

No. 1991-9

AN ACT

SB 304

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for detention of children.

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

Section 1. Sections 6326 and 6327(f) of Title 42 of the Pennsylvania Consolidated Statutes are amended to read:

§ 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, 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.

[(b)] (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.

§ 6327. Place of detention.

* * *

(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.

Section 2. This act shall take effect in 60 days.

APPROVED—The 14th day of June, A. D. 1991.

ROBERT P. CASEY