

No. 2008-109

AN ACT

HB 1511

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in juvenile matters, adding definitions; further providing for notice and hearing, for other basic rights; and for adjudication of juveniles.

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

Section 1. Section 6302 of Title 42 of the Pennsylvania Consolidated Statutes is amended by adding definitions to read:

§ 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:

“Assessment.” An individualized examination of a child to determine the child’s psychosocial needs and problems, including the type and extent of any mental health, substance abuse or co-occurring mental health and substance abuse disorders and recommendations for treatment. The term includes, but is not limited to, a drug and alcohol, psychological and psychiatric evaluation, records review, clinical interview and the administration of a formal test and instrument.

“Screening.” A process, regardless of whether it includes the administration of a formal instrument, that is designed to identify a child who is at increased risk of having mental health, substance abuse or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention or more comprehensive assessment.

Section 2. Section 6336.1 of Title 42 is amended to read:
§ 6336.1. Notice and hearing.

(a) General rule.—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 right 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.

(b) Permanency hearings.—

(1) Prior to a permanency hearing under section 6351(e) (relating to disposition of dependent child), a child's foster parent or parents, preadoptive parent or relative providing care for the child may submit to the court a report in regard to the child's adjustment, progress and condition.

(2) The county agency shall notify the foster parent or parents, preadoptive parent or relative providing care for the child of the right to submit a report under this subsection to the court on a form under paragraph (3). The county agency shall provide the foster parent or parents, preadoptive parent or relative providing care for the child with information identifying the name of the judge or officer of the court, along with mailing address, to whom the report is to be submitted.

(3) The Department of Public Welfare shall develop a form for use by a foster parent or parents, preadoptive parent or relative providing care for the child, including, but not limited to, the following information:

(i) Date of completion.

(ii) Name and address of child.

(iii) Name and address of foster parent or parents, preadoptive parent or relative providing care for the child. The information under this subparagraph shall be considered confidential except at the discretion of the court.

(iv) Name of primary caseworker and agency.

(v) Description of child's adjustment in the home.

(vi) Description of child's interaction with foster parent or parents, preadoptive parent or relative providing care and with family members of individuals referred to in this subparagraph.

(vii) Description of child's interaction with others.

(viii) Evaluation of child's respect for property.

(ix) Description of physical and emotional condition of child.

(x) Description of child's interaction with the primary caseworker.

(xi) Description of caseworker's interaction with the child and foster parent or parents, preadoptive parent or relative providing care for the child and with family members of individuals referred to in this paragraph.

(xii) Description of educational status, grades, attendance and behavior of child in school or child's experience in a child day-care setting or early childhood development program.

(xiii) Description of child's experience involving visitation with birth parents, specifying if visitation is supervised or unsupervised and any significant events which occurred.

(xiv) Opinion on overall adjustment, progress and condition of the child.

(xv) Other concerns, comments or recommendations.

(4) The report shall be reviewed by the court and is subject to review by other persons and agencies under sections 6307 (relating to inspection of court files and records) and 6342(d)(1) (relating to court-appointed special advocates).

(5) A county agency or a private agency as defined under 23 Pa.C.S. § 6303 (relating to definitions) shall not take any retaliatory action against a foster parent, preadoptive parent or relative for any information, comments or concerns provided in good faith in a report under this subsection. This paragraph shall not be construed to prevent any agency from taking any action if the report contains information that the foster parent, preadoptive parent or relative has engaged in any conduct that is contrary to any regulation or law or is not in the child's best interest.

Section 3. Section 6338 of Title 42 is amended by adding a subsection to read:

§ 6338. Other basic rights.

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(c) Statements and information obtained during screening or assessment.—

(1) No statements, admissions or confessions made by or incriminating information obtained from a child in the course of a screening or assessment that is undertaken in conjunction with any proceedings under this chapter, including, but not limited to, that which is court ordered, shall be admitted into evidence against the child on the issue of whether the child committed a delinquent act under this chapter or on the issue of guilt in any criminal proceeding.

(2) The provisions of paragraph (1) are in addition to and do not override any existing statutory and constitutional prohibition on the admission into evidence in delinquency and criminal proceedings of information obtained during screening, assessment or treatment.

Section 4. Section 6341(d) of Title 42 is amended and the section is amended by adding a subsection to read:

§ 6341. Adjudication.

* * *

(b.2) Evidence on the finding of delinquency.—

(1) No statements, admissions or confessions made by or incriminating information obtained from a child in the course of a screening or assessment that is undertaken in conjunction with any proceedings under this chapter, including, but not limited to, that which is court ordered, shall be admitted into evidence against the child on the issue of whether the child committed a delinquent act under this chapter or on the issue of guilt in any criminal proceeding.

(2) The provisions of paragraph (1) are in addition to and do not override any existing statutory and constitutional prohibition on the

admission into evidence in delinquency and criminal proceedings of information obtained during screening, assessment or treatment.

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(d) Evidence on issue of disposition.—

(1) (i) 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.

(ii) *Subparagraph (i) includes any screening and assessment examinations ordered by the court to aid in disposition, even though no statements or admissions made during the course thereof may be admitted into evidence against the child on the issue of whether the child committed a delinquent act.*

(2) 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.

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

APPROVED—The 9th day of October, A.D. 2008.

EDWARD G. RENDELL