
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1600 Session of
2023

INTRODUCED BY SHUSTERMAN, MADDEN, WAXMAN, HOWARD, HADDOCK,
HANBIDGE, SANCHEZ, PARKER, HILL-EVANS AND KRAJEWSKI,
AUGUST 7, 2023

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, AUGUST 7, 2023

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in children and youth,
4 further providing for availability of services, providing for
5 purposes, further providing for payments to counties for
6 services to children, for review of county submissions and
7 for statistics and assistance for research, providing for
8 ensuring safe and humane institutional practices and further
9 providing for study of delinquents and recommendations to
10 courts; and, in departmental powers and duties as to
11 licensing, further providing for refusal to issue license,
12 revocation and notice.

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

15 Section 1. Section 701 of the act of June 13, 1967 (P.L.31,
16 No.21), known as the Human Services Code, is amended to read:

17 Section 701. Availability of Services.--(a) The department
18 shall assure within the Commonwealth the availability and
19 equitable provision of adequate public child welfare services
20 for all children who need them regardless of religion, race,
21 settlement, residence or economic or social status.

22 (b) At least once every three years, the department shall

1 conduct an inventory of programs and services to address
2 delinquency across all counties of this Commonwealth. The
3 following apply:

4 (1) The inventory shall be conducted in coordination with
5 local judges, county officials and relevant stakeholders across
6 all counties of this Commonwealth.

7 (2) The results of the inventory shall be collated and
8 disseminated publicly.

9 Section 2. The act is amended by adding a section to read:

10 Section 701.1. Purposes.--(a) The purposes of this article
11 are to:

12 (1) Protect children from abuse and neglect.

13 (2) Provide for the care, protection, safety and wholesome
14 mental and physical development of children coming within the
15 provisions of 42 Pa.C.S. Ch. 63 (relating to juvenile matters)
16 or children who are receiving services enumerated in this
17 article.

18 (3) Preserve the unity of the family whenever possible or
19 provide an alternative permanent family when the unity of the
20 family cannot be maintained.

21 (4) Consistent with the protection of the public interest,
22 provide programs of supervision, care and rehabilitation for
23 children committing delinquent acts. The programs shall provide
24 balanced attention to:

25 (i) The protection of the community.

26 (ii) The imposition of accountability for offenses
27 committed.

28 (iii) The development of competencies to enable children to
29 become responsible and productive members of the community.

30 (5) Achieve the purposes in a family environment whenever

1 possible, separating the child from the child's parents only
2 when necessary for the child's welfare, safety or health or in
3 the best interests of public safety.

4 (b) In accordance with the purposes specified in subsection
5 (a) and the mandate of 42 Pa.C.S. Ch. 63 that the court, upon
6 finding a child to be a dependent child, shall enter an order of
7 disposition that is best suited to the safety, protection and
8 physical, mental and moral welfare of the child, the department
9 shall prioritize the following objectives:

10 (1) To increase the use of nonplacement services designed to
11 prevent child abuse and neglect and to strengthen families so
12 that children's safety is increased and the risk to children is
13 minimized.

14 (2) If placement is necessary, to use kinship care as the
15 first priority and, if kinship care is not available or
16 appropriate, to use family foster care as an alternative.

17 (3) To reduce the use of congregate living and institutional
18 placements.

19 (4) To improve permanency for children to reduce the
20 duration of out-of-home placement.

21 (c) In accordance with the purposes specified in subsection
22 (a) and the mandate under 42 Pa.C.S. Ch. 63 that the court, upon
23 finding a child to be a delinquent child, shall enter an order
24 of disposition that is consistent with protection of the public,
25 the imposition of accountability for offenses committed and the
26 development of competencies to enable the child to become a
27 responsible and productive member of the community, the
28 department shall prioritize the following objectives:

29 (1) To increase the use of in-home services when consistent
30 with the protection of the public and the rehabilitation needs

1 of delinquent children.

2 (2) With respect to the placement of delinquent children:

3 (i) To encourage use of the in-home services when consistent
4 with the protection of the public and the treatment, supervision
5 and rehabilitation needs of delinquent children.

6 (ii) To operate and encourage the development of placement
7 resources that provide for a duration of placement that is
8 consistent with the protection of the public and the treatment,
9 supervision and rehabilitation needs of delinquent children.

10 (iii) To encourage the use of community-based residential
11 resources as alternatives to institutional placements when
12 consistent with the protection of the public and the treatment,
13 supervision and rehabilitation needs of delinquent children.

14 (iv) To encourage the development of services and
15 programming to facilitate the successful transition of
16 delinquent children to their communities from periods of
17 residential placement.

18 Section 3. Sections 704.1(a), 709.2(b) and 722 of the act
19 are amended to read:

20 Section 704.1. Payments to Counties for Services to
21 Children.--(a) The department shall reimburse county
22 institution districts or their successors for expenditures
23 incurred by them in the performance of their obligation pursuant
24 to this act and [the act of December 6, 1972 (P.L.1464, No.333),
25 known as the "Juvenile Act,"] 42 Pa.C.S. Ch. 63 (relating to
26 juvenile matters) in the following percentages:

27 (1) Eighty percent of the cost of an adoption subsidy paid
28 pursuant to subdivision (e) of Article VII of this act.

29 (2) No less than seventy-five percent and no more than
30 ninety percent of the reasonable cost including staff costs of

1 child welfare services, informal adjustment services provided
2 pursuant to [section 8 of the act of December 6, 1972 (P.L.1464,
3 No.333), known as the "Juvenile Act,"] 42 Pa.C.S. § 6323
4 (relating to informal adjustment) and such services approved by
5 the department, including but not limited to, foster home care,
6 group home care, shelter care, community residential care, youth
7 service bureaus, day treatment centers and service to children
8 in their own home and any other alternative treatment programs
9 approved by the department.

10 (3) Sixty percent of the reasonable administrative costs
11 approved by the department except for those staff costs included
12 in clause (2) of this section as necessary for the provision of
13 child welfare services.

14 (4) Fifty percent of the actual cost of care and support of
15 a child placed by a county child welfare agency or a child
16 committed by a court pursuant to [the act of December 6, 1972
17 (P.L.1464, No.333), known as the "Juvenile Act,"] 42 Pa.C.S. Ch.
18 63 to the legal custody of a public or private agency approved
19 or operated by the department other than those services
20 described in clause (2). The Auditor General shall ascertain the
21 actual expense for fiscal year 1974-1975 and each year
22 thereafter by the Department of [Public Welfare] Human Services
23 for each of the several counties and each city of the first
24 class whose children resident within the county or city of the
25 first class directly received the benefit of the Commonwealth's
26 expenditure. The Auditor General shall also ascertain for each
27 Commonwealth institution or facility rendering services to
28 delinquent or deprived children the actual average daily cost of
29 providing said services. The Auditor General shall certify to
30 each county and city of the first class the allocated

1 Commonwealth expenditures incurred on behalf of its children and
2 notify the Secretary of [Public Welfare] Human Services and each
3 county and city of the first class of same.

4 (5) [Fifty percent of the reasonable cost of medical and
5 other examinations and treatment of a child ordered by the court
6 pursuant to the act of December 6, 1972 (P.L.1464, No.333),
7 known as the "Juvenile Act," and the expenses of the appointment
8 of a guardian pendente lite, summons, warrants, notices,
9 subpoenas, travel expenses of witnesses, transportation of the
10 child, and other like expenses incurred in proceedings under the
11 act of December 6, 1972 (P.L.1464, No.333), known as the
12 "Juvenile Act."] As follows:

13 (i) Fifty percent of the following costs incurred in
14 proceedings under 42 Pa.C.S. Ch. 63:

15 (A) The reasonable cost of medical and other examinations
16 and treatment of a child ordered by the court.

17 (B) The appointment of a guardian ad litem for a child in
18 the context of dependency proceedings.

19 (C) The appointment of counsel for a child in the context of
20 dependency proceedings.

21 (D) The appointment of counsel for an indigent child in the
22 context of delinquency proceedings.

23 (E) Summons, warrants, notices, subpoenas, travel expenses
24 of witnesses and transportation of the child.

25 (F) Other similar expenses incurred in these proceedings.

26 (ii) The intent of the reimbursements authorized under
27 subparagraph (i) (C) and (D) is to supplement, and not supplant,
28 necessary funding for required juvenile counsel.

29 (iii) The following apply to the money to be reimbursed to
30 the counties under subparagraph (i) (C) and (D):

1 (A) Counties shall include in their needs-based budgets
2 required by section 709.1 the purposes for which the money shall
3 be used.

4 (B) Counties shall prioritize expenditures of the money in
5 ways that are designed to maintain, enhance or improve the
6 quantity or quality of legal services provided to juveniles in
7 accordance with national best practices in defense funding.

8 (6) Effective July 1, 1991, the department shall reimburse
9 county institution districts or their successors one hundred
10 percent of the reasonable costs of providing adoption services.

11 (7) Effective July 1, 1993, the department shall reimburse
12 county institution districts or their successors eighty percent
13 of the reasonable costs of providing foster home care, community
14 residential care, supervised independent living and community-
15 based alternative treatment programs.

16 (8) The department shall reimburse county institution
17 districts or their successors for the reasonable costs of
18 institutional services for dependent and delinquent children
19 other than detention services for delinquents in accordance with
20 the following schedule:

21 (i) Effective July 1, 1992, fifty-five percent.

22 (ii) Effective July 1, 1993, sixty percent.

23 * * *

24 Section 709.2. Review of County Submissions.--* * *

25 (b) The department determination shall consider whether the
26 county's budget is reasonable in relation to past costs,
27 projected cost increases, number of children in the county and
28 the number of children served, service level trends and
29 projections of other sources of revenue. The department
30 determination shall also consider whether the county's budget

1 prioritizes expenditures of the money reimbursed to the county
2 in accordance with section 704.1(a) (5) (i) (C) and (D) to
3 supplement, and not supplant, necessary county funding for
4 required juvenile counsel in ways that are designed to maintain,
5 enhance or improve the quantity or quality of legal services
6 provided to juveniles in accordance with national best practices
7 in defense funding.

8 * * *

9 Section 722. Statistics; Assistance for Research.--(a) The
10 department shall gather, collate, interpret and disseminate
11 statistics and reports relating to the problem of juvenile
12 delinquency and to the treatment of juveniles. It shall also
13 assist counties and local public and private agencies to study
14 the causes and methods of prevention of juvenile delinquency.

15 (b) With respect to placement instability statistics:

16 (1) For those children committed by the court to an
17 institution, youth development center, camp or other facility
18 for delinquent children operated under the direction or
19 supervision of the court or other public authority under 42
20 Pa.C.S. § 6352(a) (3) (relating to disposition of delinquent
21 child), the department, in collaboration with the Juvenile Court
22 Judges' Commission and the Juvenile Justice and Delinquency
23 Prevention Committee, shall gather, collate, interpret and
24 publicly disseminate each year statistics and reports on the
25 number of children:

26 (i) who are rejected or denied admission; and

27 (ii) who are ejected or removed after admission.

28 (2) The statistics and reports under paragraph (1) shall
29 include the children's demographics and the reason or reasons
30 for either the rejection or the ejection and shall be used by

1 the department to recommend policy changes as necessary to
2 prevent placement instability and minimize the number of
3 movements among out-of-home placements during the course of a
4 delinquency case.

5 Section 4. The act is amended by adding a section to read:

6 Section 724.1. Ensuring Safe and Humane Institutional

7 Practices.--(a) The safe and humane care of children in

8 facilities demands that restrictive procedures, including

9 solitary confinement, restraint, strip searches and body cavity

10 searches, only be used as measures of last resort to protect a

11 child from behavior that poses a serious and immediate risk of

12 physical harm to themselves or others. The following apply:

13 (1) The restrictive procedures may not be used for

14 punishment, retaliation or administrative convenience, as a

15 result of staffing shortages or for any reason other than

16 securing the immediate physical safety of a youth.

17 (2) Notwithstanding any other provision of law,

18 inappropriate use of restrictive procedures shall be grounds for

19 full investigation and license revocation, in addition to

20 criminal investigation.

21 (b) The following requirements apply:

22 (1) To ensure the safe and humane care of children in

23 facilities, the department shall establish standards not

24 inconsistent with the laws of this Commonwealth and the rules

25 and regulations of the various departments of the Commonwealth,

26 for all facilities within this Commonwealth. The following

27 apply:

28 (i) Humane care includes a prohibition on the use of

29 restrictive procedures, including chemical restraints, manual

30 restraints, mechanical restraints, seclusion, exclusion, strip

1 searches and body cavity searches.

2 (ii) Safe care includes the absence of any and all instances
3 of abuse.

4 (2) The department shall be responsible for the maintenance
5 of safe and humane care and for that purpose, the department or
6 its duly authorized representative shall have free and full
7 access to the premises and records of any facility and full
8 opportunity to interrogate or interview any officer, employee or
9 resident of the facility. The department shall make routine
10 announced and unannounced daytime and nighttime inspections of
11 all facilities.

12 (3) The department shall expeditiously review all
13 allegations of unsafe or inhumane care and maintain a public
14 record of confirmed instances that have occurred in facilities.

15 (4) Whenever the department, upon inspection, investigation
16 or complaint, finds a facility in violation of departmental
17 rules or regulations, or that a facility has failed to
18 establish, provide or maintain standards of care required by
19 this act or by the department, the department shall give
20 immediate written notice of the violation or failure to the
21 officers charged with managing the facility. The following
22 apply:

23 (i) The notice shall include a description of the violation
24 or failure, the corrective action needed and a specified time
25 frame for making any necessary corrections.

26 (ii) Upon receipt of the notice, it shall be the duty of the
27 officers to comply with the direction of the department. If the
28 officers fail to comply with the department's direction within
29 the specified time frame, the department may do one or more of
30 the following:

1 (A) Revoke the facility's license.

2 (B) Request the Attorney General to institute appropriate
3 legal proceedings to enforce compliance with the direction.

4 (C) Withhold any State money available for the facility
5 until the officers comply with the direction.

6 (D) Refer the matter for criminal investigation.

7 (c) The following exceptions apply:

8 (1) A limited period of "cool down" or "time out" for a
9 youth is not considered solitary confinement. The following
10 apply:

11 (i) The period shall be limited to three hours, with release
12 of the youth as soon as the youth has regained self-control.

13 (ii) Support staff, such as a social worker, must be
14 notified and made available to the youth to assist the youth in
15 calming down.

16 (iii) Staff must closely monitor the youth during the period
17 and maintain physical proximity.

18 (iv) Any restriction beyond three hours must be documented
19 and reported to both the department and the Office of the Youth
20 Ombudsman.

21 (2) Strip searches and body cavity searches may be conducted
22 only as a last resort and only where there is probable cause and
23 authorization from an individual in the agency overseeing the
24 facility. The following apply:

25 (i) When authorized, strip searches must be performed by two
26 staff or medical personnel of the same gender as the youth in an
27 area that ensures the privacy and dignity of the youth.

28 (ii) Body cavity searches may only be performed by outside
29 medical providers.

30 (iii) To the degree possible, and only when searches are

1 necessary, facilities should rely on alternatives such as wands
2 or metal detectors.

3 (iv) The use of a strip search or body cavity search must be
4 documented and reported to the department. Documentation must
5 include:

6 (A) The probable cause for the search.

7 (B) The authorization for the search.

8 (C) The names and positions of the individuals conducting
9 the search.

10 (d) The department shall ensure that children and their
11 families and guardians understand their right to lodge a
12 grievance or otherwise report any instances of unsafe or
13 inhumane care, in written or oral form, formally or informally,
14 or anonymously, without fear of retaliation. The following
15 apply:

16 (1) Assistance to file a grievance shall be available upon
17 request by a child.

18 (2) An adult with whom a child seeks assistance shall be
19 permitted to provide assistance and, notwithstanding mandated
20 reporting, shall keep confidential any information shared by the
21 child for purposes of filing the grievance.

22 (e) As used in this section, the following words and phrases
23 shall have the meanings given to them in this subsection unless
24 the context clearly indicates otherwise:

25 "Chemical restraint" means a drug used to control acute,
26 episodic behavior that restricts the movement or function of a
27 child. The term does not include a drug ordered by a licensed
28 physician as part of ongoing medical treatment or as
29 pretreatment prior to a medical or dental examination or
30 treatment.

1 "Exclusion" means the removal of a child from the child's
2 immediate environment and restricting the child alone to a room
3 or area, even if the door is unlocked. The term does not include
4 a situation in which a staff person remains in the exclusion
5 area with the child.

6 "Facility" means a setting, including a children's
7 institution, youth development center, camp or other facility at
8 which a child is held as a result of the child's alleged or
9 actual dependency or delinquency under 42 Pa.C.S. Ch. 63
10 (relating to juvenile matters).

11 "Manual restraint" means a physical hands-on technique that
12 lasts more than one minute and that restricts the movement or
13 function of a child or portion of a child's body. The term does
14 not include a manual assist of any duration for a child during
15 which the child does not physically resist or a therapeutic hold
16 for a child who is eight years of age or younger for less than
17 10 minutes during which the child does not physically resist.

18 "Mechanical restraint" means a device that restricts the
19 movement or function of a child or portion of a child's body.
20 The term includes handcuffs, anklets, wristlets, camisoles,
21 helmets with fasteners, muffs and mitts with fasteners, Posey
22 devices, waist straps, head straps, papoose boards, restraining
23 sheets and similar devices. The term does not include a device
24 used to provide support for functional body position or proper
25 balance or a device used for safe transportation to and from a
26 facility or medical treatment, such as sandbags to limit
27 movement after medical treatment, a wheelchair belt used for
28 body positioning and support or a helmet used for prevention of
29 injury during seizure activity.

30 "Solitary confinement" means isolating a child in a cell or

1 room, locked or unlocked, for punitive or disciplinary purposes.
2 The term does not include a "cool down" or "time out" period as
3 described in subsection (c) (1).

4 Section 5. Sections 725 and 1026(b) (5) of the act are
5 amended to read:

6 Section 725. Study of Delinquents; Recommendations to
7 Courts.--(a) The department shall have the power, and its duty
8 shall be:

9 (1) To establish and administer a program designed to assist
10 the juvenile courts and other public and private agencies, on
11 their request, in the diagnosis and study of juvenile
12 delinquents and of children with mental or behavioral problems,
13 and to recommend to them the most appropriate disposition for
14 the rehabilitation and treatment of such children; this program
15 shall be based on review of local studies of the children but
16 when local studies indicate the need, or when it is requested,
17 may include residential study of the children in centers which
18 the department is hereby authorized to establish and operate.

19 (2) To accept custody of children committed by the juvenile
20 courts for study, and on the basis of its review of local
21 studies of each child and any additional residential studies as
22 are deemed necessary, to recommend to the court that the child
23 be placed in an appropriate public or voluntary institution, or
24 to recommend any other placement or treatment which may be
25 indicated. The department may recommend that the court transfer
26 any child from one type of care to another or return him to his
27 home for trial periods. Notice of any transfer shall be sent by
28 the department promptly to the parents, guardian or nearest
29 relative of the child. The department may also recommend the
30 discharge of a child from its custody but any decision with

1 respect thereto shall remain the sole responsibility of the
2 committing court.

3 (b) The department may not place a delinquent child in an
4 institution in another state unless the state shares a border
5 with this Commonwealth.

6 Section 1026. Refusal to Issue License; Revocation;
7 Notice.--* * *

8 (b) The department shall refuse to issue a license or shall
9 revoke a license for any of the following reasons:

10 * * *

11 (5) Mistreating or abusing individuals cared for in the
12 facility, including a violation of section 724.1.

13 * * *

14 Section 6. This act shall take effect in 60 days.