

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1197 Session of 2013

INTRODUCED BY GREENLEAF, WASHINGTON, STACK, FONTANA, PILEGGI, COSTA, BAKER, YUDICHAK, SOLOBAY AND BROWNE, NOVEMBER 26, 2013

AS AMENDED ON THIRD CONSIDERATION, MARCH 18, 2014

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in criminal history record information, further
4 providing for juvenile records; in juvenile matters, further
5 providing for scope of chapter, for inspection of court files
6 and records, for juvenile history record information and for
7 conduct of hearings; and, in registration of sexual
8 offenders, further providing for definitions and for court
9 notification and classification requirements.

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

12 Section 1. Section 9123(a)(2.1) of Title 18 of the
13 Pennsylvania Consolidated Statutes is amended to read:

14 § 9123. Juvenile records.

15 (a) Expungement of juvenile records.--Notwithstanding the
16 provisions of section 9105 (relating to other criminal justice
17 information) and except as provided under subsection (a.1),
18 expungement of records of juvenile delinquency cases and cases
19 involving summary offenses committed while the individual was
20 under 18 years of age, wherever kept or retained, shall occur
21 after 30 days' notice to the district attorney whenever the

1 court upon its own motion or upon the motion of a child or the  
2 parents or guardian finds:

3 \* \* \*

4 (2.1) the individual is 18 years of age or older and six  
5 months have elapsed since the individual has satisfied all  
6 terms and conditions of the sentence imposed following a  
7 conviction for a summary offense, with the exception of a  
8 violation of section 6308 (relating to purchase, consumption,  
9 possession or transportation of liquor or malt or brewed  
10 beverages), committed while the individual was under 18 years  
11 of age and, since satisfying all terms and conditions of the  
12 sentence, the individual has not been convicted of a felony,  
13 misdemeanor or adjudicated delinquent and no proceeding is  
14 pending to seek such conviction and adjudication;

15 \* \* \*

16 Section 2. Sections 6303(c), 6307(c), 6309(d) and (e) and  
17 6336(g) of Title 42 are amended to read:

18 § 6303. Scope of chapter.

19 \* \* \*

20 (c) Summary offenses generally.--In addition to the  
21 provisions of subsection (a) (5) and notwithstanding the  
22 exclusion of summary offenses generally from the definition of  
23 "delinquent act" under section 6302, the provisions of sections  
24 6307 (relating to inspection of court files and records) and  
25 6336(d) (relating to conduct of hearings), insofar as section  
26 6336(d) relates to the exclusion of the general public from the  
27 proceedings, shall apply to proceedings involving a child  
28 charged with a summary offense when the proceedings are before a  
29 judge of the minor judiciary, the Philadelphia Municipal Court  
30 or a court of common pleas.

1 § 6307. Inspection of court files and records.

2 \* \* \*

3 (c) Summary offenses.--The provisions of this section shall  
4 apply to proceedings involving a child charged with a summary  
5 offense when the proceedings are before a judge of the minor  
6 judiciary, the Philadelphia Municipal Court or a court of common  
7 pleas.

8 § 6309. Juvenile history record information.

9 \* \* \*

10 (d) Disposition reporting.--The division or judge of the  
11 court assigned to conduct juvenile hearings shall, within seven  
12 days after disposition of a case where the child has been  
13 alleged to be delinquent, notify the arresting authority of the  
14 disposition of the case. [In addition, it shall collect and  
15 submit to the Juvenile Court Judges' Commission the] The  
16 disposition of cases where a child has been alleged to be  
17 delinquent, including the disposition of cases resulting in an  
18 adjudication of delinquency [which] shall be [submitted]  
19 provided to the Pennsylvania State Police for inclusion in the  
20 central repository [within 90 days of an adjudication of  
21 delinquency as required by] as determined by the Administrative  
22 Office of Pennsylvania Courts in consultation with the Juvenile  
23 Court Judges' Commission. In addition, the Juvenile Court  
24 Judges' Commission shall be provided with information pertaining  
25 to the cases of children who have been alleged to be delinquent  
26 as the commission determines necessary to fulfill its  
27 responsibilities under section 6373 (relating to powers and  
28 duties).

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

1 subsection:

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

6 "Juvenile history record information." Information collected  
7 pursuant to this section concerning alleged delinquents and  
8 adjudicated delinquents whose fingerprints and photographs are  
9 taken pursuant to section 6308(c) and arising from [the filing  
10 of a petition] an allegation of delinquency, consisting of  
11 identifiable descriptions, dates and notations of arrests or  
12 other delinquency charges and any adjudication of delinquency or  
13 preadjudication disposition other than dismissal arising  
14 therefrom. This information shall also include the last known  
15 location and the juvenile court jurisdiction status of each  
16 adjudicated delinquent. Juvenile history record information  
17 shall not include intelligence information, investigative  
18 information, treatment information, including medical and  
19 psychiatric information, caution indicator information, modus  
20 operandi information, wanted persons information, stolen  
21 property information, missing persons information, employment  
22 history information, personal history information or presentence  
23 investigation information.

24 § 6336. Conduct of hearings.

25 \* \* \*

26 (g) Summary offenses.--The provisions of subsection (d),  
27 insofar as subsection (d) relates to the exclusion of the  
28 general public from the proceedings, shall apply to proceedings  
29 involving a child charged with a summary offense when the  
30 proceedings are before a judge of the minor judiciary, the

1 Philadelphia Municipal Court or a court of common pleas.

2 \* \* \*

3 Section 3. The definition of "juvenile offender" in section  
4 9799.12 of Title 42 is amended to read:

5 § 9799.12. Definitions.

6 The following words and phrases when used in this subchapter  
7 shall have the meanings given to them in this section unless the  
8 context clearly indicates otherwise:

9 \* \* \*

10 "Juvenile offender." One of the following:

11 (1) An individual who was 14 years of age or older at  
12 the time the individual committed an offense which, if  
13 committed by an adult, would be classified as an offense  
14 under 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to  
15 involuntary deviate sexual intercourse) or 3125 (relating to  
16 aggravated indecent assault) or an attempt, solicitation or  
17 conspiracy to commit an offense under 18 Pa.C.S. § 3121, 3123  
18 or 3125 and either:

19 (i) is adjudicated delinquent for such offense on or  
20 after the effective date of this section; or

21 (ii) has been adjudicated delinquent for such  
22 offense and on the effective date of this section is  
23 subject to the jurisdiction of the court on the basis of  
24 that adjudication of delinquency, including commitment to  
25 an institution or facility set forth in section  
26 6352(a) (3) (relating to a disposition of delinquent  
27 child).

28 (2) An individual who, on or after the effective date of  
29 this paragraph, was 14 years of age or older at the time the  
30 individual committed an offense similar to an offense under

1 18 Pa.C.S. § 3121, 3123 or 3125 or an attempt, solicitation  
2 or conspiracy to commit an offense similar to an offense  
3 under 18 Pa.C.S. § 3121, 3123 or 3125 under the laws of the  
4 United States, another jurisdiction or a foreign country and  
5 was adjudicated delinquent for such an offense[.]; OR WHO WAS <--  
6 PREVIOUSLY ADJUDICATED DELINQUENT FOR SUCH AN OFFENSE AND, ON  
7 THE EFFECTIVE DATE OF THIS PARAGRAPH, IS SUBJECT TO THE  
8 JURISDICTION OF THE COURT ON THE BASIS OF THAT ADJUDICATION  
9 OF DELINQUENCY.

10 (3) An individual who, on or after the effective date of  
11 this paragraph, was required to register in a sexual offender  
12 registry in another jurisdiction or foreign country based  
13 upon an adjudication of delinquency.

14 The term does not include a sexually violent delinquent child.

15 \* \* \*

16 Section 4. Section 9799.23(a) of Title 42 is amended to  
17 read:

18 § 9799.23. Court notification and classification requirements.

19 (a) Notice to sexual offenders.--At the time of sentencing,  
20 of disposition under section 6352 (relating to disposition of  
21 delinquent child) in the case of a juvenile offender, of  
22 adjudication of delinquency under section 6341 (relating to  
23 adjudication) in the case of a juvenile offender if the  
24 individual was adjudicated delinquent in any county other than  
25 the individual's county of residence and section 9799.19(h)(1)  
26 (i)(B) (relating to initial registration) applies, or of  
27 commitment under section 6403 (relating to court-ordered  
28 involuntary treatment) in the case of a sexually violent  
29 delinquent child, the court shall inform the sexual offender of  
30 the provisions of this subchapter. The court shall:

1 (1) Specifically inform the sexual offender of the duty  
2 to register under this subchapter.

3 (2) Specifically inform the sexual offender of:

4 (i) the duty to register in accordance with sections  
5 9799.15 (relating to period of registration), 9799.16(b)  
6 (relating to registry), 9799.19 [(relating to initial  
7 registration)] and 9799.25 (relating to verification by  
8 sexual offenders and Pennsylvania State Police); and

9 (ii) the duty to attend counseling in accordance  
10 with:

11 (A) section 9799.36 (relating to counseling of  
12 sexually violent predators) if applicable; or

13 (B) section 6404.2(g) (relating to duration of  
14 outpatient commitment and review) if applicable.

15 (3) Specifically inform the sexual offender of the duty  
16 to register with authorities in another jurisdiction within  
17 three business days of:

18 (i) Commencement of residence, change of residence,  
19 termination of residence or failure to maintain a  
20 residence, thus making the sexual offender a transient.

21 (ii) Commencement of employment, a change in the  
22 location or entity in which the sexual offender is  
23 employed or termination of employment.

24 (iii) Commencement of enrollment as a student, a  
25 change in enrollment as a student or termination of  
26 enrollment as a student.

27 (4) In accordance with section 9799.16(c), order that  
28 the fingerprints, palm prints, DNA sample and photograph of  
29 the sexual offender be provided to the Pennsylvania State  
30 Police upon sentencing.

1           (5) Require the sexual offender to read and sign a form  
2 stating that the duty to register under this subchapter has  
3 been explained. If the sexual offender is incapable of  
4 speaking, reading or writing the English language, the court  
5 shall certify the duty to register was explained to the  
6 sexual offender, and the sexual offender indicated an  
7 understanding of the duty.

8           (6) Specifically classify the individual as one of the  
9 following:

- 10           (i) An individual convicted of a Tier I offense.
- 11           (ii) An individual convicted of a Tier II offense.
- 12           (iii) An individual convicted of a Tier III offense.
- 13           (iv) A sexually violent predator.
- 14           (v) A juvenile offender.
- 15           (vi) A sexually violent delinquent child.

16 \* \* \*

17 Section 5. This act shall take effect in 60 days.