

CHAPTER 63
JUVENILE MATTERS

Subchapter

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Enactment. Chapter 63 was added July 9, 1976, P.L.586, No.142, effective 60 days from the date of final enactment of the act of April 28, 1978 (P.L.202, No.53).

Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 1915.24, readopted and amended November 8, 1982, provided that Chapter 63 shall not be deemed suspended or affected by Rules 1915.1 through 1915.25 governing actions for custody, partial custody and visitation of minor children.

Cross References. Chapter 63 is referred to in sections 1123, 1515, 4402, 4416, 5986, 6403, 6406, 6408, 9795.2, 9904 of this title; sections 2702, 6305, 9121 of Title 18 (Crimes and Offenses); sections 5313, 5503, 6114, 6303, 6315, 6341, 6368, 6370, 6373, 6375, 6381 of Title 23 (Domestic Relations); section 922 of Title 34 (Game); sections 1532, 3804 of Title 75 (Vehicles).

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

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§ 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.

(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.

(Nov. 17, 1995, 1st Sp.Sess., P.L.1127, No.33, eff. 120 days; Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999)

1998 Amendment. Act 126 amended subsec. (b).

Cross References. Section 6301 is referred to in section 6352 of this title.

§ 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.

"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) 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.

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

"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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Mar. 15, 1995, 1st Sp.Sess., P.L.972, No.6, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess., P.L.1127, No.33, eff. 120 days; June 18, 1998, P.L.640, No.84, eff. 60 days; Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999; Dec. 15, 1998, P.L.978, No.128, eff. 60 days; Dec. 20, 2000, P.L.946, No.129, eff. 60 days; Aug. 14, 2003, P.L.97, No.21, eff. 180 days)

2003 Amendment. Act 21 added the def. of "board."

2000 Amendment. Act 129 amended the def. of "shelter care" and added the def. of "facility designed or operated for the benefit of delinquent children."

1998 Amendments. Act 84 amended par. (1) of the def. of "delinquent act," Act 126 amended the def. of "dependent child" and added the defs. of "aggravated circumstances," "aggravated physical neglect," "county agency," "serious bodily injury" and "sexual violence" and Act 128 added the def. of "court-appointed special advocate" or "CASA."

1995 Amendments. Act 6, 1st Sp.Sess., amended the entire section and Act 33, 1st Sp.Sess., amended the def. of "delinquent act." Section 8 of Act 33, 1st Sp.Sess., provided that Act 33 shall apply to all delinquent acts committed on or after the effective date of Act 33.

Care of Dependent Children. Section 31 of Act 53 of 1978 limits the liability of counties for costs of operating new shelter care programs for dependent children classified under paragraph (6) of the definition of "dependent child."

Cross References. Section 6302 is referred to in sections 6303, 6311, 6322, 6323, 6327, 6351, 6355, 6402 of this title; sections 6114, 6315 of Title 23 (Domestic Relations).

§ 6303. Scope of chapter.

(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.

(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).

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.983, No.9, eff. 60 days; Mar. 29, 1996, P.L.51, No.17, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (b). See sections 28 and 29 of Act 207 in the appendix to this title for special provisions relating to applicability and construction of law.

Suspension by Court Rule. Subsection (b) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(8), amended December 30, 2005, insofar as it is inconsistent with Rule 210 relating to arrest warrants.

References in Text. Section 731 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, referred to in subsec. (a), was repealed by the act of July 2, 2004 (P.L.468, No.54). The subject matter is now contained the Interstate Compact for Juveniles Act.

Cross References. Section 6303 is referred to in section 6336 of this title.

§ 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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 9, 2002,

P.L.1705, No.215, eff. 60 days)

2002 Amendment. Section 8 of Act 215 provided that the 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 subsec. (a.1).

Suspension by Court Rule. Subsection (a)(2) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(10), amended December 30, 2005, insofar as it is inconsistent with Rules 231 and 330 relating to written allegation and petition: filing, contents, function.

Cross References. Section 6304 is referred to in section 6304.1 of this title; section 6375 of Title 23 (Domestic Relations).

§ 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).

(Nov. 30, 2004, P.L.1703, No.217, eff. imd.)

2004 Amendment. Act 217 added section 6304.1.

§ 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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (a).

Suspension by Court Rule. Subsection (b) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(6), amended December 30, 2005, insofar as it is inconsistent with Rule 187 relating to authority of master.

Subsection (b) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(5), adopted August 21, 2006, insofar as it is inconsistent with Rule 1187 relating to authority of master.

§ 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." (Apr. 28, 1978, P.L.202, No.53)

1978 Amendment. Act 53 added present section 6306 and repealed former section 6306 relating to the same subject matter and provided that the amendment was effective January 1, 1978.

§ 6307. Inspection of court files and records.

(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). (Feb. 22, 1995, 1st Sp.Sess., P.L.959, No.1, eff. imd.; Dec. 20, 2000, P.L.946, No.129, eff. 60 days; Dec. 9, 2002, P.L.1705, No.215, eff. 60 days; Aug. 14, 2003, P.L.97, No.21, eff. 180 days; July 7, 2006, P.L.378, No.81, eff. 7 days)

2006 Amendment. Section 5 of Act 81 provided that Act 81 shall apply to all actions instituted on or after the effective date of Act 81.

§ 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, 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 by amendment).

(2) (Repealed).

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Feb. 29, 1980, P.L.36, No.12, eff. 60 days; June 26, 1981, P.L.123, No.41, eff. 60 days; Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Dec. 22, 1989, P.L.727, No.99, eff. imd.; Mar. 15, 1995, 1st Sp.Sess., P.L.972, No.6, eff. 60 days; June 13, 1995, 1st Sp.Sess., P.L.1024, No.17, eff. 120 days; Nov. 22, 1995, P.L.621, No.66, eff. imd.; May 22, 1996, P.L.300, No.46, eff. imd.; Jan. 27, 1998, P.L.20, No.3, eff. 60 days; Nov. 29, 2004, P.L.1364, No.176, eff. imd.; July 7, 2006, P.L.378, No.81, eff. 7 days)

2006 Amendment. Act 81 amended subsec. (b). Section 5 of Act 81 provided that Act 81 shall apply to all actions instituted on or after the effective date of Act 81.

1998 Amendment. Act 3 amended subsec. (c)(1).

1996 Amendment. Act 46 deleted subsec. (d)(1)(iii).

1995 Repeal Note. Act 66 repealed subsec. (d)(1)(i) and (ii) in part and repealed subsec. (d)(2). The repealed provisions have been deleted from the text.

1995 Amendments. Act 6, 1st Sp.Sess., amended the entire section and Act 17, 1st Sp.Sess., added subsec. (d). See the preamble to Act 17 in the appendix to this title for special provisions relating to legislative purpose.

Cross References. Section 6308 is referred to in sections

6307, 6309 of this title; section 6111.1 of Title 18 (Crimes and Offenses).

§ 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.

(Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Mar. 15, 1995, 1st Sp.Sess., P.L.972, No.6, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess., P.L.1115, No.30, eff. 60 days; May 22, 1996, P.L.300, No.46, eff. imd.; Dec. 20, 2000, P.L.946, No.129, eff. 60 days)

Cross References. Section 6309 is referred to in section 6308 of this title.

§ 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.

(Nov. 17, 1995, 1st Sp.Sess., P.L.1109, No.28, eff. 60 days)

1995 Amendment. Act 28, 1st Sp.Sess., added section 6310.

§ 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.

(May 10, 2000, P.L.74, No.18, eff. 60 days)

2000 Amendment. Act 18 added section 6311. Section 5(1) of Act 18 provided that Act 18 shall apply to proceedings initiated on or after the effective date of Act 18.

Suspension by Court Rule. Subection (b)(9) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(3), adopted August 21, 2006, insofar as it is inconsistent with Rule 1151 relating to assignment of guardian ad litem and counsel.

Cross References. Section 6311 is referred to in section 6337 of this title.

SUBCHAPTER B JURISDICTION AND CUSTODY

Sec.

6321. Commencement of proceedings.

6322. Transfer from criminal proceedings.

6323. Informal adjustment.

6324. Taking into custody.

6325. Detention of child.

6326. Release or delivery to court.

6327. Place of detention.

§ 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) In 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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Feb. 29, 1980, P.L.36, No.12, eff. 60 days)

1980 Amendment. Act 12 amended subsec. (a).

1978 Amendment. Act 53 amended subsec. (b).

Suspension by Court Rule. Section 6321 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(7), amended December 30, 2005, insofar as it is inconsistent with Rule 200 relating to commencing proceedings.

§ 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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess., P.L.1127, No.33, eff. 120 days)

1995 Amendment. Section 8 of Act 33, 1st Sp.Sess., provided that Act 33 shall apply to all delinquent acts committed on or after the effective date of Act 33.

Cross References. Section 6322 is referred to in sections 6303, 6321, 6355 of this title.

§ 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).

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Nov. 30, 2004, P.L.1703, No.217, eff. imd.)

2004 Amendment. Act 217 added subsec. (f).

1978 Amendment. Act 53 amended subsec. (a).

Care of Dependent Children. Section 31 of Act 53 of 1978 limits the liability of counties for costs of operating new shelter care programs for dependent children classified under paragraph (6) of the definition of "dependent child."

Cross References. Section 6323 is referred to in section 6302 of this title.

§ 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.

(Dec. 9, 2002, P.L.1705, No.215, eff. 60 days)

Suspension by Court Rule. Section 6324 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(6), adopted August 21, 2006, insofar as it is inconsistent with Rule 1202 relating to procedures for protective custody by police and county agency.

Cross References. Section 6324 is referred to in sections 6304, 6321, 6327, 6351, 6351.1 of this title; section 6315 of Title 23 (Domestic Relations).

§ 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.

Cross References. Section 6325 is referred to in sections 6304, 6326, 6331, 6332 of this title.

§ 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.

(June 14, 1991, P.L.68, No.9, eff. 60 days; Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999)

1998 Amendment. Act 126 amended subsec. (c)(1).

§ 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).

(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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; June 14, 1991, P.L.68, No.9, eff. 60 days; Mar. 29, 1996, P.L.51, No.17, eff. imd.; Dec. 20, 2000, P.L.946, No.129, eff. 60 days)

2000 Amendment. Act 129 amended subsec. (e).

1996 Amendment. Act 17 amended subsec. (c).

1991 Amendment. Act 9 amended subsec. (f).

1978 Amendment. Act 53 amended subsec. (a), relettered subsec. (c) to (d), amended and relettered subsec. (d) to (e) and added subsecs. (c) and (f).

Special Provisions in Appendix. See sections 23, 25, 27 and 28 of Act 53 of 1978 in the appendix to this title for special provisions relating to detention facilities and services.

SUBCHAPTER C PROCEDURES AND SAFEGUARDS

Sec.

6331. Release from detention or commencement of proceedings.

6332. Informal hearing.

6333. Subpoena.

6334. Petition.

6335. Release or holding of hearing.

6336. Conduct of hearings.

6336.1. Notice and hearing.

6337. Right to counsel.

6338. Other basic rights.

6339. Investigation and report.

6340. Consent decree.

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§ 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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

Suspension by Court Rule. Section 6331 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(11), amended December 30, 2005, insofar as it is inconsistent with Rule 242 relating to detention hearing.

Section 6331 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(7), adopted August 21, 2006, insofar as

it is inconsistent with Rules 1242 and 1330(A) relating to general conduct of shelter care hearing and petition: filing, contents, function, aggravated circumstances.

Cross References. Section 6331 is referred to in section 6304 of this title.

§ 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. (Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 15, 1986, P.L.1598, No.177, eff. 60 days; Dec. 9, 2002, P.L.1705, No.215, eff. 60 days)

Cross References. Section 6332 is referred to in section 6351 of this title; section 6315 of Title 23 (Domestic Relations).

§ 6333. Subpoena.

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.

§ 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.

(Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999)

Suspension by Court Rule. Section 6334 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(9), amended December 30, 2005, insofar as it is inconsistent with Rules 231, 233 and 330 relating to written allegation, approval of private written allegations and petition: filing, contents, function.

Section 6334 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(8), adopted August 21, 2006, insofar as it is inconsistent with Rules 1320, 1321 and 1330 relating to application to file a private petition, hearing on application for private petition and petition: filing, contents, function, aggravated circumstances.

Cross References. Section 6334 is referred to in section 6351 of this title.

§ 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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Oct. 11, 1995, 1st Sp.Sess., P.L.1058, No.21, eff. 60 days; Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999)

1998 Amendment. Act 126 amended subsec. (a).

1995 Amendment. Act 21, 1st Sp.Sess., amended subsec. (f).

1978 Amendment. Act 53 amended the heading and subsec. (a).

Suspension by Court Rule. Section 6335 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(14), amended December 30, 2005, insofar as it is inconsistent with Rule 391 relating to time restrictions for detention for juveniles scheduled for transfer hearing.

Subsection (c) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(2), adopted April 1, 2005, insofar as it is inconsistent with Rule 124 relating to summons and notice.

Subsection (c) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(1), adopted August 11, 2006, insofar as it is inconsistent with Rule 1124 relating to summons.

Section 6335 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(10), adopted August 11, 2006, insofar as it is inconsistent with Rule 1360 relating to adjudicatory summons.

Cross References. Section 6335 is referred to in section 6368 of Title 23 (Domestic Relations).

§ 6336. Conduct of hearings.

(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. (Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Apr. 6, 1995, 1st Sp.Sess., P.L.997, No.11, eff. 60 days)

Suspension by Court Rule. Subsection (c) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(3), amended December 30, 2005, insofar as it is inconsistent with Rule 127(A) relating to recording and transcribing juvenile court proceedings.

Subsection (c) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(2), adopted August 21, 2006, insofar as it is inconsistent with Rules 1127(A) and 1242(B)(2) relating to recording and transcribing juvenile court proceedings and general conduct of shelter care hearing.

Cross References. Section 6336 is referred to in sections 6307, 6308 of this title.

§ 6336.1. Notice and hearing.

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 opportunity 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.

(Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999; Dec. 9, 2002, P.L.1705, No.215, eff. 60 days)

§ 6337. Right to counsel.

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.

(May 10, 2000, P.L.74, No.18, eff. 60 days)

2000 Amendment. Section 5(1) of Act 18 provided that Act 18 shall apply to proceedings initiated on or after the effective date of Act 18.

Suspension by Court Rule. Section 6337 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(5), amended December 30, 2005, insofar as it is inconsistent with Rule 152 relating to waiver of counsel.

Section 6337 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(4), adopted August 21, 2006, insofar as it is inconsistent with Rule 1152 relating to waiver of counsel.

Cross References. Section 6337 is referred to in section 6311 of this title; sections 6315, 6368 of Title 23 (Domestic Relations).

§ 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.

Cross References. Section 6338 is referred to in sections 6315, 6368 of Title 23 (Domestic Relations).

§ 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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (a).

Suspension by Court Rule. Section 6339 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(9), adopted August 21, 2006, insofar as it is inconsistent with Rule 1340(B)(1)(e) relating to discovery and inspection.

§ 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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess., P.L.1127, No.33, eff. 120 days; Nov. 30, 2004, P.L.1703, No.217, eff. imd.)

2004 Amendment. Act 217 amended subsec. (c.1).

1986 Amendment. Act 165 amended subsec. (b).

1978 Amendment. Act 53 amended subsec. (c).

Suspension by Court Rule. Subsection (c) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(13), amended December 30, 2005, insofar as it is inconsistent with the requirement of Rule 373 relating to conditions of consent decree.

§ 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).

(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.**--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. 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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Mar. 15, 1995, 1st Sp.Sess., P.L.972, No.6, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess., P.L.1115, No.30, eff. 60 days; Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999; May 10, 2000, P.L.74, No.18, eff. 60 days; Dec. 9, 2002, P.L.1705, No.215, eff. 60 days)

2002 Amendment. Act 215 amended subsec. (b).

2000 Amendment. Act 18 amended subsecs. (a), (b) and (e). Section 5(1) of Act 18 provided that Act 18 shall apply to proceedings initiated on or after the effective date of Act 18.

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

1995 Amendments. Act 6, 1st Sp.Sess., amended subsec. (a) and Act 30, 1st Sp.Sess., added subsec. (b.1).

1978 Amendment. Act 53 amended subsecs. (a), (b) and (c).

Cross References. Section 6341 is referred to in section 6308 of this title; section 6105 of Title 18 (Crimes and Offenses); section 2512 of Title 23 (Domestic Relations).

§ 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), 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.

(Dec. 15, 1998, P.L.978, No.128, eff. 60 days)

1998 Amendment. Act 128 added section 6342.

SUBCHAPTER D DISPOSITION OF CHILDREN GENERALLY

Sec.

6351. Disposition of dependent child.

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

6352. Disposition of delinquent child.

6352.1. Treatment records.

- 6353. Limitation on and change in place of commitment.
- 6354. Effect of adjudication.
- 6355. Transfer to criminal proceedings.
- 6356. Disposition of mentally ill or mentally retarded child.
- 6357. Rights and duties of legal custodian.
- 6358. Assessment of delinquent children by the State Sexual Offenders Assessment Board.

§ 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.

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.

(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.

(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.

(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.

(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.

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) Certain hearings discretionary.--(Deleted by amendment).

(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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Dec. 15, 1986, P.L.1598, No.177, eff. 60 days; July 11, 1996, P.L.607, No.104, eff. 60 days; Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999;

Dec. 9, 2002, P.L.1705, No.215, eff. 60 days)

Care of Dependent Children. Section 31 of Act 53 of 1978 limits the liability of counties for costs of operating new shelter care programs for dependent children classified under paragraph (6) of the definition of "dependent child" in 42 Pa.C.S. § 6302.

Cross References. Section 6351 is referred to in sections 6341, 6351.1, 6352, 6352.1, 6357 of this title.

§ 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).

(Oct. 31, 2003, P.L.200, No.31, eff. 60 days)

2003 Amendment. Act 31 added section 6351.1. Section 3 of Act 31 provided that section 6351.1 shall apply to petitions filed on or after the effective date of section 3.

§ 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. 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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; May 12, 1995, 1st Sp.Sess., P.L.1006, No.13, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess., P.L.1127, No.33, eff. 120 days; Nov. 30, 2004, P.L.1703, No.217, eff. imd.)

2004 Amendment. Act 217 amended subsec. (a) (5).

1995 Amendments. Act 13, 1st Sp.Sess., amended subsec. (a) (5) and Act 33, 1st Sp.Sess., amended subsec. (a). Section 8 of Act 33, 1st Sp.Sess., provided that Act 33 shall apply to all delinquent acts committed on or after the effective date of Act 33.

Cross References. Section 6352 is referred to in sections 6304.1, 6323, 6340, 6352.1, 6358, 6403, 9728, 9795.4 of this title.

§ 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).

(Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999)

1998 Amendment. Act 126 added section 6352.1.

§ 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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; Feb. 29, 1980, P.L.36, No.12, eff. 60 days; Dec. 11, 1986, P.L.1521, No.165, eff. 60 days)

1986 Amendment. Act 165 amended subsec. (a).

1980 Amendment. Act 12 amended subsec. (b).

Suspension by Court Rule. Subsection (a) was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(15), amended December 30, 2005, insofar as it is inconsistent with the requirement of Rule 610 relating to dispositional and commitment review.

Cross References. Section 6353 is referred to in sections 6352, 6358, 9728 of this title.

§ 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.

(May 12, 1995, 1st Sp.Sess., P.L.1006, No.13, eff. 60 days)

§ 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.

(Apr. 28, 1978, P.L.202, No.53, eff 60 days; Feb. 29, 1980,

P.L.36, No.12, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess.,
P.L.1127, No.33, eff. 120 days)

1995 Amendment. Act 33, 1st Sp.Sess., amended subsecs. (a)(4) and (e) and added subsec. (g). Section 8 of Act 33, 1st Sp.Sess., provided that Act 33 shall apply to all delinquent acts committed on or after the effective date of Act 33.

1980 Amendment. Act 12 amended subsec. (a).

Cross References. Section 6355 is referred to in sections 6308, 6322, 6339 of this title.

§ 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," or the act of July 9, 1976 (P.L.817, No.143), known as the "Mental Health Procedures Act," the court shall proceed under the provisions of the appropriate statute.
(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

§ 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).

(Dec. 15, 1998, P.L.949, No.126, eff. Jan. 1, 1999)

Cross References. Section 6357 is referred to in section 6336.1 of this title.

§ 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 such facility 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.

(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.

(Aug. 14, 2003, P.L.97, No.21, eff. 180 days)

2003 Amendment. Act 21 added section 6358.

Cross References. Section 6358 is referred to in sections 6403, 9795.4 of this title.

SUBCHAPTER E **DISPOSITIONS AFFECTING OTHER JURISDICTIONS**

Sec.

- 6361. Disposition of nonresident child.
- 6362. Disposition of resident child received from another state.
- 6363. Ordering foreign supervision.
- 6364. Supervision under foreign order.
- 6365. Powers of foreign probation officers.

Cross References. Subchapter E is referred to in section 6303 of this title.

§ 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.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsecs. (a) and (c).

Cross References. Section 6361 is referred to in section 6362 of this title.

§ 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. (Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

Cross References. Section 6362 is referred to in sections 6321, 6361 of this title.

§ 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. (Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (b).

Cross References. Section 6363 is referred to in sections 6351, 6352, 6364 of this title.

§ 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.

Cross References. Section 6364 is referred to in sections 6321, 6363 of this title.

§ 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.