

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1897 Session of
1997

INTRODUCED BY KENNEY, WOGAN, MANDERINO, HENNESSEY, JOSEPHS,
KELLER, LEDERER, ALLEN, McGEEHAN, CARN, JAMES, RAMOS, BISHOP,
THOMAS, MELIO, TRELLO, FARGO, CALTAGIRONE AND WASHINGTON,
OCTOBER 8, 1997

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, NOVEMBER 17, 1998

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for THE <—
3 NUMBER OF JUDGES IN THE COURTS OF COMMON PLEAS ~~AND THE~~ <—
4 ~~PHILADELPHIA MUNICIPAL COURT~~, FOR jurisdiction and venue of
5 the Philadelphia Municipal Court AND FOR JUVENILE <—
6 PROCEEDINGS; PROVIDING FOR GOOD SAMARITAN CIVIL IMMUNITY FOR
7 USE OF AN AUTOMATED EXTERNAL DEFIBRILLATOR; AND MAKING
8 APPROPRIATIONS.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 ~~Section 1. Section 1123(a) of Title 42 of the Pennsylvania~~ <—
12 ~~Consolidated Statutes is amended by adding a paragraph to read:~~

13 ~~SECTION 1. SECTIONS 911 AND 1121 OF TITLE 42 OF THE~~ <—
14 ~~PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:~~

15 SECTION 1. SECTION 911 OF TITLE 42 OF THE PENNSYLVANIA <—
16 CONSOLIDATED STATUTES IS AMENDED TO READ:

17 § 911. COURTS OF COMMON PLEAS.

18 (A) GENERAL RULE.--THERE SHALL BE ONE COURT OF COMMON PLEAS
19 FOR EACH JUDICIAL DISTRICT OF THIS COMMONWEALTH CONSISTING OF

1 THE FOLLOWING NUMBER OF JUDGES:

2		NUMBER OF	
3	JUDICIAL DISTRICT	JUDGES	
4	FIRST	190 <u>93</u>	←
5	SECOND	11	
6	THIRD	7	
7	FOURTH	1	
8	FIFTH	41	
9	SIXTH	8	
10	SEVENTH	11	
11	EIGHTH	2	
12	NINTH	5	
13	TENTH	11	
14	ELEVENTH	9	
15	TWELFTH	8	
16	THIRTEENTH	2	
17	FOURTEENTH	5	
18	FIFTEENTH	11	
19	SIXTEENTH	3	
20	SEVENTEENTH	2	
21	EIGHTEENTH	1	
22	NINETEENTH	11	
23	TWENTIETH	1	
24	TWENTY-FIRST	5	
25	TWENTY-SECOND	1	
26	TWENTY-THIRD	11	
27	TWENTY-FOURTH	4	
28	TWENTY-FIFTH	2	
29	TWENTY-SIXTH	2	
30	TWENTY-SEVENTH	5	

1	TWENTY-EIGHTH	2
2	TWENTY-NINTH	5
3	THIRTIETH	2
4	THIRTY-FIRST	9
5	THIRTY-SECOND	18
6	THIRTY-THIRD	2
7	THIRTY-FOURTH	1
8	THIRTY-FIFTH	3
9	THIRTY-SIXTH	6
10	THIRTY-SEVENTH	1
11	THIRTY-EIGHTH	18
12	THIRTY-NINTH	4
13	FORTIETH	2
14	FORTY-FIRST	2
15	FORTY-SECOND	2
16	FORTY-THIRD	5
17	FORTY-FOURTH	1
18	FORTY-FIFTH	6
19	FORTY-SIXTH	2
20	FORTY-SEVENTH	5
21	FORTY-EIGHTH	1
22	FORTY-NINTH	3
23	FIFTIETH	5
24	FIFTY-FIRST	3
25	FIFTY-SECOND	[3] <u>4</u>
26	FIFTY-THIRD	3
27	FIFTY-FOURTH	1
28	FIFTY-FIFTH	1
29	FIFTY-SIXTH	2
30	FIFTY-SEVENTH	2

1 FIFTY-EIGHTH 1
2 FIFTY-NINTH 1
3 SIXTIETH 1

4 (B) SINGLE COUNTY DISTRICTS.--IN SINGLE COUNTY JUDICIAL
5 DISTRICTS THE COURT OF COMMON PLEAS OF THE DISTRICT SHALL BE
6 KNOWN AS THE "COURT OF COMMON PLEAS OF (THE RESPECTIVE) COUNTY."

7 (C) MULTICOUNTY DISTRICTS.--IN MULTICOUNTY JUDICIAL
8 DISTRICTS THE COURT OF COMMON PLEAS OF THE DISTRICT SHALL BE
9 KNOWN AS THE "COURT OF COMMON PLEAS OF THE (RESPECTIVE) JUDICIAL
10 DISTRICT." THERE SHALL BE A SEPARATE BRANCH OF THE COURT IN EACH
11 COUNTY COMPRISING THE JUDICIAL DISTRICT.

12 ~~§ 1121. PHILADELPHIA MUNICIPAL COURT.~~ ←

13 ~~THE PHILADELPHIA MUNICIPAL COURT SHALL CONSIST OF [25] 28~~
14 ~~JUDGES.~~

15 SECTION 2. SECTION 1123(A) OF TITLE 42 IS AMENDED BY ADDING
16 A PARAGRAPH TO READ:

17 § 1123. Jurisdiction and venue.

18 (a) General rule.--Except as otherwise prescribed by any
19 general rule adopted pursuant to section 503 (relating to
20 reassignment of matters), the Philadelphia Municipal Court shall
21 have jurisdiction of the following matters:

22 * * *

23 (5.1) In addition to the exercise of the powers by the
24 judges set forth in this section, the President Judge of the
25 Philadelphia Municipal Court may appoint bail commissioners,
26 persons who complete a training program as shall be provided
27 by local rules adopted by the President Judge of the
28 Philadelphia Municipal Court, or attorneys, who are in good
29 standing and are admitted to the Pennsylvania Bar, as judges
30 pro tempore to accept guilty pleas and impose sentences in

1 accordance with pleas for summary offenses. A judge pro
2 tempore must be an independent contractor hired by the
3 Philadelphia Municipal Court and shall receive such
4 compensation and shall serve at such hours as agreed to
5 between the judge pro tempore and the President Judge of the
6 Philadelphia Municipal Court. The methods of selection,
7 appointment and removal of judges pro tempore and of
8 establishing standards of conduct and the rights,
9 responsibilities and authority of the judges pro tempore and
10 the procedures for appealing decisions of the judges pro
11 tempore shall be provided by local rules adopted by the
12 President Judge of the Philadelphia Municipal Court.

13 * * *

14 SECTION 3. SECTION 6301(B) OF TITLE 42 IS AMENDED TO READ: ←

15 § 6301. SHORT TITLE AND PURPOSES OF CHAPTER.

16 * * *

17 (B) PURPOSES.--THIS CHAPTER SHALL BE INTERPRETED AND
18 CONSTRUED AS TO EFFECTUATE THE FOLLOWING PURPOSES:

19 (1) TO PRESERVE THE UNITY OF THE FAMILY WHENEVER
20 POSSIBLE [AND TO] OR TO PROVIDE ANOTHER ALTERNATIVE PERMANENT
21 FAMILY WHEN THE UNITY OF THE FAMILY CANNOT BE MAINTAINED.

22 (1.1) TO PROVIDE FOR THE CARE, PROTECTION, SAFETY AND
23 WHOLESOME MENTAL AND PHYSICAL DEVELOPMENT OF CHILDREN COMING
24 WITHIN THE PROVISIONS OF THIS CHAPTER.

25 (2) CONSISTENT WITH THE PROTECTION OF THE PUBLIC
26 INTEREST, TO PROVIDE FOR CHILDREN COMMITTING DELINQUENT ACTS
27 PROGRAMS OF SUPERVISION, CARE AND REHABILITATION WHICH
28 PROVIDE BALANCED ATTENTION TO THE PROTECTION OF THE
29 COMMUNITY, THE IMPOSITION OF ACCOUNTABILITY FOR OFFENSES
30 COMMITTED AND THE DEVELOPMENT OF COMPETENCIES TO ENABLE

1 CHILDREN TO BECOME RESPONSIBLE AND PRODUCTIVE MEMBERS OF THE
2 COMMUNITY.

3 (3) TO ACHIEVE THE FOREGOING PURPOSES IN A FAMILY
4 ENVIRONMENT WHENEVER POSSIBLE, SEPARATING THE CHILD FROM
5 PARENTS ONLY WHEN NECESSARY FOR HIS WELFARE, SAFETY OR HEALTH
6 OR IN THE INTERESTS OF PUBLIC SAFETY.

7 (4) TO PROVIDE MEANS THROUGH WHICH THE PROVISIONS OF
8 THIS CHAPTER ARE EXECUTED AND ENFORCED AND IN WHICH THE
9 PARTIES ARE ASSURED A FAIR HEARING AND THEIR CONSTITUTIONAL
10 AND OTHER LEGAL RIGHTS RECOGNIZED AND ENFORCED.

11 SECTION 4. THE DEFINITION OF "DEPENDENT CHILD" IN SECTION
12 6302 OF TITLE 42 IS AMENDED AND THE SECTION IS AMENDED BY ADDING
13 DEFINITIONS TO READ:

14 § 6302. DEFINITIONS.

15 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
16 SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE
17 MEANINGS GIVEN TO THEM IN THIS SECTION:

18 "AGGRAVATED CIRCUMSTANCES." ANY OF THE FOLLOWING
19 CIRCUMSTANCES:

20 (1) THE CHILD IS IN THE CUSTODY OF A COUNTY AGENCY AND
21 EITHER:

22 (I) THE IDENTITY OR WHEREABOUTS OF THE PARENTS IS
23 UNKNOWN AND CANNOT BE ASCERTAINED AND THE PARENT DOES NOT
24 CLAIM THE CHILD WITHIN THREE MONTHS OF THE DATE THE CHILD
25 WAS TAKEN INTO CUSTODY; OR

26 (II) THE IDENTITY OR WHEREABOUTS OF THE PARENTS IS
27 KNOWN AND THE PARENTS HAVE FAILED TO MAINTAIN SUBSTANTIAL
28 AND CONTINUING CONTACT WITH THE CHILD FOR A PERIOD OF SIX
29 MONTHS.

30 (2) THE CHILD OR ANOTHER CHILD OF THE PARENT HAS BEEN

1 THE VICTIM OF PHYSICAL ABUSE RESULTING IN SERIOUS BODILY
2 INJURY, SEXUAL VIOLENCE OR AGGRAVATED PHYSICAL NEGLECT BY THE
3 PARENT.

4 (3) THE PARENT OF THE CHILD HAS BEEN CONVICTED OF ANY OF
5 THE FOLLOWING OFFENSES WHERE THE VICTIM WAS A CHILD:

6 (I) CRIMINAL HOMICIDE UNDER 18 PA.C.S. CH. 25
7 (RELATING TO CRIMINAL HOMICIDE);

8 (II) A FELONY UNDER 18 PA.C.S. § 2702 (RELATING TO
9 AGGRAVATED ASSAULT), 3121 (RELATING TO RAPE), 3122.1
10 (RELATING TO STATUTORY SEXUAL ASSAULT), 3123 (RELATING TO
11 INVOLUNTARY DEVIATE SEXUAL INTERCOURSE), 3124.1 (RELATING
12 TO SEXUAL ASSAULT) OR 3125 (RELATING TO AGGRAVATED
13 INDECENT ASSAULT).

14 (III) A MISDEMEANOR UNDER 18 PA.C.S. § 3126
15 (RELATING TO INDECENT ASSAULT).

16 (IV) AN EQUIVALENT CRIME IN ANOTHER JURISDICTION.

17 (4) THE ATTEMPT, SOLICITATION OR CONSPIRACY TO COMMIT
18 ANY OF THE OFFENSES SET FORTH IN PARAGRAPH (3).

19 (5) THE PARENTAL RIGHTS OF THE PARENT HAVE BEEN
20 INVOLUNTARILY TERMINATED WITH RESPECT TO A CHILD OF THE
21 PARENT.

22 "AGGRAVATED PHYSICAL NEGLECT." ANY OMISSION IN THE CARE OF A
23 CHILD WHICH RESULTS IN A LIFE-THREATENING CONDITION OR SERIOUSLY
24 IMPAIRS THE CHILD'S FUNCTIONING.

25 * * *

26 "COUNTY AGENCY." THE TERM AS DEFINED IN 23 PA.C.S. § 6303
27 (RELATING TO DEFINITIONS).

28 * * *

29 "DEPENDENT CHILD." A CHILD WHO:

30 (1) IS WITHOUT PROPER PARENTAL CARE OR CONTROL,

1 SUBSISTENCE, EDUCATION AS REQUIRED BY LAW, OR OTHER CARE OR
2 CONTROL NECESSARY FOR HIS PHYSICAL, MENTAL, OR EMOTIONAL
3 HEALTH, OR MORALS[;]. A DETERMINATION THAT THERE IS A LACK OF
4 PROPER PARENTAL CARE OR CONTROL MAY BE BASED UPON EVIDENCE OF
5 CONDUCT BY THE PARENT, GUARDIAN OR OTHER CUSTODIAN THAT
6 PLACES THE HEALTH, SAFETY OR WELFARE OF THE CHILD AT RISK,
7 INCLUDING EVIDENCE OF THE PARENT'S, GUARDIAN'S OR OTHER
8 CUSTODIAN'S USE OF ALCOHOL OR A CONTROLLED SUBSTANCE THAT
9 PLACES THE HEALTH, SAFETY OR WELFARE OF THE CHILD AT RISK;

10 (2) HAS BEEN PLACED FOR CARE OR ADOPTION IN VIOLATION OF
11 LAW;

12 (3) HAS BEEN ABANDONED BY HIS PARENTS, GUARDIAN, OR
13 OTHER CUSTODIAN;

14 (4) IS WITHOUT A PARENT, GUARDIAN, OR LEGAL CUSTODIAN;

15 (5) WHILE SUBJECT TO COMPULSORY SCHOOL ATTENDANCE IS
16 HABITUALLY AND WITHOUT JUSTIFICATION TRUANT FROM SCHOOL;

17 (6) HAS COMMITTED A SPECIFIC ACT OR ACTS OF HABITUAL
18 DISOBEDIENCE OF THE REASONABLE AND LAWFUL COMMANDS OF HIS
19 PARENT, GUARDIAN OR OTHER CUSTODIAN AND WHO IS UNGOVERNABLE
20 AND FOUND TO BE IN NEED OF CARE, TREATMENT OR SUPERVISION;

21 (7) IS UNDER THE AGE OF TEN YEARS AND HAS COMMITTED A
22 DELINQUENT ACT;

23 (8) HAS BEEN FORMERLY ADJUDICATED DEPENDENT, AND IS
24 UNDER THE JURISDICTION OF THE COURT, SUBJECT TO ITS
25 CONDITIONS OR PLACEMENTS AND WHO COMMITS AN ACT WHICH IS
26 DEFINED AS UNGOVERNABLE IN PARAGRAPH (6); [OR]

27 (9) HAS BEEN REFERRED PURSUANT TO SECTION 6323 (RELATING
28 TO INFORMAL ADJUSTMENT), AND WHO COMMITS AN ACT WHICH IS
29 DEFINED AS UNGOVERNABLE IN PARAGRAPH (6)[.]; OR

30 (10) IS BORN TO A PARENT WHOSE PARENTAL RIGHTS WITH

1 REGARD TO ANOTHER CHILD HAVE BEEN INVOLUNTARILY TERMINATED
2 UNDER 23 PA.C.S. § 2511 (RELATING TO GROUNDS FOR INVOLUNTARY
3 TERMINATION) WITHIN THREE YEARS IMMEDIATELY PRECEDING THE
4 DATE OF BIRTH OF THE CHILD AND CONDUCT OF THE PARENT POSES A
5 RISK TO THE HEALTH, SAFETY OR WELFARE OF THE CHILD.

6 * * *

7 "SERIOUS BODILY INJURY." BODILY INJURY WHICH CREATES A
8 SUBSTANTIAL RISK OF DEATH OR WHICH CAUSES SERIOUS, PERMANENT
9 DISFIGUREMENT OR PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION
10 OF ANY BODILY MEMBER OR ORGAN.

11 "SEXUAL VIOLENCE." RAPE, INDECENT CONTACT AS DEFINED IN 18
12 PA.C.S. § 3101 (RELATING TO DEFINITIONS), INCEST OR USING,
13 CAUSING, PERMITTING, PERSUADING OR COERCING THE CHILD TO ENGAGE
14 IN A PROHIBITED SEXUAL ACT AS DEFINED IN 18 PA.C.S. § 6312(A)
15 (RELATING TO SEXUAL ABUSE OF CHILDREN) OR A SIMULATION OF A
16 PROHIBITED SEXUAL ACT FOR THE PURPOSE OF PHOTOGRAPHING,
17 VIDEOTAPING, DEPICTING ON COMPUTER OR FILMING INVOLVING THE
18 CHILD.

19 * * *

20 SECTION 5. SECTIONS 6326(C)(1), 6334 AND 6335(A) OF TITLE 42
21 ARE AMENDED TO READ:

22 § 6326. RELEASE OR DELIVERY TO COURT.

23 * * *

24 (C) DETENTION IN POLICE LOCKUP UNDER CERTAIN
25 CIRCUMSTANCES.--A CHILD ALLEGED TO HAVE COMMITTED A CRIME OR
26 SUMMARY OFFENSE OR TO BE IN VIOLATION OF CONDITIONS OF PROBATION
27 OR OTHER SUPERVISION FOLLOWING AN ADJUDICATION OF DELINQUENCY
28 MAY BE HELD SECURELY IN A MUNICIPAL POLICE LOCKUP OR OTHER
29 FACILITY WHICH HOUSES AN ADULT LOCKUP ONLY UNDER THE FOLLOWING
30 CONDITIONS:

1 (1) THE SECURE HOLDING SHALL ONLY BE FOR THE PURPOSE OF
2 IDENTIFICATION, INVESTIGATION, PROCESSING, RELEASING OR
3 TRANSFERRING THE CHILD TO A PARENT, GUARDIAN, OTHER
4 CUSTODIAN, OR JUVENILE COURT OR COUNTY CHILDREN AND YOUTH
5 OFFICIAL, OR TO A SHELTER CARE OR JUVENILE DETENTION CENTER;

6 * * *

7 § 6334. PETITION.

8 (A) CONTENTS OF PETITION.--A PETITION, WHICH SHALL BE
9 VERIFIED AND MAY BE ON INFORMATION AND BELIEF, MAY BE BROUGHT BY
10 ANY PERSON INCLUDING A LAW ENFORCEMENT OFFICER. IT SHALL SET
11 FORTH PLAINLY:

12 (1) THE FACTS WHICH BRING THE CHILD WITHIN THE
13 JURISDICTION OF THE COURT AND THIS CHAPTER, WITH A STATEMENT
14 THAT IT IS IN THE BEST INTEREST OF THE CHILD AND THE PUBLIC
15 THAT THE PROCEEDING BE BROUGHT AND, IF DELINQUENCY IS
16 ALLEGED, THAT THE CHILD IS IN NEED OF TREATMENT, SUPERVISION
17 OR REHABILITATION.

18 (2) THE NAME, AGE, AND RESIDENCE ADDRESS, IF ANY, OF THE
19 CHILD ON WHOSE BEHALF THE PETITION IS BROUGHT.

20 (3) THE NAMES AND RESIDENCE ADDRESSES, IF KNOWN TO THE
21 PETITIONER, OF THE PARENTS, GUARDIAN, OR CUSTODIAN OF THE
22 CHILD AND OF THE SPOUSE, IF ANY, OF THE CHILD. IF NONE OF HIS
23 PARENTS, GUARDIAN, OR CUSTODIAN RESIDES OR CAN BE FOUND
24 WITHIN THIS COMMONWEALTH, OR IF THEIR RESPECTIVE PLACES OF
25 RESIDENCE ADDRESS ARE UNKNOWN, THE NAME OF ANY KNOWN ADULT
26 RELATIVE RESIDING WITHIN THE COUNTY, OR IF THERE BE NONE, THE
27 KNOWN ADULT RELATIVE RESIDING NEAREST TO THE LOCATION OF THE
28 COURT.

29 (4) IF THE CHILD IS IN CUSTODY AND, IF SO, THE PLACE OF
30 HIS DETENTION AND THE TIME HE WAS TAKEN INTO CUSTODY.

1 (B) AGGRAVATED CIRCUMSTANCES.--

2 (1) AN ALLEGATION THAT AGGRAVATED CIRCUMSTANCES EXIST
3 MAY BE BROUGHT:

4 (I) IN A PETITION FOR DEPENDENCY WITH REGARD TO A
5 CHILD WHO IS ALLEGED TO BE A DEPENDENT CHILD; OR

6 (II) IN A PETITION FOR A PERMANENCY HEARING WITH
7 REGARD TO A CHILD WHO HAS BEEN DETERMINED TO BE A
8 DEPENDENT CHILD.

9 (2) THE EXISTENCE OF AGGRAVATED CIRCUMSTANCES MAY BE
10 ALLEGED BY THE COUNTY AGENCY OR THE CHILD'S ATTORNEY. IF THE
11 COUNTY AGENCY REASONABLY BELIEVES THAT AGGRAVATED
12 CIRCUMSTANCES EXIST, IT SHALL FILE THE APPROPRIATE PETITION
13 AS SOON AS POSSIBLE, BUT NO LATER THAN 21 DAYS FROM THE
14 DETERMINATION BY THE COUNTY AGENCY THAT AGGRAVATED
15 CIRCUMSTANCES EXIST.

16 (3) A PETITION FOR DEPENDENCY OR A PERMANENCY HEARING
17 THAT ALLEGES AGGRAVATED CIRCUMSTANCES SHALL INCLUDE A
18 STATEMENT OF THE FACTS THE COUNTY AGENCY OR THE CHILD'S
19 ATTORNEY INTENDS TO PROVE TO SUPPORT THE ALLEGATION. A
20 CRIMINAL CONVICTION SHALL NOT BE REQUIRED TO ALLEGE THE
21 EXISTENCE OF AGGRAVATED PHYSICAL NEGLECT OR PHYSICAL ABUSE
22 RESULTING IN SERIOUS BODILY INJURY OR SEXUAL VIOLENCE
23 COMMITTED BY THE PARENT.

24 § 6335. RELEASE OR HOLDING OF HEARING.

25 (A) GENERAL RULE.--AFTER THE PETITION HAS BEEN FILED
26 ALLEGING THE CHILD TO BE DEPENDENT OR DELINQUENT, THE COURT
27 SHALL FIX A TIME FOR HEARING THEREON, WHICH, IF THE CHILD IS IN
28 DETENTION OR SHELTER CARE SHALL NOT BE LATER THAN TEN DAYS AFTER
29 THE FILING OF THE PETITION. EXCEPT AS PROVIDED IN SUBSECTION
30 (F), IF THE HEARING IS NOT HELD WITHIN SUCH TIME, THE CHILD

1 SHALL BE IMMEDIATELY RELEASED FROM DETENTION OR SHELTER CARE. A
2 CHILD MAY BE DETAINED OR KEPT IN SHELTER CARE FOR AN ADDITIONAL
3 SINGLE PERIOD NOT TO EXCEED TEN DAYS WHERE:

4 (1) THE COURT DETERMINES AT A HEARING THAT:

5 (I) EVIDENCE MATERIAL TO THE CASE IS UNAVAILABLE;

6 (II) DUE DILIGENCE TO OBTAIN SUCH EVIDENCE HAS BEEN
7 EXERCISED; AND

8 (III) THERE ARE REASONABLE GROUNDS TO BELIEVE THAT
9 SUCH EVIDENCE WILL BE AVAILABLE AT A LATER DATE; AND

10 (2) THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE
11 THAT:

12 (I) THE LIFE OF THE CHILD WOULD BE IN DANGER;

13 (II) THE COMMUNITY WOULD BE EXPOSED TO A SPECIFIC
14 DANGER; OR

15 (III) THE CHILD WILL ABSCOND OR BE REMOVED FROM THE
16 JURISDICTION OF THE COURT.

17 THE COURT SHALL DIRECT THE ISSUANCE OF A SUMMONS TO THE PARENTS,
18 GUARDIAN, OR OTHER CUSTODIAN, A GUARDIAN AD LITEM, AND ANY OTHER
19 PERSONS AS APPEAR TO THE COURT TO BE PROPER OR NECESSARY PARTIES
20 TO THE PROCEEDING, REQUIRING THEM TO APPEAR BEFORE THE COURT AT
21 THE TIME FIXED TO ANSWER THE ALLEGATIONS OF THE PETITION. THE
22 SUMMONS SHALL ALSO BE DIRECTED TO THE CHILD IF HE IS 14 OR MORE
23 YEARS OF AGE OR IS ALLEGED TO BE A DELINQUENT. A COPY OF THE
24 PETITION SHALL ACCOMPANY THE SUMMONS.

25 * * *

26 SECTION 6. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:
27 § 6336.1. NOTICE AND HEARING.

28 THE COURT SHALL DIRECT THE COUNTY AGENCY OR JUVENILE
29 PROBATION DEPARTMENT TO PROVIDE THE CHILD'S FOSTER PARENT,
30 PREADOPTIVE PARENT OR RELATIVE PROVIDING CARE FOR THE CHILD WITH

1 TIMELY NOTICE OF THE HEARING. THE COURT SHALL PROVIDE THE
2 CHILD'S FOSTER PARENT, PREADOPTIVE PARENT OR RELATIVE PROVIDING
3 CARE FOR THE CHILD THE OPPORTUNITY TO BE HEARD AT ANY HEARING
4 UNDER THIS CHAPTER. NOTHING IN THIS SECTION SHALL GIVE THE
5 FOSTER PARENT, PREADOPTIVE PARENT OR RELATIVE PROVIDING CARE FOR
6 THE CHILD LEGAL STANDING IN THE MATTER BEING HEARD BY THE COURT.

7 SECTION 7. SECTION 6341 OF TITLE 42 IS AMENDED BY ADDING A
8 SUBSECTION TO READ:

9 § 6341. ADJUDICATION.

10 * * *

11 (C.1) AGGRAVATED CIRCUMSTANCES.--IF THE COUNTY AGENCY OR THE
12 CHILD'S ATTORNEY ALLEGES THE EXISTENCE OF AGGRAVATED
13 CIRCUMSTANCES AND THE COURT DETERMINES THAT THE CHILD IS
14 DEPENDENT, THE COURT SHALL ALSO DETERMINE IF AGGRAVATED
15 CIRCUMSTANCES EXIST. IF THE COURT FINDS FROM CLEAR AND
16 CONVINCING EVIDENCE THAT AGGRAVATED CIRCUMSTANCES EXIST, THE
17 COURT SHALL DETERMINE WHETHER OR NOT REASONABLE EFFORTS TO
18 PREVENT OR ELIMINATE THE NEED FOR REMOVING THE CHILD FROM THE
19 HOME OR TO PRESERVE AND REUNIFY THE FAMILY SHALL BE MADE OR
20 CONTINUE TO BE MADE AND SCHEDULE A HEARING AS REQUIRED IN
21 SECTION 6351(E)(3) (RELATING TO DISPOSITION OF DEPENDENT CHILD).

22 * * *

23 SECTION 8. SECTION 6351(A), (B), (E), (F), (G), (H) AND (I)
24 OF TITLE 42 ARE AMENDED AND THE SECTION IS AMENDED BY ADDING A
25 SUBSECTION TO READ:

26 § 6351. DISPOSITION OF DEPENDENT CHILD.

27 (A) GENERAL RULE.--IF THE CHILD IS FOUND TO BE A DEPENDENT
28 CHILD THE COURT MAY MAKE ANY OF THE FOLLOWING ORDERS OF
29 DISPOSITION BEST SUITED TO THE PROTECTION AND PHYSICAL, MENTAL,
30 AND MORAL WELFARE OF THE CHILD:

1 (1) PERMIT THE CHILD TO REMAIN WITH HIS PARENTS,
2 GUARDIAN, OR OTHER CUSTODIAN, SUBJECT TO CONDITIONS AND
3 LIMITATIONS AS THE COURT PRESCRIBES, INCLUDING SUPERVISION AS
4 DIRECTED BY THE COURT FOR THE PROTECTION OF THE CHILD.

5 (2) SUBJECT TO CONDITIONS AND LIMITATIONS AS THE COURT
6 PRESCRIBES TRANSFER TEMPORARY LEGAL CUSTODY TO ANY OF THE
7 FOLLOWING:

8 (I) ANY INDIVIDUAL RESIDENT WITHIN OR WITHOUT THIS
9 COMMONWEALTH, INCLUDING ANY RELATIVE, WHO, AFTER STUDY BY
10 THE PROBATION OFFICER OR OTHER PERSON OR AGENCY
11 DESIGNATED BY THE COURT, IS FOUND BY THE COURT TO BE
12 QUALIFIED TO RECEIVE AND CARE FOR THE CHILD.

13 (II) AN AGENCY OR OTHER PRIVATE ORGANIZATION
14 LICENSED OR OTHERWISE AUTHORIZED BY LAW TO RECEIVE AND
15 PROVIDE CARE FOR THE CHILD.

16 (III) A PUBLIC AGENCY AUTHORIZED BY LAW TO RECEIVE
17 AND PROVIDE CARE FOR THE CHILD.

18 (2.1) SUBJECT TO CONDITIONS AND LIMITATIONS AS THE COURT
19 PRESCRIBES, TRANSFER PERMANENT LEGAL CUSTODY TO AN INDIVIDUAL
20 RESIDENT IN OR OUTSIDE THIS COMMONWEALTH, INCLUDING ANY
21 RELATIVE, WHO, AFTER STUDY BY THE PROBATION OFFICER OR OTHER
22 PERSON OR AGENCY DESIGNATED BY THE COURT, IS FOUND BY THE
23 COURT TO BE QUALIFIED TO RECEIVE AND CARE FOR THE CHILD. A
24 COURT ORDER UNDER THIS PARAGRAPH MAY SET FORTH THE TEMPORARY
25 VISITATION RIGHTS OF THE PARENTS. THE COURT SHALL REFER
26 ISSUES RELATED TO SUPPORT AND CONTINUING VISITATION BY THE
27 PARENT TO THE SECTION OF THE COURT OF COMMON PLEAS THAT
28 REGULARLY DETERMINES SUPPORT AND VISITATION.

29 (3) WITHOUT MAKING ANY OF THE FOREGOING ORDERS TRANSFER
30 CUSTODY OF THE CHILD TO THE JUVENILE COURT OF ANOTHER STATE

1 IF AUTHORIZED BY AND IN ACCORDANCE WITH SECTION 6363

2 (RELATING TO ORDERING FOREIGN SUPERVISION).

3 (B) REQUIRED PREPLACEMENT FINDINGS.--PRIOR TO ENTERING ANY
4 ORDER OF DISPOSITION UNDER SUBSECTION (A) THAT WOULD REMOVE A
5 DEPENDENT CHILD FROM HIS HOME, THE COURT SHALL ENTER FINDINGS ON
6 THE RECORD OR IN THE ORDER OF COURT AS FOLLOWS:

7 (1) THAT CONTINUATION OF THE CHILD IN HIS HOME WOULD BE
8 CONTRARY TO THE WELFARE, SAFETY OR HEALTH OF THE CHILD; AND

9 (2) WHETHER REASONABLE EFFORTS WERE MADE PRIOR TO THE
10 PLACEMENT OF THE CHILD TO PREVENT OR ELIMINATE THE NEED FOR
11 REMOVAL OF THE CHILD FROM HIS HOME, IF THE CHILD HAS REMAINED
12 IN HIS HOME PENDING SUCH DISPOSITION; OR

13 (3) IF PREVENTIVE SERVICES WERE NOT OFFERED DUE TO THE
14 NECESSITY FOR AN EMERGENCY PLACEMENT, WHETHER SUCH LACK OF
15 SERVICES WAS REASONABLE UNDER THE CIRCUMSTANCES; OR

16 (4) IF THE COURT HAS PREVIOUSLY DETERMINED PURSUANT TO
17 SECTION 6332 (RELATING TO INFORMAL HEARING) THAT REASONABLE
18 EFFORTS WERE NOT MADE TO PREVENT THE INITIAL REMOVAL OF THE
19 CHILD FROM HIS HOME, WHETHER REASONABLE EFFORTS ARE UNDER WAY
20 TO MAKE IT POSSIBLE FOR THE CHILD TO RETURN HOME.

21 THE COURT SHALL NOT ENTER FINDINGS UNDER PARAGRAPH (2), (3) OR
22 (4) IF THE COURT PREVIOUSLY DETERMINED THAT AGGRAVATED
23 CIRCUMSTANCES EXIST AND NO NEW OR ADDITIONAL REASONABLE EFFORTS
24 TO PREVENT OR ELIMINATE THE NEED FOR REMOVING THE CHILD FROM THE
25 HOME OR TO PRESERVE AND REUNIFY THE FAMILY ARE REQUIRED.

26 * * *

27 (E) [DISPOSITION REVIEW HEARINGS.--WITHIN SIX MONTHS OF THE
28 REMOVAL OF A CHILD FROM THE HOME OF HIS PARENTS, GUARDIAN OR
29 CUSTODIAN FOR PLACEMENT PURSUANT TO A TRANSFER OF TEMPORARY
30 LEGAL CUSTODY OR OTHER DISPOSITION UNDER SUBSECTION (A)(2), THE

1 COURT SHALL CONDUCT A DISPOSITION REVIEW HEARING] PERMANENCY
2 HEARINGS.--

3 (1) THE COURT SHALL CONDUCT A PERMANENCY HEARING FOR THE
4 PURPOSE OF DETERMINING OR REVIEWING THE PERMANENCY PLAN OF
5 THE CHILD, THE DATE BY WHICH THE GOAL OF PERMANENCY FOR THE
6 CHILD MIGHT BE ACHIEVED AND WHETHER PLACEMENT CONTINUES TO BE
7 BEST SUITED TO THE SAFETY, PROTECTION AND PHYSICAL, MENTAL
8 AND MORAL WELFARE OF THE CHILD. [THE COURT SHALL CONDUCT A
9 SECOND REVIEW HEARING NOT LATER THAN SIX MONTHS AFTER THE
10 INITIAL HEARING, A THIRD HEARING NOT LATER THAN SIX MONTHS
11 AFTER THE SECOND HEARING AND SUBSEQUENT DISPOSITION REVIEW
12 HEARINGS AT LEAST EVERY 12 MONTHS UNTIL THE CHILD IS RETURNED
13 HOME OR REMOVED FROM THE JURISDICTION OF THE COURT.]

14 (2) IF THE COUNTY AGENCY OR THE CHILD'S ATTORNEY ALLEGES
15 THE EXISTENCE OF AGGRAVATED CIRCUMSTANCES AND THE COURT
16 DETERMINES THAT THE CHILD HAS BEEN ADJUDICATED DEPENDENT, THE
17 COURT SHALL THEN DETERMINE IF AGGRAVATED CIRCUMSTANCES EXIST.
18 IF THE COURT FINDS FROM CLEAR AND CONVINCING EVIDENCE THAT
19 AGGRAVATED CIRCUMSTANCES EXIST, THE COURT SHALL DETERMINE
20 WHETHER OR NOT REASONABLE EFFORTS TO PREVENT OR ELIMINATE THE
21 NEED FOR REMOVING THE CHILD FROM THE HOME OR TO PRESERVE AND
22 REUNIFY THE FAMILY SHALL BE MADE OR CONTINUE TO BE MADE AND
23 SCHEDULE A HEARING AS PROVIDED IN PARAGRAPH (3).

24 (3) THE COURT SHALL CONDUCT PERMANENCY HEARINGS AS
25 FOLLOWS:

26 (I) WITHIN SIX MONTHS OF:

27 (A) THE REMOVAL OF A CHILD FROM THE HOME OF THE
28 PARENT, GUARDIAN OR CUSTODIAN FOR PLACEMENT PURSUANT
29 TO A TRANSFER OF TEMPORARY LEGAL CUSTODY OR OTHER
30 DISPOSITION UNDER SUBSECTION (A)(2); OR

1 (B) EACH PREVIOUS PERMANENCY HEARING UNTIL THE
2 CHILD IS RETURNED HOME OR REMOVED FROM THE
3 JURISDICTION OF THE COURT.

4 (II) WITHIN 30 DAYS OF:

5 (A) AN ADJUDICATION OF DEPENDENCY AT WHICH THE
6 COURT DETERMINED THAT AGGRAVATED CIRCUMSTANCES EXIST
7 AND THAT REASONABLE EFFORTS TO PREVENT OR ELIMINATE
8 THE NEED TO REMOVE THE CHILD FROM THE HOME OR TO
9 PRESERVE AND REUNIFY THE FAMILY NEED NOT BE MADE OR
10 CONTINUE TO BE MADE;

11 (B) A PERMANENCY HEARING AT WHICH THE COURT
12 DETERMINED THAT AGGRAVATED CIRCUMSTANCES EXIST AND
13 THAT REASONABLE EFFORTS TO PREVENT OR ELIMINATE THE
14 NEED TO REMOVE THE CHILD FROM THE HOME OR TO PRESERVE
15 AND REUNIFY THE FAMILY NEED NOT BE MADE OR CONTINUE
16 TO BE MADE AND THE PERMANENCY PLAN FOR THE CHILD IS
17 INCOMPLETE OR INCONSISTENT WITH THE COURT'S
18 DETERMINATION;

19 (C) AN ALLEGATION THAT AGGRAVATED CIRCUMSTANCES
20 EXIST REGARDING A CHILD WHO HAS BEEN ADJUDICATED
21 DEPENDENT FILED UNDER SECTION 6334(B) (RELATING TO
22 PETITION); OR

23 (D) A PETITION ALLEGING THAT THE HEARING IS
24 NECESSARY TO PROTECT THE PHYSICAL, MENTAL OR MORAL
25 WELFARE OF A DEPENDENT CHILD.

26 (F) MATTERS TO BE DETERMINED AT PERMANENCY HEARING.--AT EACH
27 [DISPOSITION REVIEW] HEARING, THE COURT SHALL:

28 (1) DETERMINE THE CONTINUING NECESSITY FOR AND
29 APPROPRIATENESS OF THE PLACEMENT;

30 (2) DETERMINE THE APPROPRIATENESS, FEASIBILITY AND

1 EXTENT OF COMPLIANCE WITH THE [SERVICE] PERMANENCY PLAN
2 DEVELOPED FOR THE CHILD;

3 (3) DETERMINE THE EXTENT OF PROGRESS MADE TOWARD
4 ALLEVIATING THE CIRCUMSTANCES WHICH NECESSITATED THE ORIGINAL
5 PLACEMENT;

6 (4) DETERMINE THE APPROPRIATENESS AND FEASIBILITY OF THE
7 CURRENT PLACEMENT GOAL FOR THE CHILD; [AND]

8 (5) PROJECT A LIKELY DATE BY WHICH THE GOAL FOR THE
9 CHILD MIGHT BE ACHIEVED[.];

10 (6) DETERMINE WHETHER THE CHILD IS SAFE;

11 (7) DETERMINE, IF THE CHILD HAS BEEN PLACED OUTSIDE THE
12 COMMONWEALTH, WHETHER THE PLACEMENT CONTINUES TO BE BEST
13 SUITED TO THE PROTECTION AND PHYSICAL, MENTAL AND MORAL
14 WELFARE OF THE CHILD;

15 (8) DETERMINE THE SERVICES NEEDED TO ASSIST A CHILD WHO
16 IS 16 YEARS OF AGE OR OLDER TO MAKE THE TRANSITION TO
17 INDEPENDENT LIVING; AND

18 (9) IF THE CHILD HAS BEEN IN PLACEMENT FOR AT LEAST 15
19 OF THE LAST 22 MONTHS OR THE COURT HAS DETERMINED THAT
20 AGGRAVATED CIRCUMSTANCES EXIST AND THAT REASONABLE EFFORTS TO
21 PREVENT OR ELIMINATE THE NEED TO REMOVE THE CHILD FROM THE
22 HOME OR TO PRESERVE AND REUNIFY THE FAMILY NEED NOT BE MADE
23 OR CONTINUE TO BE MADE, DETERMINE WHETHER THE COUNTY AGENCY
24 HAS FILED OR SOUGHT TO JOIN A PETITION TO TERMINATE PARENTAL
25 RIGHTS AND TO IDENTIFY, RECRUIT, PROCESS AND APPROVE A
26 QUALIFIED FAMILY TO ADOPT THE CHILD UNLESS:

27 (I) THE CHILD IS BEING CARED FOR BY A RELATIVE BEST
28 SUITED TO THE WELFARE OF THE CHILD;

29 (II) THE COUNTY AGENCY HAS DOCUMENTED A COMPELLING
30 REASON FOR DETERMINING THAT FILING A PETITION TO

1 TERMINATE PARENTAL RIGHTS WOULD NOT SERVE THE NEEDS AND
2 WELFARE OF THE CHILD; OR

3 (III) THE CHILD'S FAMILY HAS NOT BEEN PROVIDED WITH
4 NECESSARY SERVICES TO ACHIEVE THE SAFE RETURN TO THE
5 CHILD'S HOME WITHIN THE TIME FRAMES SET FORTH IN THE
6 PERMANENCY PLAN.

7 FOR CHILDREN PLACED IN FOSTER CARE ON OR BEFORE NOVEMBER 19,
8 1997, THE COUNTY AGENCY SHALL FILE OR JOIN A PETITION FOR
9 TERMINATION OF PARENTAL RIGHTS UNDER THIS SUBSECTION IN
10 ACCORDANCE WITH SECTION 103(C)(2) OF THE ADOPTION AND SAFE
11 FAMILIES ACT OF 1997 (PUBLIC LAW 105-89, 42 U.S.C. § 675 ET
12 SEQ.).

13 (F.1) EVIDENCE.--EVIDENCE OF CONDUCT BY THE PARENT THAT
14 PLACES THE HEALTH, SAFETY OR WELFARE OF THE CHILD AT RISK,
15 INCLUDING EVIDENCE OF THE USE OF ALCOHOL OR A CONTROLLED
16 SUBSTANCE THAT PLACES THE HEALTH, SAFETY OR WELFARE OF THE CHILD
17 AT RISK, SHALL BE PRESENTED TO THE COURT BY THE COUNTY AGENCY OR
18 ANY OTHER PARTY AT ANY DISPOSITION OR PERMANENCY HEARING WHETHER
19 OR NOT THE CONDUCT WAS THE BASIS FOR THE DETERMINATION OF
20 DEPENDENCY.

21 (G) COURT ORDER.--ON THE BASIS OF THE DETERMINATIONS MADE
22 UNDER SUBSECTION (F) AND [OTHER] ALL RELEVANT EVIDENCE, THE
23 COURT, IN ADDITION, SHALL:

24 (1) DETERMINE [WHETHER] IF AND WHEN THE CHILD:

25 (I) SHOULD BE RETURNED TO THE PARENTS, GUARDIAN OR
26 OTHER CUSTODIAN;

27 [(II) SHOULD BE CONTINUED IN PLACEMENT FOR A
28 SPECIFIED PERIOD; OR

29 (III) BECAUSE OF THE CHILD'S SPECIAL NEEDS OR
30 CIRCUMSTANCES, SHOULD REMAIN IN PLACEMENT ON A PERMANENT

1 OR LONG-TERM BASIS; AND]

2 (II) WILL BE PLACED FOR ADOPTION AND THE COUNTY
3 AGENCY WILL FILE FOR TERMINATION OF PARENTAL RIGHTS; OR

4 (III) WILL BE PLACED WITH A LEGAL CUSTODIAN OR IN
5 ANOTHER LIVING ARRANGEMENT INTENDED TO BE PERMANENT IN
6 NATURE APPROVED BY THE COURT IF THE COUNTY AGENCY HAS
7 DOCUMENTED A COMPELLING REASON THAT IT WOULD NOT SERVE
8 THE CHILD'S PHYSICAL, MENTAL OR EMOTIONAL HEALTH, SAFETY
9 OR MORALS TO RETURN HOME, TO BE REFERRED FOR TERMINATION
10 OF PARENTAL RIGHTS OR TO BE PLACED FOR ADOPTION; AND

11 (2) ORDER CONTINUATION, MODIFICATION OR TERMINATION OF
12 PLACEMENT OR OTHER DISPOSITION BEST SUITED TO THE PROTECTION
13 AND PHYSICAL, MENTAL AND MORAL WELFARE OF THE CHILD.

14 (H) CERTAIN HEARINGS DISCRETIONARY.--AT THE DISCRETION OF
15 THE COURT, [DISPOSITION REVIEW] PERMANENCY HEARINGS NEED NOT BE
16 CONDUCTED:

17 (1) FOR A CHILD WHO [THE COURT HAS DETERMINED SHOULD
18 REMAIN PERMANENTLY IN FOSTER CARE WITH A SPECIFIED FOSTER
19 FAMILY; OR] HAS BEEN PLACED IN A LIVING ARRANGEMENT THAT IS
20 INTENDED TO BE PERMANENT IN NATURE AND THAT IS APPROVED BY
21 THE COURT;

22 (2) FOR A CHILD WHO HAS BEEN PLACED IN AN ADOPTIVE HOME
23 PENDING FINALIZATION OF ADOPTION PURSUANT TO 23 PA.C.S. PART
24 III (RELATING TO ADOPTION); OR

25 (3) FOR A CHILD WHO HAS BEEN PLACED WITH A PERMANENT
26 LEGAL CUSTODIAN APPOINTED BY THE COURT PURSUANT TO SUBSECTION
27 (A) AND SECTION 6357 (RELATING TO RIGHTS AND DUTIES OF LEGAL
28 CUSTODIAN).

29 (I) ASSIGNMENT TO ORPHANS' COURT.--A JUDGE WHO ADJUDICATED
30 THE CHILD DEPENDENT OR WHO HAS CONDUCTED [DISPOSITION REVIEW]

1 PERMANENCY HEARINGS OR OTHER DEPENDENCY PROCEEDINGS INVOLVING
2 THE CHILD MAY BE ASSIGNED TO THE ORPHANS' COURT DIVISION FOR THE
3 PURPOSE OF HEARING PROCEEDINGS RELATING TO ANY OF THE FOLLOWING:

4 (1) INVOLUNTARY TERMINATION OF PARENTAL RIGHTS OF A
5 PARENT OF THE DEPENDENT CHILD UNDER 23 PA.C.S. CH. 25 SUBCH.
6 B (RELATING TO INVOLUNTARY TERMINATION).

7 (2) A PETITION TO ADOPT THE DEPENDENT CHILD.

8 SECTION 9. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:
9 § 6352.1. TREATMENT RECORDS.

10 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, DRUG AND ALCOHOL
11 TREATMENT RECORDS OR RELATED INFORMATION REGARDING A CHILD WHO
12 IS ALLEGED OR WHO HAS BEEN FOUND TO BE DEPENDENT OR DELINQUENT,
13 OR THE CHILD'S PARENT, SHALL BE RELEASED TO THE COUNTY AGENCY,
14 COURT OR JUVENILE PROBATION OFFICER, UPON THE CONSENT OF THE
15 CHILD OR THE CHILD'S PARENT OR UPON AN ORDER OF THE COURT. THE
16 DISCLOSURE OF DRUG AND ALCOHOL TREATMENT RECORDS UNDER THIS
17 SECTION SHALL BE OBTAINED OR ORDERED IN A MANNER THAT IS
18 CONSISTENT WITH THE PROCEDURES, LIMITATIONS AND CRITERIA SET
19 FORTH IN REGULATIONS ADOPTED BY THE DEPARTMENT OF HEALTH AND
20 HUMAN SERVICES RELATING TO THE CONFIDENTIALITY OF DRUG AND
21 ALCOHOL TREATMENT RECORDS. THE COUNTY AGENCY, COURT OR JUVENILE
22 PROBATION OFFICER SHALL ONLY USE THE RECORDS TO CARRY OUT THE
23 PURPOSES OF THIS CHAPTER AND SHALL NOT RELEASE THE RECORDS TO
24 ANY OTHER PERSON. THE COURT MAY ORDER THE PARTICIPATION OF THE
25 COUNTY AGENCY OR JUVENILE PROBATION OFFICER IN THE DEVELOPMENT
26 OF A TREATMENT PLAN FOR THE CHILD AS NECESSARY TO PROTECT THE
27 HEALTH, SAFETY OR WELFARE OF THE CHILD, TO INCLUDE DISCUSSIONS
28 WITH THE INDIVIDUAL, FACILITY OR PROGRAM PROVIDING TREATMENT AND
29 THE CHILD OR THE CHILD'S PARENT IN FURTHERANCE OF A DISPOSITION
30 UNDER SECTION 6351 (RELATING TO DISPOSITION OF DEPENDENT CHILD)

1 OR 6352 (RELATING TO DISPOSITION OF DELINQUENT CHILD).

2 SECTION 10. SECTION 6357 OF TITLE 42 IS AMENDED TO READ:

3 § 6357. RIGHTS AND DUTIES OF LEGAL CUSTODIAN.

4 A CUSTODIAN TO WHOM LEGAL CUSTODY HAS BEEN GIVEN BY THE COURT
5 UNDER THIS CHAPTER HAS THE RIGHT TO THE PHYSICAL CUSTODY OF THE
6 CHILD, THE RIGHT TO DETERMINE THE NATURE OF THE CARE AND
7 TREATMENT OF THE CHILD, INCLUDING ORDINARY MEDICAL CARE AND THE
8 RIGHT AND DUTY TO PROVIDE FOR THE CARE, PROTECTION, TRAINING,
9 AND EDUCATION, AND THE PHYSICAL, MENTAL, AND MORAL WELFARE OF
10 THE CHILD[,]. AN AWARD OF LEGAL CUSTODY SHALL BE SUBJECT TO THE
11 CONDITIONS AND LIMITATIONS OF THE ORDER AND TO THE REMAINING
12 RIGHTS AND DUTIES OF THE PARENTS OR GUARDIAN OF THE CHILD[.] AS
13 DETERMINED BY THE COURT. THE COURT MAY AWARD LEGAL CUSTODY UNDER
14 THIS SECTION ON A TEMPORARY BASIS TO AN INDIVIDUAL OR AGENCY
15 UNDER SECTION 6351(A)(2) (RELATING TO DISPOSITION OF DEPENDENT
16 CHILD) OR PERMANENT BASIS TO AN INDIVIDUAL UNDER SECTION
17 6351(A)(2.1).

18 SECTION 11. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ: <—

19 § 8331.2. GOOD SAMARITAN CIVIL IMMUNITY FOR USE OF AUTOMATED
20 EXTERNAL DEFIBRILLATOR.

21 (A) GENERAL RULE.--EXCEPT AS OTHERWISE PROVIDED IN THIS
22 SECTION, ANY INDIVIDUAL WHO IS TRAINED TO USE AN AUTOMATED
23 EXTERNAL DEFIBRILLATOR IN ACCORDANCE WITH SUBSECTION (C) AND WHO
24 IN GOOD FAITH USES AN AED IN AN EMERGENCY SHALL NOT BE LIABLE
25 FOR ANY CIVIL DAMAGES AS A RESULT OF ANY ACTS OR OMISSIONS BY
26 SUCH INDIVIDUAL IN USING THE AED, EXCEPT ANY ACTS OR OMISSIONS
27 INTENTIONALLY DESIGNED TO HARM OR ANY GROSSLY NEGLIGENT ACTS OR
28 OMISSIONS WHICH RESULT IN HARM TO THE INDIVIDUAL RECEIVING THE
29 AED TREATMENT.

30 (B) REQUIREMENTS.--ANY PERSON WHO ACQUIRES AND MAINTAINS AN

1 AED FOR USE IN ACCORDANCE WITH THIS SECTION SHALL NOT BE LIABLE
2 FOR CIVIL DAMAGES PROVIDED THAT THE PERSON:

3 (1) ENSURES THAT EXPECTED AED USERS RECEIVE TRAINING
4 PURSUANT TO SUBSECTION (C).

5 (2) MAINTAINS AND TESTS THE AED ACCORDING TO THE
6 MANUFACTURER'S OPERATIONAL GUIDELINES.

7 (3) PROVIDES INSTRUCTION REQUIRING THE USER OF THE AED
8 TO UTILIZE AVAILABLE MEANS TO IMMEDIATELY CONTACT AND
9 ACTIVATE THE EMERGENCY MEDICAL SERVICES SYSTEM.

10 (4) ASSURES THAT ANY APPROPRIATE DATA OR INFORMATION IS
11 MADE AVAILABLE TO EMERGENCY MEDICAL SERVICES PERSONNEL OR
12 OTHER HEALTH CARE PROVIDERS AS REQUESTED.

13 (C) TRAINING.--FOR PURPOSES OF THIS SECTION, EXPECTED AED
14 USERS SHALL COMPLETE TRAINING IN THE USE OF AN AED PROVIDED BY
15 THE AMERICAN NATIONAL RED CROSS OR THE AMERICAN HEART
16 ASSOCIATION OR THROUGH AN EQUIVALENT COURSE OF INSTRUCTION
17 APPROVED BY THE DEPARTMENT OF HEALTH IN CONSULTATION WITH A
18 TECHNICAL COMMITTEE OF THE PENNSYLVANIA EMERGENCY HEALTH
19 SERVICES COUNCIL.

20 (D) OBSTRUCTION OF EMERGENCY MEDICAL SERVICES PERSONNEL.--
21 NOTHING IN THIS SECTION SHALL RELIEVE A PERSON WHO USES AN AED
22 FROM CIVIL DAMAGES WHEN THAT PERSON OBSTRUCTS OR INTERFERES WITH
23 CARE AND TREATMENT BEING PROVIDED BY EMERGENCY MEDICAL SERVICES
24 PERSONNEL OR A HEALTH PROFESSIONAL.

25 (E) EXCEPTION.--ANY INDIVIDUAL WHO LACKS THE TRAINING SET
26 FORTH IN SUBSECTION (C), BUT WHO HAS ACCESS TO AN AED AND IN
27 GOOD FAITH USES AN AED IN AN EMERGENCY AS AN ORDINARY REASONABLY
28 PRUDENT INDIVIDUAL WOULD DO UNDER THE SAME OR SIMILAR
29 CIRCUMSTANCES, SHALL RECEIVE IMMUNITY FROM CIVIL DAMAGES AS SET
30 FORTH IN SUBSECTION (A).

1 (F) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
2 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
3 SUBSECTION:

4 "AUTOMATED EXTERNAL DEFIBRILLATOR" OR "AED." A PORTABLE
5 DEVICE THAT USES ELECTRIC SHOCK TO RESTORE A STABLE HEART RHYTHM
6 TO AN INDIVIDUAL IN CARDIAC ARREST.

7 "EMERGENCY." A SITUATION WHERE AN INDIVIDUAL IS BELIEVED TO
8 BE IN CARDIAC ARREST AND IN NEED OF IMMEDIATE MEDICAL ATTENTION
9 TO PREVENT DEATH OR SERIOUS INJURY.

10 "GOOD FAITH." INCLUDES A REASONABLE OPINION THAT THE
11 IMMEDIACY OF THE SITUATION IS SUCH THAT THE USE OF AN AED SHOULD
12 NOT BE POSTPONED UNTIL EMERGENCY MEDICAL SERVICES PERSONNEL
13 ARRIVE OR THE PERSON IS HOSPITALIZED.

14 SECTION 12. ~~THE NEW JUDGESHIPS FOR THE FIRST DISTRICT AND~~ <—
15 ~~JUDGESHIP FOR THE FIFTY-SECOND DISTRICT ADDED BY THE AMENDMENT~~ <—
16 ~~OF 42 PA.C.S. § 911(A) AND FOR THE PHILADELPHIA MUNICIPAL COURT~~ <—
17 ~~ADDED BY THE AMENDMENT OF 42 PA.C.S. § 1121~~ SHALL BE CREATED ON
18 JANUARY 3, 2000, AND SHALL BE INITIALLY FILLED BY ELECTION AT
19 THE 1999 MUNICIPAL ELECTION.

20 SECTION 13. (A) THE SUM OF \$6,060,000, OR AS MUCH THEREOF
21 AS MAY BE NECESSARY, IS HEREBY APPROPRIATED TO THE DEPARTMENT OF
22 PUBLIC WELFARE FOR THE FISCAL YEAR JULY 1, 1998, TO JUNE 30,
23 1999, TO CARRY OUT THE PROVISIONS OF THIS ACT.

24 (B) THE SUM OF \$1,657,000, OR AS MUCH THEREOF AS MAY BE
25 NECESSARY, IS HEREBY APPROPRIATED FROM FEDERAL TITLE IV-E FUNDS
26 TO THE DEPARTMENT OF PUBLIC WELFARE FOR THE FISCAL YEAR JULY 1,
27 1998, TO JUNE 30, 1999. THESE FEDERAL FUNDS ARE IN ADDITION TO,
28 AND SHALL BE ADDED TO, THOSE FEDERAL FUNDS APPROPRIATED TO THE
29 DEPARTMENT OF PUBLIC WELFARE FOR CHILD WELFARE UNDER SECTION 219
30 OF THE ACT OF APRIL 22, 1998 (P.L. , NO.6A), KNOWN AS THE

1 GENERAL APPROPRIATION ACT OF 1998, AND DESIGNATED AS "CHILD
2 WELFARE - TITLE IV-E - CHILD WELFARE."

3 SECTION 14. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

4 (1) THE AMENDMENT OR ADDITION OF 42 PA.C.S. §§ 1123(A)
5 AND 8331.2 SHALL TAKE EFFECT IN 60 DAYS.

6 (2) THE AMENDMENT OF 42 PA.C.S. ~~§§ 911(A) AND 1121 §~~ ←
7 911(A) SHALL TAKE EFFECT IMMEDIATELY.

8 (3) SECTION 12 AND THIS SECTION SHALL TAKE EFFECT
9 IMMEDIATELY.

10 (4) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JANUARY
11 1, 1999.