative best suited to the physical, mental and moral welfare of the child;

(ii) the county agency has documented a compelling reason for determining that filing a petition to terminate parental rights would not serve the needs and welfare of the child; or

(iii) the child's family has not been provided with necessary services to achieve the safe return to the child's parent, guardian or custodian within the time frames set forth in the permanency plan.

(10) If a sibling of a child has been removed from his home and is in a different placement setting than the child, whether reasonable efforts have been made to place the child and the sibling of the child together or whether such joint placement is contrary to the safety or well-being of the child or sibling.

(11) If the child has a sibling, whether visitation of the child with that sibling is occurring no less than twice a month, unless a finding is made that visitation is contrary to the safety or well-being of the child or sibling.

For children placed in foster care on or before November 19, 1997, the county agency shall file or join a petition for termination of parental rights under this subsection in accordance with section 103(c)(2) of the Adoption and Safe Families Act of 1997 ([Public Law 105-89, 111 Stat. 2119](#)).

**(f.1) Additional determination.**--Based upon the determinations made under subsection (f) and all relevant evidence presented at the hearing, the court shall determine one of the following:

(1) If and when the child will be returned to the child's parent, guardian or custodian in cases where the return of the child is best suited to the safety, protection and physical, mental and moral welfare of the child.

(2) If and when the child will be placed for adoption, and the county agency will file for termination of parental rights in cases where return to the child's parent, guardian or custodian is not best suited to the safety, protection and physical, mental and moral welfare of the child.

(3) If and when the child will be placed with a legal custodian in cases where the return to the child's parent, guardian or custodian or being placed for adoption is not best suited to the safety, protection and physical, mental and moral welfare of the child.

(4) If and when the child will be placed with a fit and willing relative in cases where return to the child's parent, guardian or custodian, being placed for adoption or being placed with a legal custodian is not best suited to the safety, protection and physical, mental and moral welfare of the child.

(5) If and when the child will be placed in another living arrangement intended to be permanent in nature which is approved by the court in cases where the county agency has documented a compelling reason that it would not be best suited to the safety, protection and physical, mental and moral welfare of the child to be returned to the child's parent, guardian or custodian, to be

placed for adoption, to be placed with a legal custodian or to be placed with a fit and willing relative.

**(f.2) Evidence.**--Evidence of conduct by the parent that places the health, safety or welfare of the child at risk, including evidence of the use of alcohol or a controlled substance that places the health, safety or welfare of the child at risk, shall be presented to the court by the county agency or any other party at any disposition or permanency hearing whether or not the conduct was the basis for the determination of dependency.

**(g) Court order.**--On the basis of the determination made under subsection (f.1), the court shall order the continuation, modification or termination of placement or other disposition which is best suited to the safety, protection and physical, mental and moral welfare of the child.

(h) Deleted by [2002, Dec. 9, P.L. 1705, No. 215, § 3](#), effective in 60 days.

**(i) Assignment to orphans' court.**--A judge who adjudicated the child dependent or who has conducted permanency hearings or other dependency proceedings involving the child may be assigned to the orphans' court division for the purpose of hearing proceedings relating to any of the following:

(1) Involuntary termination of parental rights of a parent of the dependent child under 23 Pa.C.S. Ch. 25 Subch. B (relating to involuntary termination).

(2) A petition to adopt the dependent child.

**(j) Resumption of jurisdiction.**--At any time prior to a child reaching 21 years of age, a child may request the court to resume dependency jurisdiction if:

(1) the child continues to meet the definition of "child" pursuant to [section 6302](#); and

(2) dependency jurisdiction was terminated:

(i) within 90 days prior to the child's 18th birthday; or

(ii) on or after the child's 18th birthday, but before the child turns 21 years of age.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 29, effective June 27, 1978; 1986, Dec. 15, P.L. 1598, No. 177, § 1, effective in 60 days; [1996, July 11, P.L. 607, No. 104, § 5](#), effective in 60 days; [1998, Dec. 15, P.L. 949, No. 126, § 8](#), effective Jan. 1, 1999; [2002, Dec. 9, P.L. 1705, No. 215, § 3](#), effective in 60 days; [2007, Dec. 18, P.L. 484, No. 76, § 1](#), effective Jan. 1, 2008; [2010, Nov. 23, P.L. 1140, No. 115, § 1](#), effective in 60 days [Jan. 24, 2011]; [2012, July 5, P.L. 880, No. 91, § 2.2](#), imd. effective.

SUSPENDED IN PART

<For purposes of dependency proceedings, [Pa.R.J.C.P. No. 1800\(12\)](#) suspends 42 Pa.C.S.A. § 6351(e)(3)(i)(B), insofar as inconsistent with [Pa.R.J.C.P. No. 1607](#), which requires permanency hearings in all cases until the child is removed from the jurisdiction of the court.>

OFFICIAL COMMENT

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 24 ([11 P.S. § 50-321](#)) after substituting a reference to § 33 for an erroneous reference to § 32.

## HISTORICAL AND STATUTORY NOTES

### Act 1996-104 legislation

The 1996 amendment added subsec. (i).

### Act 1998-126 legislation

Act 1998-126, in subsec. (a)(2)(ii), inserted "including any relative"; added subsec. (2.1); in subsec. (b)(1), inserted "safety or health" and added the undesignated paragraph following (b)(4); rewrote subsec. (e) and designated subssecs. (e)(1) and (2); in subsec. (f), in the subsec. heading, added "at permanency hearing" and in the following sentence, deleted "disposition review", in subsec. (f)(2), inserted "appropriateness, feasibility and", substituted "permanency" for "service" and added subssecs. (f)(6) through (f)(9) and (f.1); in subsec. (g), substituted "all" for "other", in subsec. (g)(1), substituted "if and when" for "whether" and rewrote subssecs. (g)(1)(ii) and (iii); in subsec. (h), substituted "permanency" for "disposition review", rewrote subsec. (h)(1) and added subsec. (h)(3); in subsec. (i), substituted "permanency" for "disposition review". Prior to amendment, subssecs. (e), (g)(1)(ii), (g)(1)(iii) and (h)(1) read:

"(e) Disposition review hearings.--Within six months of the removal of a child from the home of his parents, guardian or custodian for placement pursuant to a transfer of temporary legal custody or other disposition under subsection (a)(2), the court shall conduct a disposition review hearing for the purpose of determining whether placement continues to be best suited to the protection and physical, mental and moral welfare of the child. The court shall conduct a second review hearing not later than six months after the initial hearing, a third hearing not later than six months after the second hearing and subsequent disposition review hearings at least every 12 months until the child is returned home or removed from the jurisdiction of the court.

"(g) Court order.--On the basis of the determinations made under subsection (f) and other relevant evidence, the court, in addition, shall:

"(1) determine whether the child:

"(ii) should be continued in placement for a specified period; or

"(iii) because of the child's special needs or circumstances, should remain in placement on a permanent or long-term basis; and

"(h) Certain hearings discretionary.--At the discretion of the court, disposition review hearings need not be conducted:

"(1) for a child who the court has determined should remain permanently in foster care with a specified foster family; or"

### Act 2002-215 legislation

Act 2002-215, § 3, in subsec. (a), in the introductory paragraph, inserted "safety,"; rewrote subssecs. (e) and (f), which prior thereto read:

"(e) Permanency hearings.--

"(1) The court shall conduct a permanency hearing for the purpose of determining or reviewing the permanency plan of the child, the date by which the goal of permanency for the child might be achieved and whether placement continues to be best suited to the safety, protection and physical, mental and moral welfare of the child.

"(2) If the county agency or the child's attorney alleges the existence of aggravated circumstances and the court determines that the child has been adjudicated dependent, the court shall then determine if aggravated circumstances exist. If the court finds from clear and convincing evidence that aggravated circumstances exist, the court shall determine whether or not reasonable efforts to prevent or eliminate the need for removing the child from the home or

to preserve and reunify the family shall be made or continue to be made and schedule a hearing as provided in paragraph (3).

“(3) The court shall conduct permanency hearings as follows:

“(i) Within six months of:

“(A) the removal of a child from the home of the parent, guardian or custodian for placement pursuant to a transfer of temporary legal custody or other disposition under subsection (a)(2); or

“(B) each previous permanency hearing until the child is returned home or removed from the jurisdiction of the court.

“(ii) Within 30 days of:

“(A) an adjudication of dependency at which the court determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the home or to preserve and reunify the family need not be made or continue to be made;

“(B) a permanency hearing at which the court determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the home or to preserve and reunify the family need not be made or continue to be made and the permanency plan for the child is incomplete or inconsistent with the court's determination;

“(C) an allegation that aggravated circumstances exist regarding a child who has been adjudicated dependent filed under section 6334(b) (relating to petition); or

“(D) a petition alleging that the hearing is necessary to protect the physical, mental or moral welfare of a dependent child.

“(f) Matters to be determined at permanency hearing.--

“At each hearing, the court shall:

“(1) determine the continuing necessity for and appropriateness of the placement;

“(2) determine the appropriateness, feasibility and extent of compliance with the permanency plan developed for the child;

“(3) determine the extent of progress made toward alleviating the circumstances which necessitated the original placement;

“(4) determine the appropriateness and feasibility of the current placement goal for the child;

“(5) project a likely date by which the goal for the child might be achieved;

“(6) determine whether the child is safe;

“(7) determine, if the child has been placed outside the Commonwealth, whether the placement continues to be best suited to the protection and physical, mental and moral welfare of the child;

“(8) determine the services needed to assist a child who is 16 years of age or older to make the transition to independent living; and

“(9) if the child has been in placement for at least 15 of the last 22 months or the court has determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the home or to preserve and reunify the family need not be made or continue to be made, determine whether the county agency has filed or sought to join a petition to terminate parental rights and to identify, recruit, process and approve a qualified family to adopt the child unless:

“(i) the child is being cared for by a relative best suited to the welfare of the child;

“(ii) the county agency has documented a compelling reason for determining that filing a petition to terminate parental rights would not serve the needs and welfare of the child; or

“(iii) the child's family has not been provided with necessary services to achieve the safe return to the child's home within the time frames set forth in the permanency plan.

“For children placed in foster care on or before November 19, 1997, the county agency shall file or join a petition for termination of parental rights under this subsection in accordance with section 103(c)(2) of the Adoption and Safe Families Act of 1997 (Public Law 105-89, 111 Stat. 2119).”

; added a new subsec. (f.1) and redesignated former subsec. (f.1) as subsec. (f.2); rewrote subsec. (g), which prior thereto read:

“(g) Court order.--On the basis of the determinations made under subsection (f) and all relevant evidence, the court, in addition, shall:

“(1) determine if and when the child:

“(i) should be returned to the parents, guardian or other custodian;

“(ii) will be placed for adoption and the county agency will file for termination of parental rights; or

“(iii) will be placed with a legal custodian or in another living arrangement intended to be permanent in nature approved by the court if the county agency has documented a compelling reason that it would not serve the child's physical, mental or emotional health, safety or morals to return home, to be referred for termination of parental rights or to be placed for adoption; and  
“(2) order continuation, modification or termination of placement or other disposition best suited to the protection and physical, mental and moral welfare of the child.”

; and deleted subsec. (h), which read:

“(1) for a child who has been placed in a living arrangement that is intended to be permanent in nature and that is approved by the court;

“(2) for a child who has been placed in an adoptive home pending finalization of adoption pursuant to 23 Pa.C.S. Part III (relating to adoption); or

“(3) for a child who has been placed with a permanent legal custodian appointed by the court pursuant to subsection (a) and section 6357 (relating to rights and duties of legal custodian).”

Act 2007-76 legislation

Act 2007-76, § 1, in subsec. (e)(1), added the second and third sentences.

Act 2010-115 legislation

Act 2010-115, § 1, added subsecs. (b)(5), (b.1) and (f)(10 and (11).

Act 2012-91 legislation

Act 2012-91, § 2.1, added subsecs. (e)(3)(iii), (f)(8.1) and (8.2) and (j).

Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.

1972, Dec. 6, P.L. 1464, No. 333, § 24 ([11 P.S. § 50-321](#)).

### **§ 6351.1. Authority of court upon petition to remove child from foster parent**

**(a) Order required.**--Notwithstanding [sections 6324](#) (relating to taking into custody) and 6351(a) (relating to disposition of dependent child), if a county agency petitions the court for removal of a child because the foster parent has been convicted of an offense set forth in [23 Pa.C.S. § 6344\(c\)](#) (relating to information relating to prospective child-care personnel), the court shall immediately enter an order removing the child from the foster parent.

**(b) Limitation on placement.**--If a court enters an order under subsection (a), the following apply:

(1) Except as set forth in paragraph (2), the court may, under [section 6351\(a\)](#), enter an order of disposition best suited to the child's safety; protection; and physical, mental and moral welfare.

(2) Notwithstanding [section 6351\(a\)](#), if the court finds that the foster parent has been convicted of an offense set forth in [23 Pa.C.S. § 6344\(c\)](#), the court has no authority to place or return the child to the foster parent who was named in the petition filed by the county agency under subsection (a).

CREDIT(S)

[2003, Oct. 31, P.L. 200, No. 31, § 1](#), effective Dec. 30, 2003.

#### HISTORICAL AND STATUTORY NOTES

Act 2003-31 legislation

Section 3 of 2003, Oct. 31, P.L. 200, No. 31, provides that "[t]he addition of 42 Pa.C.S. § 6351.1 shall apply to petitions filed on or after the effective date of this section."

## § 6352. Disposition of delinquent child

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

- (1) Any order authorized by [section 6351](#) (relating to disposition of dependent child).
- (2) Placing the child on probation under supervision of the probation officer of the court or the court of another state as provided in [section 6363](#) (relating to ordering foreign supervision), under conditions and limitations the court prescribes.
- (3) Committing the child to an institution, youth development center, camp, or other facility for delinquent children operated under the direction or supervision of the court or other public authority and approved by the Department of Public Welfare.
- (4) If the child is 12 years of age or older, committing the child to an institution operated by the Department of Public Welfare.
- (5) Ordering payment by the child of reasonable amounts of money as fines, costs, fees or restitution as deemed appropriate as part of the plan of rehabilitation considering the nature of the acts committed and the earning capacity of the child, including a contribution to a restitution fund. The president judge of the court of common pleas shall establish a restitution fund for the deposit of all contributions to the restitution fund which are received or collected. The president judge of the court of common pleas shall promulgate written guidelines for the administration of the fund. Disbursements from the fund shall be made, subject to the written guidelines and the limitations of this chapter, at the discretion of the president judge and used to reimburse crime victims for financial losses resulting from delinquent acts. For an order made under this subsection, the court shall retain jurisdiction until there has been full compliance with the order or until the delinquent child attains 21 years of age. Any restitution order which remains unpaid at the time the child attains 21 years of age shall continue to be collectible under [section 9728](#) (relating to collection of restitution, reparation, fees, costs, fines and penalties).
- (6) An order of the terms of probation may include an appropriate fine considering the nature of the act committed or restitution not in excess of actual damages caused by the child which shall be paid from the earnings of the child received through participation in a constructive program of service or education acceptable to the victim and the court whereby, during the course of such service, the child shall be paid not less than the minimum wage of this Commonwealth. In ordering such service, the court shall take into consideration the age, physical and mental capacity of the child and the service shall be designed to impress upon the child a sense of responsibility for the injuries caused to the person or property of another. The order of the court shall be limited in duration consistent with the limitations in [section 6353](#) (relating to limitation on and change in place of commitment) and in the act of May 13, 1915 (P.L. 286, No. 177), known as the Child Labor Law. [\[FN1\]](#) The court order shall specify the nature of the work, the number of hours to be spent performing the assigned tasks, and shall further specify that as part of a plan of treatment and rehabilitation that up to 75% of the earnings of the child be used for restitution in order to provide positive reinforcement for the work performed.

In selecting from the alternatives set forth in this section, the court shall follow the general principle that the disposition imposed should provide the means through which the provisions of this chapter are executed and enforced consistent with [section 6301\(b\)](#) (relating to purposes)

and when confinement is necessary, the court shall impose the minimum amount of confinement that is consistent with the protection of the public and the rehabilitation needs of the child.

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

**(c) Required statement of reasons.**--Prior to entering an order of disposition under subsection (a), the court shall state its disposition and the reasons for its disposition on the record in open court, together with the goals, terms and conditions of that disposition. If the child is to be committed to out-of-home placement, the court shall also state the name of the specific facility or type of facility to which the child will be committed and its findings and conclusions of law that formed the basis of its decision consistent with subsection (a) and [section 6301](#), including the reasons why commitment to that facility or type of facility was determined to be the least restrictive placement that is consistent with the protection of the public and best suited to the child's treatment, supervision, rehabilitation and welfare.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 29, effective June 27, 1978; [1995, May 12, P.L. 1006, No. 13 \(Spec. Sess. No. 1\), § 1](#) effective in 60 days; [1995, Nov. 17, P.L. 1127, No. 33 \(Spec. Sess. No. 1\), § 6](#), effective in 120 days; [2004, Nov. 30, P.L. 1703, No. 217, § 4](#), imd. effective; [2012, April 3, P.L. 222, No. 22, § 1](#), imd. effective.

[\[FN1\] 43 P.S. § 41 et seq.](#)

OFFICIAL COMMENT

**Subsection (a):** This section is derived from Section 31 of the Uniform Act.

Among the probationary limitations that the court may require would be suspension or modification of motor vehicle operating privileges: see The Vehicle Code, 1959, April 29, P.L. 58, §§ 618(f) [[75 Pa.C.S. §§ 1532, 1533](#)], 619(7) [Repealed], as amended, 75 P.S. 618(f), 619(7), and reimbursement of financial losses by the child or his parents; see the Act of 1967, July 27, Act No. 58, [11 P.S. 2001, et seq.](#)

**Subsection (b):** This section is derived from Section 33 of the Uniform Act. Subsection (a) [ (b) ] continues existing policy, the heart of the differentiation of juvenile proceedings from criminal proceedings, first established in Pennsylvania in 1893, and continued under Section 19 of The Juvenile Court Law [Repealed].

Source: Reenactment of act of December 6, 1972 (No. 333), § 25 and § 27(a) (second sentence) ([11 P.S. §§ 50-322](#) and [50-324\(a\)](#) ) after substituting a reference to § 33 for an erroneous reference to § 34.

HISTORICAL AND STATUTORY NOTES

Act 1995-6 (SS1) legislation

Act 1995, No. 6 (Spec. Sess. No. 1), in subsec. (a)(5), added the second and third sentences.

Act 1995-33 (SS1) legislation

Act 1995, No. 33 (Spec. Sess. No. 1), in the introductory paragraph of subsec. (a), inserted "determined to be consistent with the protection of the public interest and", substituted "the

child's" for "his", and added "which disposition shall, as appropriate to the individual circumstances of the child's case, provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable the child to become a responsible and productive member of the community"; and, in subd. (a)(6), deleted the quotation marks around the reference to the Child Labor Law.

Section 8 of Act 1995, No. 33 (Spec. Sess. No. 1) provides that the act shall apply to all delinquent acts committed on or after the effective date of the act.

Act 2004-217 legislation

Act 2004-217, § 4, rewrote subsec. (a)(5) which prior thereto read:

"(5) Ordering payment by the child of reasonable amounts of money as fines, costs or restitution as deemed appropriate as part of the plan of rehabilitation considering the nature of the acts committed and the earning capacity of the child. For an order made under this subsection, the court shall retain jurisdiction until there has been full compliance with the order or until the delinquent child attains 21 years of age. Any restitution order which remains unpaid at the time the child attains 21 years of age shall continue to be collectible under section 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties)."

Act 2012-22 legislation

Act 2012-22, § 1, added subsec. (c).

Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.

1972, Dec. 6, P.L. 1464, No. 333, §§ 25, 27(a) ([11 P.S. §§ 50-322, 50-324\(a\)](#)).

### **§ 6352.1. Treatment records**

Notwithstanding any other provision of law, drug and alcohol treatment records or related information regarding a child who is alleged or who has been found to be dependent or delinquent, or the child's parent, shall be released to the county agency, court or juvenile probation officer upon the consent of the child or the child's parent or upon an order of the court. The disclosure of drug and alcohol treatment records under this section shall be obtained or ordered in a manner that is consistent with the procedures, limitations and criteria set forth in regulations adopted by the Department of Health and Human Services relating to the confidentiality of drug and alcohol treatment records. The county agency, court or juvenile probation officer shall only use the records to carry out the purposes of this chapter and shall not release the records to any other person. The court may order the participation of the county agency or juvenile probation officer in the development of a treatment plan for the child as necessary to protect the health, safety or welfare of the child, to include discussions with the individual, facility or program providing treatment and the child or the child's parent in furtherance of a disposition under [section 6351](#) (relating to disposition of dependent child) or 6352 (relating to disposition of delinquent child).

CREDIT(S)

[1998, Dec. 15, P.L. 949, No. 126, § 9](#), effective Jan. 1, 1999.

### **§ 6353. Limitation on and change in place of commitment**

**(a) General rule.**--No child shall initially be committed to an institution for a period longer than four years or a period longer than he could have been sentenced by the court if he had been convicted of the same offense as an adult, whichever is less. The initial commitment may be extended for a similar period of time, or modified, if the court finds after hearing that the extension or modification will effectuate the original purpose for which the order was entered. The child shall have notice of the extension or modification hearing and shall be given an opportunity to be heard. The committing court shall review each commitment every six months and shall hold a disposition review hearing at least every nine months.

**(b) Transfer to other institution.**--After placement of the child, and if his progress with the institution warrants it, the institution may seek to transfer the child to a less secure facility, including a group home or foster boarding home. The institution shall give the committing court written notice of all requests for transfer and shall give the attorney for the Commonwealth written notice of a request for transfer from a secure facility to another facility. If the court, or in the case of a request to transfer from a secure facility, the attorney for the Commonwealth, does not object to the request for transfer within ten days after the receipt of such notice, the transfer may be effectuated. If the court, or in the case of a request to transfer from a secure facility, the attorney for the Commonwealth, objects to the transfer, the court shall hold a hearing within 20 days after objecting to the transfer for the purpose of reviewing the commitment order. The institution shall be notified of the scheduled hearing, at which hearing evidence may be presented by any interested party on the issue of the propriety of the transfer. If the institution seeks to transfer to a more secure facility the child shall have a full hearing before the committing court. At the hearing, the court may reaffirm or modify its commitment order.

**(c) Notice of available facilities and services.**--Immediately after the Commonwealth adopts its budget, the Department of Public Welfare shall notify the courts and the General Assembly, for each Department of Public Welfare region, of the available:

- (1) Secure beds for the serious juvenile offenders.
- (2) General residential beds for the adjudicated delinquent child.
- (3) The community-based programs for the adjudicated delinquent child.

If the population at a particular institution or program exceeds 110% of capacity, the department shall notify the courts and the General Assembly that intake to that institution or program is temporarily closed and shall make available equivalent services to children in equivalent facilities.

#### CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 29, effective June 27, 1978; 1980, Feb. 29, P.L. 36, No. 12, § 1, effective in 60 days; 1986, Dec. 11, P.L. 1521, No. 165, § 9, effective in 60 days.

#### SUSPENDED IN PART

<For purposes of delinquency proceedings, [Pa.R.J.C.P. No. 800\(16\)](#) suspends 42 Pa.C.S. § 6353(a), which requires dispositional review hearings to be held at least every nine months when a juvenile is removed from the home, insofar as it is inconsistent with the requirement of Rule 610, which requires dispositional review hearings to be held at least every six months.>

#### OFFICIAL COMMENT

**Subsection (a):** This section is derived from Section 36 of the Uniform Act. Its purposes are to ensure that a child not be committed for a period longer than that for which he could have been committed if convicted of the same offense in a criminal prosecution, and to require review of its disposition by the court at least every three years. It is contemplated that the court will review its orders and where circumstances require modify them much more often. The authority contained in Section 12 of The Juvenile Court Law, Act of 1933, June 2, P.L. 1433 [Repealed], for the court to amend, change or extend its orders to meet changes in circumstances is hereby continued.

Source: Reenactment of act of December 6, 1972 (No. 333), § 26 (11 U.S. § 50-323).

#### HISTORICAL AND STATUTORY NOTES

##### Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.

1972, Dec. 6, P.L. 1464, No. 333, § 26 ([11 P.S. § 50-323](#)).

## § 6354. Effect of adjudication

**(a) General rule.**--An order of disposition or other adjudication in a proceeding under this chapter is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment.

**(b) Effect in subsequent judicial matters.**--The disposition of a child under this chapter may only be used against him:

- (1) in dispositional proceedings after conviction for the purposes of a presentence investigation and report if the child was adjudicated delinquent;
- (2) in a subsequent juvenile hearing, whether before or after reaching majority;
- (3) if relevant, where he has put his reputation or character in issue in a civil matter; or
- (4) in a criminal proceeding, if the child was adjudicated delinquent for an offense, the evidence of which would be admissible if committed by an adult.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended [1995, May 12, P.L. 1006, No. 13 \(Spec. Sess. No. 1\), § 1](#), effective in 60 days.

OFFICIAL COMMENT

This section is derived from Section 33 of the Uniform Act. Subsection (a) continues existing policy, the heart of the differentiation of juvenile proceedings from criminal proceedings, first established in Pennsylvania in 1893, and continued under Section 19 of The Juvenile Court Law. The first exception of subsection (b) codifies the holding of [Commonwealth ex rel. Hendrickson v. Myers, 393 Pa. 224, 144 A.2d 367 \(1958\)](#), while the second exception is intended to remove the shield from a plaintiff in a civil proceeding where he places his reputation or character in issue, e.g., libel actions.

Source: Reenactment of act of December 6, 1972 (No. 333), § 27(a) (first sentence) and 27(b) ([11 P.S. § 50-324\(a\) and \(b\)](#)).

HISTORICAL AND STATUTORY NOTES

The 1995 amendment rewrote subsec. (b).

Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.

1972, Dec. 6, P.L. 1464, No. 333, § 27(a), (b) ([11 P.S. § 50-324\(a\), \(b\)](#)).

## **§ 6355. Transfer to criminal proceedings**

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

- (1) The child was 14 or more years of age at the time of the alleged conduct.
- (2) A hearing on whether the transfer should be made is held in conformity with this chapter.
- (3) Notice in writing of the time, place, and purpose of the hearing is given to the child and his parents, guardian, or other custodian at least three days before the hearing.
- (4) The court finds:
  - (i) that there is a prima facie case that the child committed the delinquent act alleged;
  - (ii) that the delinquent act would be considered a felony if committed by an adult;
  - (iii) that there are reasonable grounds to believe that the public interest is served by the transfer of the case for criminal prosecution. In determining whether the public interest can be served, the court shall consider the following factors:
    - (A) the impact of the offense on the victim or victims;
    - (B) the impact of the offense on the community;
    - (C) the threat to the safety of the public or any individual posed by the child;
    - (D) the nature and circumstances of the offense allegedly committed by the child;
    - (E) the degree of the child's culpability;
    - (F) the adequacy and duration of dispositional alternatives available under this chapter and in the adult criminal justice system; and
    - (G) whether the child is amenable to treatment, supervision or rehabilitation as a juvenile by considering the following factors:
      - (I) age;
      - (II) mental capacity;
      - (III) maturity;
      - (IV) the degree of criminal sophistication exhibited by the child;
      - (V) previous records, if any;
      - (VI) the nature and extent of any prior delinquent history, including the success or failure of any previous attempts by the juvenile court to rehabilitate the child;

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

(VIII) probation or institutional reports, if any;

(IX) any other relevant factors; and

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

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

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

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

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

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

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

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

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

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

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

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 30, effective June 27, 1978; 1980, Feb. 29, P.L. 36, No. 12, § 1, effective in 60 days; [1995, Nov. 17, P.L. 1127, No. 33 \(Spec. Sess. No. 1\), § 7](#), effective in 120 days.

#### OFFICIAL COMMENT

This section is derived from Section 34 of the Uniform Act with the following significant differences: (1) the minimum age of a child who may be transferred for criminal prosecution is lowered from 16 to 14 years of age; (2) a prima facie case must be made out that the child committed a delinquent act identical to that required before a committing magistrate; (3) the finding that the interests of the community require that the child be placed under legal restraint or discipline has been supplemented to provide that in the alternative the offense is one which would, upon conviction, carry a sentence of more than three years.

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 28 ([11 P.S. § 50-325](#)).

#### HISTORICAL AND STATUTORY NOTES

The 1995 amendment rewrote subd. (a)(4); in subsec. (e), inserted "and other excluded acts" in the subsection heading, and inserted "or any of the offenses excluded by paragraph (2)(ii) or (iii) of the definition of 'delinquent act' in section 6302 (relating to definitions),"; and added subsec. (g).

Section 8 of Act 1995, No. 33 (Spec. Sess. No. 1) provides that the act shall apply to all delinquent acts committed on or after the effective date of the act.

#### Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.

1972, Dec. 6, P.L. 1464, No. 333, § 28 ([11 P.S. § 50-325](#)).

## **§ 6356. Disposition of mentally ill or mentally retarded child**

If, at a dispositional hearing of a child found to be a delinquent or at any hearing, the evidence indicates that the child may be subject to commitment or detention under the provisions of the act of October 20, 1966 (3rd Sp.Sess., P.L. 96, No. 6), known as the "Mental Health and Mental Retardation Act of 1966," [\[FN1\]](#) or the act of July 9, 1976 (P.L. 817, No. 143), known as the "Mental Health Procedures Act," [\[FN2\]](#) the court shall proceed under the provisions of the appropriate statute.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 10(86), effective June 27, 1978.

[\[FN1\] 50 P.S. § 4101 et seq.](#)

[\[FN2\] 50 P.S. § 7101 et seq.](#)

OFFICIAL COMMENT

Source: Reenactment of act of December 6, 1972 (No. 333), § 29 ([11 P.S. § 50-326](#)).

HISTORICAL AND STATUTORY NOTES

Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 29 ([11 P.S. § 50-326](#)).

## **§ 6357. Rights and duties of legal custodian**

A custodian to whom legal custody has been given by the court under this chapter has the right to the physical custody of the child, the right to determine the nature of the care and treatment of the child, including ordinary medical care and the right and duty to provide for the care, protection, training, and education, and the physical, mental, and moral welfare of the child. An award of legal custody shall be subject to the conditions and limitations of the order and to the remaining rights and duties of the parents or guardian of the child as determined by the court. The court may award legal custody under this section on a temporary basis to an individual or agency under [section 6351\(a\)\(2\)](#) (relating to disposition of dependent child) or permanent basis to an individual under [section 6351\(a\)\(2.1\)](#).

### CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended [1998, Dec. 15, P.L. 949, No. 126, § 10](#), effective Jan. 1, 1999.

### OFFICIAL COMMENT

Source: Reenactment of act of December 6, 1972 (No. 333), § 30 ([11 P.S. § 50-327](#)).

### HISTORICAL AND STATUTORY NOTES

Act 1998-126 rewrote the section, which formerly read:

"A custodian to whom legal custody has been given by the court under this chapter has the right to the physical custody of the child, the right to determine the nature of the care and treatment of the child, including ordinary medical care and the right and duty to provide for the care, protection, training, and education, and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the parents or guardian of the child."

### Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 30 ([11 P.S. § 50-327](#)).

## **§ 6358. Assessment of delinquent children by the State Sexual Offenders Assessment Board**

**(a) General rule.**--A child who has been found to be delinquent for an act of sexual violence which if committed by an adult would be a violation of [18 Pa.C.S. § 3121](#) (relating to rape), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault), 3126 (relating to indecent assault) or 4302 (relating to incest) who is committed to an institution or other facility pursuant to [section 6352](#) (relating to disposition of delinquent child) and who remains in any such institution or facility as a result of that adjudication of delinquency upon attaining 20 years of age shall be subject to an assessment by the board.

**(b) Duty of probation officer.**--Ninety days prior to the 20th birthday of the child, the probation officer shall have the duty to notify the board of the status of the delinquent child and the institution or other facility where the child is presently committed. The probation officer shall assist the board in obtaining access to the child and any information required by the board to perform the assessment, including, but not limited to, the child's official court record and complete juvenile probation file.

**(b.1) Notification to board.**--The probation officer shall, within five days of the effective date of this subsection, notify the board of any child whose age precludes compliance with subsection (b) provided the child has not yet attained 21 years of age.

**(c) Assessment.**--The board shall conduct an assessment, which shall include the board's determination of whether or not the child is in need of commitment for involuntary treatment due to a mental abnormality as defined in [section 6402](#) (relating to definitions) or a personality disorder, either of which results in serious difficulty in controlling sexually violent behavior. Upon the completion of the assessment pursuant to this section, the board shall provide the assessment to the court. In no case shall the board file the assessment later than 90 days after the child's 20th birthday unless notification of the board was delayed under subsection (b.1), in which case the assessment shall be filed no later than 180 days after the child's 20th birthday.

**(d) Duty of court.**--The court shall provide a copy of the assessment by the board to the probation officer, the district attorney, county solicitor or designee and the child's attorney.

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

**(f) Subsequent proceeding.**--If, at the conclusion of the dispositional review hearing required in subsection (e), the court finds there is a prima facie case that the child is in need of involuntary treatment under the provisions of Chapter 64, the court shall direct that the county solicitor or a designee file a petition to initiate proceedings under the provisions of that chapter.

CREDIT(S)

[2003, Aug. 14, P.L. 97, No. 21, § 3](#), effective Feb. 10, 2004. Amended [2011, Dec. 20, P.L. 446](#),

[No. 111, § 3](#), effective in one year [Dec. 20, 2012]; [2012, July 5, P.L. 880, No. 91, § 3](#), effective Dec. 20, 2012.

#### HISTORICAL AND STATUTORY NOTES

##### Act 2011-111 legislation

Act 2011-111, § 3, in subsec. (a), substituted "any such institution or facility" for "such facility"; and in subsec. (b), inserted ", including, but not limited to, the child's official court record and complete juvenile probation file".

##### Act 2012-91 legislation

Act 2012-91, § 3, in subsec. (a), inserted "as a result of that adjudication of delinquency".

Section 13 of 2012, July 5, P.L. 880, No. 91, provides that "[t]he General Assembly finds and declares that, under principles of statutory construction, the effective date of section 18(2) of the act of December 20, 2011 (P.L. 446, No. 111), is December 20, 2012."

## § 6361. Disposition of nonresident child

**(a) General rule.**--If the court finds that a child who has been adjudged to have committed a delinquent act or to be dependent is or is about to become a resident of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar law which includes provisions corresponding to this section and [section 6362](#) (relating to disposition of resident child received from another state), the court may defer hearing on need of treatment and disposition and request by any appropriate means the appropriate court of the county or parish of the residence or prospective residence of the child to accept jurisdiction of the child.

**(b) Change of residence under court order.**--If the child becomes a resident of another state while on probation or under protective supervision under order of a court of this Commonwealth, the court may request the court of the state in which the child has become a resident to accept jurisdiction of the child and to continue his probation or protective supervision.

**(c) Procedure for transfer.**--Upon receipt and filing of an acceptance the court of this Commonwealth shall transfer custody of the child to the accepting court and cause him to be delivered to the person designated by that court to receive his custody. It also shall provide the accepting court with certified copies of the order adjudging the child to be a delinquent, or dependent child, of the order of transfer, and if the child is on probation or under protective supervision under order of the court, of the order of disposition. It also shall provide the accepting court with a statement of the facts found by the court of this Commonwealth and any recommendations and other information or documents it considers of assistance to that court in making a disposition of the case or in supervising the child on probation or otherwise.

**(d) Effect of transfer to accepting court.**--Upon compliance with subsection (c) the jurisdiction of the court of this Commonwealth over the child is terminated.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 30, effective June 27, 1978.

### OFFICIAL COMMENT

This section and Sections 32, 33, 34 and 35 [[42 Pa.C.S. §§ 6362, 6363, 6364 and 6365](#)] are derived from Sections 39 through 43, respectively, of the Uniform Act, and deal with the difficulties arising out of interstate relations. These sections supplement the Interstate Compact on Juveniles, adopted by Pennsylvania in 1967 and are not in conflict with it.

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 31 ([11 P.S. § 50-328](#)).

### HISTORICAL AND STATUTORY NOTES

Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.  
1972, Dec. 6, P.L. 1464, No. 333, § 31 ([11 P.S. § 50-328](#)).

## **§ 6362. Disposition of resident child received from another state**

**(a) General rule.**--If a juvenile court of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar law which includes provisions corresponding to [section 6361](#) (relating to disposition of nonresident child) and this section, requests a court of this Commonwealth to accept jurisdiction of a child found by the requesting court to have committed a delinquent act or to be an unruly or dependent child, and the court of this Commonwealth finds, after investigation that the child is, or is about to become, a resident of a county for which the court is established, the court shall promptly and not later than 14 days after receiving the request issue its acceptance in writing to the requesting court and direct its probation officer or other person designated by it to take physical custody of the child from the requesting court and bring him before the court of this Commonwealth or make other appropriate provisions for his appearance before the court.

**(b) Hearing on further disposition.**--Upon the filing of certified copies of the orders of the requesting court:

- (1) determining that the child committed a delinquent act or is an unruly or dependent child; and
- (2) committing the child to the jurisdiction of the court of this Commonwealth;

the court of this Commonwealth shall immediately fix a time for a hearing on the need for treatment, supervision or rehabilitation and disposition of the child or on the continuance of any probation or protective supervision.

**(c) Further proceedings.**--The hearing and notice thereof and all subsequent proceedings are governed by this chapter. The court may make any order of disposition permitted by the facts and this chapter. The orders of the requesting court are conclusive that the child committed the delinquent act or is an unruly or dependent child and of the facts found by the court in making the orders. If the requesting court has made an order placing the child on probation or under protective supervision, a like order shall be entered by the court of this Commonwealth.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 30, effective June 27, 1978.

OFFICIAL COMMENT

Source: Substantially a reenactment of act of December 6, 1972 (No. 333), § 32 ([11 P.S. § 50-329](#)).

HISTORICAL AND STATUTORY NOTES

Prior Laws:

1977, Aug. 3, P.L. 155, No. 41, § 1.  
1972, Dec. 6, P.L. 1464, No. 333, § 32 ([11 P.S. § 50-329](#)).

### § 6363. Ordering foreign supervision

**(a) General rule.**--Subject to the provisions of this chapter governing dispositions and to the extent that funds are available the court may place a child in the custody of a suitable person in another state. On obtaining the written consent of a juvenile court of another state which has adopted the Uniform Juvenile Court Act or a substantially similar law, which includes provisions corresponding to this section and [section 6364](#) (relating to supervision under foreign order), the court of this Commonwealth may order that the child be placed under the supervision of a probation officer or other appropriate official designated by the accepting court. One certified copy of the order shall be sent to the accepting court and another filed with the clerk of the requesting court of this Commonwealth.

**(b) Costs and expenses.**--The reasonable cost of the supervision, including the expenses of necessary travel, shall be borne initially by the county of the requesting court of this Commonwealth. Upon receiving a certified statement signed by the judge of the accepting court of the cost incurred by the supervision the court of this Commonwealth shall certify if it so appears that the sum so stated was reasonably incurred and file it with the county for payment. The county shall thereupon make payment of the sum approved to the appropriate officials of the county or parish of the accepting court.

#### CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 10(87), effective June 27, 1978.

#### OFFICIAL COMMENT

Source: Derived from act of December 6, 1972 (No. 333), § 33 ([11 P.S. § 50-330](#)).

#### HISTORICAL AND STATUTORY NOTES

#### Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 33 ([11 P.S. § 50-330](#)).

## § 6364. Supervision under foreign order

**(a) General rule.**--Upon receiving a request of a juvenile court of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar law which includes provisions corresponding to [section 6363](#) (relating to ordering foreign supervision) and this section to provide supervision of a child under the jurisdiction of that court, a court of this Commonwealth may issue its written acceptance to the requesting court and designate its probation or other appropriate officer who is to provide supervision, stating the probable cost per day therefor.

**(b) Supervision and report.**--Upon the receipt and filing of a certified copy of the order of the requesting court placing the child under the supervision of the officer so designated the officer shall arrange for the reception of the child from the requesting court, provide supervision pursuant to the order and this chapter, and report thereon from time to time together with any recommendations he may have to the requesting court.

**(c) Costs and expenses.**--The court of this Commonwealth from time to time shall certify to the requesting court the cost of supervision that has been incurred and request payment therefor from the appropriate officials of the county or parish of the requesting court to the county of the accepting court.

**(d) Termination of supervision.**--The court of this Commonwealth at any time may terminate supervision by notifying the requesting court. In that case, or if the supervision is terminated by the requesting court, the probation officer supervising the child shall return the child to a representative of the requesting court authorized to receive him.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

OFFICIAL COMMENT

Source: Subsections (a), (b) and (d) reenactment of act of December 6, 1972 (No. 333), § 34(a), (b) and (d) ([11 P.S. § 50-331\(a\), \(b\) and \(d\)](#) ). Subsection (c) derived from act of December 6, 1972 (No. 333), § 34(c) ([11 P.S. § 50-331\(c\)](#) ).

HISTORICAL AND STATUTORY NOTES

Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 34 ([11 P.S. § 50-331](#)).

## **§ 6365. Powers of foreign probation officers**

If a child has been placed on probation or protective supervision by a juvenile court of another state which has adopted the Uniform Juvenile Court Act or a substantially similar law which includes provisions corresponding to this section, and the child is in this Commonwealth with or without the permission of that court, the probation officer of that court or other person designated by that court to supervise or take custody of the child has all the powers and privileges in this Commonwealth with respect to the child as given by this chapter to like officers or persons of this Commonwealth including the right of visitation, counseling, control, and direction, taking into custody, and returning to that state.

### CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

### OFFICIAL COMMENT

Source: Reenactment of act of December 6, 1972 (No. 333), § 35 ([11 P.S. § 50-332](#)).

### HISTORICAL AND STATUTORY NOTES

#### Prior Laws:

1972, Dec. 6, P.L. 1464, No. 333, § 35 ([11 P.S. § 50-332](#)).

## § 6371. Definitions

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**"Commission."** The Juvenile Court Judges' Commission created pursuant to [section 6372\(a\)](#) (relating to Juvenile Court Judges' Commission).

**"Commissioner."** A member appointed to the Juvenile Court Judges' Commission pursuant to [section 6372\(b\)](#) (relating to Juvenile Court Judges' Commission).

CREDIT(S)

[2007, Dec. 4, P.L. 427, No. 64, § 1](#), imd. effective.

### HISTORICAL AND STATUTORY NOTES

Act 2007-64 legislation

For continuation of provisions of repealed Act 1959, Dec. 21, P.L. 1962, No. 717 [[11 P.S. §§ 270-1](#) to [270-5](#)], now codified as 42 Pa.C.S. Ch. 63 Subch. F, see note under [42 Pa.C.S.A. § 6372](#).

For continuation of provisions of repealed Act 1929, April 9, P.L. 177, No. 175, §§ 905.1 and 905.2 [[71 P.S. §§ 295.1](#), [295.2](#)], now codified as 42 Pa.C.S. Ch. 63 Subch. F, see note under [42 Pa.C.S.A. § 6374](#).

## § 6372. Juvenile Court Judges' Commission

**(a) Establishment.**--There is hereby established in the Office of General Counsel the Juvenile Court Judges' Commission.

**(b) Composition.**--The commission shall consist of nine judges who shall be appointed by the Governor from a list of judges, serving in the juvenile courts, selected and submitted by the Chief Justice of Pennsylvania.

**(c) Tenure.**--Of the first nine appointees to the commission, three shall serve for three years, three for two years and three for one year. After the initial term, the term for all members shall be three years.

**(d) Officers.**--The commission shall annually select one of its members as chairman and one member as secretary.

**(e) Staff.**--The chairman, with the approval of the majority of the commission, may appoint and fix the compensation of assistants, clerks and stenographers as he deems necessary to enable the commission to perform its powers and duties. During his term of employment, no assistant shall engage, directly or indirectly, in the practice of law in any juvenile court in this Commonwealth.

**(f) Staff compensation.**--The compensation of the assistants, clerks and stenographers shall be fixed within limitations fixed by the Executive Board and shall be eligible to apply for membership in the State Employees' Retirement System.

**(g) Meetings.**--Each year there shall be quarterly meetings of the commission and such additional meetings as the chairman shall deem necessary. Each commissioner attending the meetings shall be paid only his necessary expenses incurred in attending the meetings. Five members of the commission shall constitute a quorum at meetings.

CREDIT(S)

[2007, Dec. 4, P.L. 427, No. 64, § 1](#), imd. effective.

### HISTORICAL AND STATUTORY NOTES

Act 2007-64 legislation

Section 3 of 2007, Dec. 4, P.L. 427, No. 64, imd. effective, provides that "[t]his act shall be a continuation of the act of December 21, 1959 (P.L. 1962, No. 717) [[11 P.S. §§ 270-1 to 270-5](#)], entitled 'An act providing for the creation and operation of the Juvenile Court Judges' Commission in the Department of Justice; prescribing its powers and duties; and making an appropriation.' The following apply:

"(1) Except as otherwise provided in 42 Pa.C.S. Ch. 63 Subch. F, all activities initiated under the act of December 21, 1959 (P.L. 1962, No. 717), entitled 'An act providing for the creation and operation of the Juvenile Court Judges' Commission in the Department of Justice; prescribing its powers and duties; and making an appropriation,' shall continue and remain in full force and effect and may be completed under 42 Pa.C.S. Ch. 63 Subch. F. Orders, regulations, rules and decisions, which were made under the act of December 21, 1959 (P.L. 1962, No. 717), and which are in effect on the effective date of section 2 shall remain in full force and effect until revoked, vacated or modified under 42 Pa.C.S. Ch. 63 Subch. F. Contracts and obligations entered into under the act of December 21, 1959 (P.L. 1962, No. 717) are not affected nor impaired by the repeal of the act of December 21, 1959 (P.L. 1962, No. 717).

“(2) Any difference in language between 42 Pa.C.S. Ch. 63 Subch. F and the act of December 21, 1959 (P.L. 1962, No. 717), is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the act of December 21, 1959 (P.L. 1962, No. 717).”

For continuation of provisions of repealed Act 1929, April 9, P.L. 177, No. 175, §§ 905.1 and 905.2 [[71 P.S. §§ 295.1](#), [295.2](#)], now codified as 42 Pa.C.S. Ch. 63 Subch. F, see note under [42 Pa.C.S.A. § 6374](#).

Prior Laws:

1959, Dec. 21, P.L.1962, §§ 1 to 3, 5 ([11 P.S. §§ 270-1](#) to [270-3](#), [270-5](#)).

### **§ 6373. Powers and duties**

The commission shall have the power and is required to do the following:

- (1) Advise the juvenile court judges of this Commonwealth in all matters pertaining to the proper care and maintenance of delinquent and dependent children.
- (2) Examine the administrative methods and judicial procedure used in juvenile courts throughout this Commonwealth, establish standards and make recommendations on the same to the courts presiding over juvenile proceedings within this Commonwealth.
- (3) Examine the personnel practices and employment standards used in probation offices in this Commonwealth, establish standards and make recommendations on the same to courts presiding over juvenile proceedings within this Commonwealth.
- (4) Collect and analyze data to identify trends and to determine the effectiveness of programs and practices to ensure the reasonable and efficient administration of the juvenile court system, make recommendations concerning evidence-based programs and practices to judges, the Administrative Office of Pennsylvania Courts and other appropriate entities and post related information on the commission's publicly accessible Internet website.

CREDIT(S)

[2007, Dec. 4, P.L. 427, No. 64, § 1](#), imd. effective. Amended [2012, May 17, P.L. 261, No. 42, § 1](#), effective in 60 days [July 16, 2012].

#### HISTORICAL AND STATUTORY NOTES

Act 2007-64 legislation

For continuation of provisions of repealed Act 1959, Dec. 21, P.L. 1962, No. 717 [[11 P.S. §§ 270-1](#) to [270-5](#)], now codified as 42 Pa.C.S. Ch. 63 Subch. F, see note under [42 Pa.C.S.A. § 6372](#).

For continuation of provisions of repealed Act 1929, April 9, P.L. 177, No. 175, §§ 905.1 and 905.2 [[71 P.S. §§ 295.1](#), [295.2](#)], now codified as 42 Pa.C.S. Ch. 63 Subch. F, see note under [42 Pa.C.S.A. § 6374](#).

Act 2012-42 legislation

Act 2012-42, § 1, rewrote par. (4), which prior thereto read:

“(4) Collect, compile and publish such statistical and other data as may be needed to accomplish reasonable and efficient administration of the juvenile courts system.”

Prior Laws:

1959, Dec. 21, P.L.1962, § 4 ([11 P.S. § 270-4](#)).

## § 6374. Power to make grants

The commission shall have the power, and its duty shall be to make annual grants to political subdivisions for the development and improvement of probation services for juveniles.

CREDIT(S)

[2007, Dec. 4, P.L. 427, No. 64, § 1](#), imd. effective.

### HISTORICAL AND STATUTORY NOTES

Act 2007-64 legislation

Section 4 of 2007, Dec. 4, P.L. 427, No. 64, imd. effective, provides that “[t]his act shall be a continuation of sections 905.1 and 905.2 of the act of April 9, 1929 (P.L. 177, No. 175) [[71 P.S. §§ 295.1, 295.2](#)], known as The Administrative Code of 1929. The following apply:

“(1) Except as otherwise provided in 42 Pa.C.S. Ch. 63 Subch. F, all activities initiated under sections 905.1 and 905.2 of The Administrative Code of 1929 shall continue and remain in full force and effect and may be completed under 42 Pa.C.S. Ch. 63 Subch. F. Orders, regulations, rules and decisions, which were made under sections 905.1 and 905.2 of The Administrative Code of 1929 and which are in effect on the effective date of section 2 of this act shall remain in full force and effect until revoked, vacated or modified under 42 Pa.C.S. Ch. 63 Subch. F. Contracts and obligations entered into under sections 905.1 and 905.2 of The Administrative Code of 1929 are not affected nor impaired by the repeal of sections 905.1 and 905.2 of The Administrative Code of 1929.

“(2) Any difference in language between 42 Pa.C.S. Ch. 63 Subch. F and sections 905.1 and 905.2 of The Administrative Code of 1929 is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of sections 905.1 and 905.2 of The Administrative Code of 1929.”

For continuation of provisions of repealed Act 1959, Dec. 21, P.L. 1962, No. 717 [[11 P.S. §§ 270-1 to 270-5](#)], now codified as 42 Pa.C.S. Ch. 63 Subch. F, see note under [42 Pa.C.S.A. § 6372](#).

Prior Laws:

1929, April 9, P.L. 177, art. IX, § 905.1, added 1968, July 2, P.L. 294, No. 147, § 1 ([71 P.S. § 295.1](#)).

## **§ 6375. Funding**

The General Assembly shall annually appropriate such sums as it deems to be necessary for the operation and expenses of the commission.

CREDIT(S)

[2007, Dec. 4, P.L. 427, No. 64, § 1](#), imd. effective.

### HISTORICAL AND STATUTORY NOTES

Act 2007-64 legislation

For continuation of provisions of repealed Act 1959, Dec. 21, P.L. 1962, No. 717 [[11 P.S. §§ 270-1](#) to [270-5](#)] [[11 P.S. §§ 270-1](#) to [270-5](#)], now codified as 42 Pa.C.S. Ch. 63 Subch. F, see note under [42 Pa.C.S.A. § 6372](#).

For continuation of provisions of repealed Act 1929, April 9, P.L. 177, No. 175, §§ 905.1 and 905.2 [[71 P.S. §§ 295.1](#), [295.2](#)], now codified as 42 Pa.C.S. Ch. 63 Subch. F, see note under [42 Pa.C.S.A. § 6374](#).

Prior Laws:

1929, April 9, P.L. 177, art. IX, § 905.2, added 1968, July 2, P.L. 294, No. 147, § 1 ([71 P.S. § 295.2](#)).