

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1801 Session of 2019

INTRODUCED BY McCLINTON, SCHLOSSBERG, T. DAVIS, McNEILL,
DONATUCCI, ULLMAN, KENYATTA, RABB, HILL-EVANS, KINSEY,
YOUNGBLOOD, CALTAGIRONE, JOHNSON-HARRELL, KIRKLAND, BURGOS,
GALLOWAY, OTTEN, HOWARD, KIM AND ROEBUCK, SEPTEMBER 12, 2019

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 12, 2019

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in juvenile matters,
3 further providing for scope of chapter, for release or
4 delivery to court and for place of detention; and making
5 editorial changes.

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

8 Section 1. Sections 6303(b), 6326(b) and 6327(a), (c),
9 (c.1), (e) and (f) of Title 42 of the Pennsylvania Consolidated
10 Statutes are amended to read:

11 § 6303. Scope of chapter.

12 * * *

13 (b) Minor judiciary.--No child shall be detained, committed
14 or sentenced to imprisonment in a facility that houses adult
15 offenders by a magisterial district judge or a judge of the
16 minor judiciary unless the child is charged with [an act set
17 forth in paragraph (2)(i), (ii), (iii) or (v) of the definition
18 of "delinquent act" in section 6302 (relating to definitions)]

1 murder.

2 * * *

3 § 6326. Release or delivery to court.

4 * * *

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

16 * * *

17 § 6327. Place of detention.

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

20 (1) A licensed foster home or a home approved by the
21 court.

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

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

29 (4) Any other suitable place or facility, designated or
30 operated by the court and approved by the Department of

1 [Public Welfare] Human Services.

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

5 * * *

6 (c) Detention in jail prohibited.--It is unlawful for any
7 person in charge of or employed by a jail knowingly to receive
8 for detention or to detain in the jail any person whom he has or
9 should have reason to believe is a child unless, in a criminal
10 proceeding, the child has been charged with murder or has been
11 found guilty of an act set forth in paragraph (2)(i), (ii),
12 (iii) or (v) of the definition of "delinquent act" in section
13 6302 (relating to definitions).

14 (c.1) Detention of child.--The following apply:

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

26 (1.1) A child who is subject to criminal proceedings
27 having been charged with murder, who has not been released on
28 bail and who may seek or is seeking transfer to juvenile
29 proceedings under section 6322 may be detained in a secure
30 detention facility approved by the Department of Human

1 Services for the detention of alleged and adjudicated
2 delinquent children or in a facility that houses adult
3 offenders if the attorney for the Commonwealth has consented
4 to and the court has ordered the detention.

5 (2) Secure detention ordered under [this subsection]
6 paragraph (1) or (1.1) or detention in a facility that houses
7 adult offenders under paragraph (1.1) shall not affect a
8 child's eligibility for or ability to post bail.

9 (3) For a child held [in secure detention under this
10 subsection] under paragraph (1), the court shall order the
11 immediate transfer of the child to the county jail if any of
12 the following apply:

13 [(i) The court determines that the child is no
14 longer seeking transfer under section 6322.

15 (ii) The court denies the motion filed under section
16 6322.]

17 (iii) The child attains 18 years of age. This
18 subparagraph does not apply if:

19 (A) the court has granted the motion filed under
20 section 6322; or

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

25 (3.1) For a child detained under paragraph (1.1), the
26 court shall order the immediate transfer of the child to the
27 county jail if any of the following apply:

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

30 (ii) The court denies the motion filed under section

1 6322.

2 (iii) The child attains 18 years of age. This
3 subparagraph does not apply if:

4 (A) the court has granted the motion filed under
5 section 6322; or

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

10 * * *

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

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

26 Section 2. The provisions of 234 Pa. Code Rule 598 (relating
27 to place of detention during procedures for transfer from
28 criminal proceedings to juvenile proceedings pursuant to 42
29 Pa.C.S. § 6322) are abrogated insofar as they are inconsistent
30 with this act.

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