Juvenile Court Judges' Commission

JUVENILE COURT HANDBOOK and DIRECTORY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF JUSTICE

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR — HON. MILTON J. SHAPP

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JUVENILE COURT HANDBOOK AND DIRECTORY

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JUVENILE COURT JUDGES' COMMISSION

CHAIRMAN — HON. FRED P. ANTHONY

FOREWORD

Over the years the Handbook on Commission Standards has served as a vital and basic point of reference for many Judges and Probation Officers in their work with juveniles.

In order to maintain the relevancy of the standards it is necessary that they be periodically revised. The last revision occurred in 1970. Since that date an entirely new Juvenile Code was enacted in 1972, with various amendments occurring on almost an annual basis. In addition, the Commission has since published standards on Classification and Intake. These works are incorporated in this revised Handbook.

It is the belief of the Commission that this new edition should serve well in providing for the needs of those who work within, as well as those who come in contact with the juvenile justice system.

Appreciation is expressed to all Commission Judges and staff for their dedicated efforts in compiling this work.

Fred P. Anthony, Chairman
Juvenile Court Judges' Commission

Juvenile Court Judges' Commission

Harrisburg, PA

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STATISTICAL PROGRAM

Administration

STANDARDS FOR ADMINISTRATION FOR JUVENILE COURT

Administrative Officer

The juvenile court functions as both a judicial and an administrative agency. As a judicial agency, the judge determines questions of fact and law. As an administrative agency, the Judge is responsible for the supervision of the court's services.

The effective operation of the juvenile court is the responsibility of the Juvenile Court Judge. It is the judge who will provide leadership in carrying out the spirit of the juvenile law and in insuring that the court is a place of child rehabilitation and not a criminal court for children.

The judge will insure that his staff, plant, policies, procedures, organization and overall administrative controls are all adequate to insure a rehabilitative child service.

The judge is not only concerned with services to children performed by his own staff, but also with the adequacy of services, both social and correctional, performed for the juvenile court by outside agencies. If the services available to the court are not adequate, the judge will inform the public, so that community support can be gained to strengthen these services. In this connection, the judge will appoint a juvenile court advisory committee of interested citizens to help him insure the availability of adequate services.

Although it is the judge who establishes and controls the administration of the court services, it is not practical for him to become involved in the details of administrative supervision. Most of the judge's time is necessarily consumed in case adjudication and activities relevant thereto. After he has developed the court's policies and procedures, their implementation should be left to an administrative officer. The chief probation officer is responsible for the administration of probation services. The clerk of court or other court officer represents the line of authority from the judge for the implementation of services necessary to the legal processing and control of court records.

There must be no question regarding the source of administrative authority. Where a number of judges are serving the juvenile court, the President Judge will designate one judge through whom all administrative direction will be channeled. A

chief probation officer will be appointed to see that staff carry out the policies and procedures of the court.

Manual of Operations

For effective administrative control of court services, the judge will provide for the development of a manual which prescribes the duties of each court employe and shows the flow of work and responsibility. It also will contain personnel practices of the court, as well as rules of the court governing legal processes, maintenance and control of records, and hearing procedures.

Jurisdiction

JURISDICTION PROCEDURES FOR JUVENILE COURTS

Jurisdiction is the power of the court over the person and subject matter and the consequent authority to hold a hearing and render an adjudication.

The power of the court may be exercised whether the court is in session or on vacation.

Subject Matter

Delinquent and Dependent Children

The Juvenile Court has original jurisdiction in all proceedings affecting delinquent and dependent children as defined by the Pennsylvania Juvenile Act 333 of 1972 as amended, 1977 August 3rd, P. L. No. 41 (11 P, S. 50-103).

Special Considerations

Murder

The jurisdiction over murder is specifically excluded from the Juvenile Act 333 of 1972.

Mentally Ill and Defective Children

The power of the juvenile court to commit a child to an institution providing for his treatment need is derived from the jurisdiction of the court over dependent and delinquent children. If a child under juvenile court jurisdiction is mentally ill, defective, epileptic or inebriate, his commitment to an appropriate institution is effected pursuant to the Juvenile Act 333 of 1972 and the Mental Health Act No. 143 of July, 1976.

Summary Offenses

The Juvenile Court has no jurisdiction over summary offense violations by a juvenile. Jurisdiction over summary offense violations by a juvenile lie with magistrates and district justices. When a juvenile fails to pay a fine levied for a summary offense by a magistrate or a district justice, such failure shall be certified to the Juvenile Court.

Liability of Parents

The Act of 1967, P. L. Act 186 (11 P. S. 2001 2005) establishes

parental liability for personal injury, or theft, destruction, or loss of property caused by the wilful tortious acts of children under eighteen years of age found liable or adjudged guilty by a court of competent jurisdiction.

The statute provides that in any proceeding of a criminal nature against a child under the age of eighteen and in any proceeding against a child in a juvenile court, (the court shall ascertain the amount sufficient to fully reimburse the injured person and direct the parents to make payment in an amount limited to $300.00 for loss suffered by one person and $1,000 regardless of the number of persons who suffer loss.

Person

Child

The juvenile court has jurisdiction over delinquent and dependent children under 18 years of age. However, jurisdiction once having been attached to a child, unless otherwise limited, continues until the child reaches 21 years of age, or until the judge terminates jurisdiction by a court order before the child reaches 21 years of age.

In general, it is good practice to terminate probation as soon as the child has attained maximum benefits from this court service and in the opinion of the court the child has been successfully rehabilitated.

The age of the child is always a pertinent consideration to the judge as he determines how the juvenile court can best handle the individual case. Act 41 of 1977 which amends Juvenile Act 333 of 1972 specifically states that no child under ten can be declared delinquent, a child under 10 committing a delinquent act must be declared dependent; delinquent children 12 years or older may be committed to institutions operated by the Department of Public Welfare. In general, behavior that would be adjudicated delinquency in an older child is often indicative of a dependency situation where a younger child is concerned.

Process

The Pennsylvania Juvenile Act 333 of 1972 gives the juvenile court jurisdiction over children in a matter initiated either by

petition or upon the certification of a Magistrate or District Justice.

Related Considerations

Venue

Either the juvenile court in the county of the child's residence or the court in the county of the child's offense may assume jurisdiction. Of the alternatives, the court of the county where the juvenile resides is usually more appropriate in view of the probability of its greater awareness of the child's background, offense record and court experience. Furthermore, services and treatment may be more directly related to the child's home and surroundings. If, however, the alleged offense occurs in a county other than the child's residence and involvement is in question, it is usually deemed expedient to hear the case in the court of the offense where testimony from parties and witnesses is more readily available. In this event, the findings may be certified to the juvenile court in the child's home county.

Regardless of where the petition is heard, probation supervision should be rendered by the court of residence in order to more effectively treat and contain the child in his own community. Statewide adoption of the foregoing principle will clarify the responsibility of the individual juvenile courts for probation services to a child involved in an inter-county incident.

In general, where a child is placed on probation by a juvenile court of one county and his family moves into another county, the probation office of the new county should be notified and supervision of the child transferred to the new county of residence. This new county will then assume jurisdiction for any further acts of delinquency.

Transfer

From Criminal Court

The juvenile court may also acquire jurisdiction by transfer of certain cases from criminal court. If it appears to the court in a criminal proceeding other than murder that the defendant is a child, this act shall immediately become applicable, and the judge shall forthwith halt further criminal proceedings, and, where appropriate, transfer the case to the Family Court Division or to

a judge of the court assigned to conduct juvenile hearings, together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony related to the case. If it appears to the court in a criminal proceeding charging murder that the defendant is a child, the case may similarly be transferred and the provisions of this applied. The defendent shall be taken forthwith to the probation officer or to a place of detention designated by the court or released to the custody of his parent, guardian, custodian, or other person legally responsible for him, to be brougth before the court at a time to be designated. The accusatory pleading may serve in lieu of a petition otherwise required by the act, unless the court directs the filing of a petition.

If in a criminal proceeding charging murder, the child is convicted of a crime less than murder, the case may be transferred to the Family Court Division or to a judge assigned to conduct juvenile hearings for disposition. (Section 7, Juvenile Act 333 of 1972).

The criteria for holding a case in criminal court should be the same as the criteria for transferring a juvenile over 14 years of age from juvenile court to criminal court. Please see the following section for a discussion of these criteria.

To Criminal Court

The Juvenile Act 333 of 1972 provides in Section 28 conditions whereby the court has authority to relinquish jurisdiction of children above the age of fourteen (14) years and to certify their cases for prosecution in the criminal courts after holding a transfer hearing on a petition alleging delinquency and having given the child and his parents at least three (3) days notice of the hearing and subject to conditions in Section 28 of Juvenile Act 333 of 1972. Among other criteria, the welfare of the public may require disposition of cases in the criminal courts when the juvenile has previously been declared delinquent and the processes of the juvenile court have been tried without beneficial results, or if the offense with which the juvenile is charged is of unusual magnitude, or if there are some unusual circumstances which require the processes of another court. Certification for criminal court prosecution also is appropriate if it is apparent that the

child will need the formal control of State resources beyond his minority.

Termination

The jurisdiction of the juvenile court may be terminated at any point by court order. In any event, jurisdiction terminates automatically upon the juvenile's 21st birthday.

Detention

STANDARD DETENTION PROCEDURES FOR JUVENILE COURTS

Principles

Detention is defined as the provision for the temporary care of children in secure custody pending court hearing or transfer to another jurisdiction.

Police custody is not considered detention care. Police custody is the interval of control exercised by police over a child between the child's apprehension and his release and referral to his parents, to a community agency or to the juvenile court.

As detention involves a limitation of the rights of the child and his parents, it can only be sanctioned by the juvenile court judge, in terms of the protection of the child and the community as set forth in the Juvenile Act. The judge, therefore, is responsible for the control of detention.

The judge, as the authority responsible for the detention admission decisions, will develop or provide for the development of definite policies for the control and use of detention. To make sure that these policies are understood and that derived procedures are working smoothly, the judge will periodically meet with the Chief Juvenile Probation Officer, the Detention Home Administrator, and the police.

Detention care is limited to:

1. Runaway risks.
2. Children who are likely to become involved in further offenses, and
3. Children in need of secure custody for their protection and welfare.

Procedures

The following procedures to control the use of detention and police custody are established.

1. The police, upon taking a child into custody, will promptly notify the child's parents.

2. Police will hold a child in custody no longer than necessary to decide whether his referral to the juvenile court and detention are appropriate.

3. Police will release the child to his parents unless the child should be detained pursuant to the principles enumerated above.

4. During the court business hours, police will take a child who has been taken into custody and not released to his parents directly to the intake division of the juvenile court; at other times, police will obtain the approval of an on call or on duty juvenile intake officer before placing the child in a detention facility.

5. Intake coverage will be provided by the court on a 24 hour basis as follows:

a. By court personnel on duty beyond the usual court working day, or

b. By court personnel on call.

6. In all instances where police are instrumental in the placement of a child in detention, the police will promptly provide the juvenile court and the child's parents with a written report of the case. The report to the court will include the details of the offense and identification of the complainant or the victim, facts justifying the need for detention, and a statement as to whether or not the parents have been notified.

7. If a child is brought before or delivered to a detention or shelter care facility by the court, the intake or other authorized officer of the court shall immediately make investigation and release the child unless it appears that his detention or shelter care is warranted or required under Section 12 of the Juvenile Act. The release of the child shall not prevent the subsequent filing of a petition as provided in the Juvenile Act.

8. If the child is not released, a petition shall be promptly made and presented to the court within twenty-four hours or the next business day of the child's admission to detention.

9. The Juvenile Court shall then arrange to hold an informal hearing to determine whether the child's detention is required. This hearing shall be held promptly and not later than 72 hours after the child is placed in detention.

10. Reasonable notice of the detention hearing shall be given to the child and his parents.

11. Prior to the commencement of the hearing the court

or Master shall inform the parties of their rights to counsel and to appointed counsel if they are needy persons, and of the child's right to remain silent with respect to any allegations of delinquency.

12. Appearance bond will not be considered as the condition of release from the detention home unless the child lives outside the territorial jurisdiction of the court. The court may impose such other requirements as it may deem necessary to secure his appearance.

13. The policy of the court shall be to reduce the time a child spends in detention compatable with the protection of the child and the community. In this connection, a child in detention will be given hearing priority and, in any event the date of his hearing on the issue must be not later than 10 days after the filing of the petition.

14. Detention will be used only for the secure custody of children pending hearing and not as a rehabilitative technique.

Detention Facilities

A detention home is an important resource in the prevention and control of juvenile delinquency. A good detention home will provide protection for both the child and the community, information to the courts on the problems, behavior and reaction of the child, and a constructive experience for the detained child.

It is the responsibility of every juvenile court to insure that an adequate detention home is available for its use. A detention facility properly designed and constructed and sufficiently staffed will eliminate the need for the jail detention of children.

The philosophy of the detention home staff, the program of child care and the detention home building itself will all be in accord with the rehabilitative intent of the Juvenile Act. The judge, therefore, will be familiar with the day to day care accorded children in the detention home and will make sure that children receive more than custodial care. The detention home must supply creative outlets for the energies of detained children. The judge will work with the executive officer of the county towards the establishment in the detention home of a program of school, work, recreation, casework and clinical help.

Shelter Care

Shelter care must be clearly differentiated from detention. Shelter care is the temporary care of children in physically unrestricted facilities pending final planning for their permanent care. Shelter care, however, as distinguished from detention care, is care in a facility used primarily for dependent children.

Children charged with delinquency will be connsidered for shelter care if they are not in need of secure custody and if their welfare demands that they be protected from the physical, moral or emotional climate of their home environment. Shelter care and detention care shall not be combined in the same facility.

Intake

INTAKE STANDARDS FOR JUVENILE COURTS

The Juvenile Court Judges' Commission has developed and promulgated Standards for the Administration of Juvenile Court Intake. These Standards are to be considered as basic and essential practices that should govern the operations of juvenile court intake.

I. Each Juvenile Court Shall Establish Written Comprehensive Guidelines for Juvenile Court Intake.

The juvenile court judge and the chief probation officer shall establish written policies and procedures outlining the operations of juvenile court intake. These policies and procedures shall include written guidelines concerning referrals to the juvenile court, procedures to be used in making a referral and procedures for the notification of the parents that their child has been referred to the juvenile court.

II. Each Juvenile Court Shall Develop An Allegation Form To Be Completed by the Complainant

The juvenile court judge and chief juvenile probation officer shall have the allegation form they have developed distributed to referral sources and train these referral sources in the procedures to be followed in completing the form.

III. Juvenile Court Intake, Upon Receipt of An Allegation Form, Shall First Determine If the Jurisdiction of The Juvenile Court Pertains

The juvenile court judge shall develop written guidelines consistent with the Juvenile Act and Act 41 (1977) concerning the filing of delinquency allegations. The judge, chief probation officer, and child welfare director shall use the Juvenile Act and Act 41 (1977) in developing guidelines concerning the filing of dependency or deprivation allegations. The judge, chief probation officer and county administrator of the mental health and mental retardation program shall use The Juvenile Act, the Mental Retardation Act of 1966 and the Mental Health Procedures Act of 1976 in developing written guidelines concerning the adjudication and/or disposition of mentally ill or mentally retarded juveniles.

IV. Juvenile Court Intake Shall Provide Written Notice of the Allegation of Delinquency to the Juvenile and the

Parents With All Reasonable Speed Upon the Receipt of an Allegation Form

The juvenile court judge and the chief juvenile probation officer shall develop a standardized form, consistent with the Juvenile Act and Act 41 (1977) for the notification of allegations of delinquency.

V. Juvenile Court Intake Shall Inform the Juvenile and the Parents of Their Constitutional Rights Before Initiating the Intake Interview

The juvenile court judge and the chief juvenile probation officer shall develop a standardized form and procedure for the explanation of the constitutional rights of the parents.

VI. Juvenile Court Intake Shall Make a Thorough Evaluation After Consultation with the Juvenile, the Parents, and The Complainant Before Making Recommendations Concerning Intake Decisions

The juvenile court judge and the chief juvenile probation officer shall establish written criteria to be used by juvenile court intake in developing recommendations for intake decisions.

VII. A Denial By The Juvenile of the Allegations of Delinquency and/or a Request by the Juvenile for a Hearing Shall Be Compelling Reasons for Filing a Petition and Scheduling a Court Hearing

The juvenile court judge and the chief juvenile probation officer shall develop a standardized petition to be used by juvenile court intake. They shall also develop a standardized form to be used as a summons, informing the juvenile and the parents as well as other pertinent parties, as to the time and place of the hearing.

VIII. Juvenile Court Intake Shall Maximize the Use of Referral to Other Agencies in Appropriate Cases

The juvenile court judge and the chief juvenile probation officer shall develop a standardized form to be used in referring juveniles to private or public agencies. Referrals shall be based on the understanding of the needs of the juvenile, the service avail-

able in the receiving agency, and the mutual agreement of all parties.

IX. Juvenile Court Intake, Having Conducted a Thorough Evaluation and Having Consulted With Pertinent Parties, Including the Complainant, Shall Make a Final Intake Recommendation Which Is In the Best Interest of the Juvenile and Public Safety

The juvenile court judge and the chief juvenile probation officer shall develop written guidelines for use by juvenile court intake concerning final intake recommendations. These written guidelines shall include procedures for:

(1) juvenile court intake, having determined that warning and dismissal are in the best interest of the juvenile and public sefety, shall record such a recommendation in writing, and the basis thereof;

(2) juvenile court intake, having determined that informal adjustment is in the best interest of the juvenile and public safety, shall record such a recommendation in writing, and the basis thereof;

(3) juvenile court intake, having determined that further action in the case is necessary in the best interest of the juvenile and/or public safety, shall recommend that a petition be filed and shall record such a recommendation in writing, and the basis thereof;

(4) juvenile court intake, according to local policy, may recommend the use of a consent decree in all cases where a petition is filed in the office of the Clerk of Courts, and an adjudicatory hearing is not in the best interest of the juvenile and/or public safety. This recommendation and the basis thereof shall be recorded in writing.

The juvenile court judge and the chief juvenile probation officer shall develop a standardized informal adjustment form and a standardized consent decree form, consistent with the Juvenile Act and Act 41 (1977).

X. Juvenile Court Intake Shall Submit Recommendations Concerning Intake Disposition to the Juvenile Court Judge Or An Appointed Delegate for Approval

The juvenlle court judge and the chief juvenile probation of-

ficer shall develop an organizational chart illustrating the subdivision responsible for reviewing and approving the decisions made by juvenile court intake.

XI. Juvenile Court Intake Shall Be Staffed by Thoroughly Trained, Experienced, and Competent Juvenile Probation Officers

The juvenile court judge and the chief juvenile probation officer shall establish written criteria to be used in selecting workers for juvenile court intake.

XII. Juvenile Court Intake Shall Have Written Comprehensive Guidelines Concerning the Detention of Juveniles

The juvenile court judge and the chief juvenile probation officer shall establish and distribute to referral sources written policies, procedures, and criteria consistent with the Juvenile Act and Act 41 (1977), governing the placement of juveniles in a detention facility.

XIII. The Juvenile Court Judge and The Chief Juvenile Probation Officer Shall Review the Operations of Juvenile Court Intake to Maintain Consistency and to Ensure Compliance With the Law, Policies and Procedures

The juvenile court judge and the chief juvenile probation officer shall meet regularly to review the operations of juvenile court intake and to devise methods for correcting inconsistencies and practices which conflict with established policies.

The complete Standards for Administration of Juvenile Court Intake can be obtained from the Juvenile Court Judges' Commission. The Standards provide all of the written criteria necessary for the implementation of the Standards, including policies, procedures, written criteria and sample forms.

Hearing

STANDARD HEARINGS PROCEDURES FOR JUVENILE COURTS

The juvenile court hearing is the central incident in the execution of the Juvenile Act. The judge's attitudes and decisions, as conveyed through the hearing, greatly influence the attitude and practices of probation officers, police and social agencies, as well as the general community viewpoint and involvement in the problems of juvenile delinquency.

The function of this hearing, like other court hearings, is to determine jurisdiction, the facts of the issue and to make disposition of the case.

The juvenile court hearing is modified, however, by the fact that its subject is children and by the philosophy of juvenile court law which embodies the special concern of society for children, the belief that children should be separated from the process of criminal law, and the conviction that society's welfare can be best served by their rehabilitation.

Whenever possible, the probation officer should prepare a child and his parents for the juvenile court hearing and aid them in understanding that the purpose of the proceedings is not to punish but to correct the child and help on the basis of the child's behavior and needs, always being mindful that the final determination of the case rests with the judge.

Atmosphere of the Hearing

The court shall hear and determine all cases without a jury. The atmosphere of the hearing should encourage the maximum participation of all concerned. It should be evident that the court's intention is to get at the facts of the allegation as directly as possible and to provide for the best interest of the child and the community.

The judge should promote an informal atmosphere within the requirements of due process. The objective of all participants should be to ascertain the truth and an understanding of the child and his problems. The informality of the hearing helps both the parents and the child to understand the proceedings and aids the court in coming directly to grips with the issue and with the problems and needs of the child.

The physical setting of the courtroom should be conducive to

a conference-like atmosphere where the parents and a child will feel free to talk about their problems and to express their real feelings. Many judges find that sitting on the same level, relatively close to the parents and child, helps to involve all participants. Most judges hear cases in a room, especially prepared for this purpose, which emphasizes the conference-like quality of the hearing. Helpful in this regard are seating arrangements that bring participants closer together and the absence of formal appointments of the traditional courtroom.

Initiation of the Hearing

Under the Pennsylvania Juvenile Act 333 of 1972, children may be brought before the court on the basis of a petition, a certification from other courts, or from a proceeding for a summary offense instituted before a district justice or a magistrate.

The petition or other process used to initiate the proceedings should clearly set forth the facts of the alleged delinquency, and a copy thereof must be supplied to the child, his parent, guardian, or attorney so as to assure adequate notice of the facts alleged and reasonable time to appear for the hearing.

A child's parents, guardian or custodian should be required to appear at the hearing with the child and should receive notification sufficiently in advance of the hearing to enable preparation. The judge should not hear the case until it appears that all available parties have had reasonable notice of the court hearing. Included with the notice should be a statement setting forth the child's right to be represented by counsel, appointed by the court without cost to the parents or the child if the child's parents are indigent. Also included with the notice should be a copy of the petition and notification of the child's right to remain silent through any or all questions posed during proceedings. Court hearings in general should not be postponed for more than four weeks beyond the filing of the petition, except hearings for a child in detention, which should be held within 10 days, unless a further extension of 10 days is sought from the court for good reasons.

Phases of the Hearing

The hearing is divided into the determination of jurisdiction, the adjudication of the issue and the disposition. Before proceed–

ing with the aforesaid determination, the judge shall assume the responsibility for ascertaining affirmatively that the child and his parents, guardian or custodian, understand that the child is entitled to be advised and represented by counsel, and that in the event that there is financial inability to hire private counsel, a lawyer will be designated to represent the child, without cost to the parents or the child. Furthermore, the child and those persons appearing in behalf of the child should be advised that the child may elect to remain silent and not answer questions relative to the alleged acts of delinquency, and that if he does voluntarily say anything relative to the alleged delinquency, such statements should be considered by the judge in making a disposition. Finally, the child and those appearing in his behalf shall be notified of the right to cross-examine witnesses.

Jurisdiction

The court must first determine that it has jurisdiction over the person and the subject matter. The requirements for this determination are discussed in earlier Standard entitled "Recommended Jurisdiction Procedures for Juvenile Courts."

The court may decide that consideration should be given to the advisability of relinquishing its jurisdiction over the child and transferring him to the criminal court. This would only be done after considering the facts involved; conducting a hearing at which a child is entitled to be represented by counsel – and giving an opportunity for a hearing on the question of transfer to the child and to anyone who may be opposed to such action.

Adjudication of the Issue

An adjudication of delinquency shall be made only if there is proof beyond a reasonable doubt to support the facts of the allegation.

Although the hearing is informal, the judge is in the position of protecting a child and has a special obligation to see that the legal right of all parties are preserved. As far as the child is concerned, such rights include the right to be represented by counsel, the right to be confronted by the witnesses who support the allegation of delinquency and the opportunity in person or by counsel to cross-examine the witnesses. While the strict rules governing the receiving of evidence do not apply in juvenile court hearings,

rulings on evidence should accord the principles of justice so that only evidence which is relevant, trustworthy and basically credible will be received.

A lawyer's presence should not change the informal nature of the hearing. As an officer of the court, he can be helpful to the court and his clients in developing the facts and in examining the philosophy and purpose of the court and the intent of the adjudication.

Many judges do not require the presence of witnesses when the child admits the alleged delinquent behavior. Even when the child admits the allegation, the court should satisfy itself that the child understands the charges and consequences, that the child's conduct was intentional and not accidental, and that the child's admission is not through fear of parents or the court or result of coercion. The focus of the proceedings can then be on the child's motivation and social background as a guide to appropriate disposition. However, there are occasions when the judge might deem it advisable to have the police, school authorities and aggrieved persons present at all stages of the proceedings.

The Juvenile Act of Pennsylvania provides that under certain conditions the court has authority to relinquish jurisdiction of the child above the age of fourteen (14) years and to certify his case for prosecution in the criminal courts. Among other criteria, the welfare of the public may require disposition of cases in the criminal courts when the juvenile has previously been declared delinquent and the processes of the juvenile court have been tried without beneficial results, or if the offense with which the juvenile is charged is of unusual magnitude, or if there are some unusual circumstances which require the process of another court.

Certification for criminal court prosecution also is appropriate if it is apparent that the child will need the formal control of State resources beyond his minority. Relinquishment should not be ordered without a hearing to determine whether transfer is in the best interest of the child and the public and without giving an opportunity for hearing to anyone who may oppose such order.

Disposition

The dispositional phase of the hearing is aimed at determining the reason behind the child's offending behavior and the rehabilitation program that will be most likely to succeed, keeping

in mind the welfare of the community.

In attempting to understand the causative factors of the child's behavior, the judge should utilize the reactions of the parents and child as observed during all phases of the hearing procedures as well as the social study prepared by the probation officer. The judge's own interviewing skill will likewise help him understand and evaluate the child. Many judges find it helpful to find an occasion to separate the child and parents as an aid to freer discussion, but counsel should not be excluded from such discussions. The parents should be viewed as co-partners with the court in the child's rehabilitation.

Witnesses, whose sole function in the case is to establish the facts of delinquency, should be excused after an adjudication of the issue is made.

In the event that a number of children are involved together in an offense, the adjudication of the issue can appropriately be made with all the involved children in the courtroom. Once delinquency has been established, however, judges sometimes find it preferable to dispose of each case separately with only one of the involved children in the courtroom at a time.

Where the alleged delinquent conduct is admitted or has been adjudicated, the probation officer's social study and all other reports should be in the judge's hands in sufficient time for him to become thoroughly familiar with them before dispisition of the case. Judges may discuss the social study with the probation officer after adjudication and before disposition of the case in terms of the probation officer's viewpoint, related knowledge and evaluation. All facts which directly influence the disposition decision should be disclosed to the child, his parents, and counsel upon request. The child and his parents should have the opportunity to produce evidence at the dispositional phase of the hearing.

The probation officer should make known his recommendations to the judge, so that the judge may have the advantage of the probation officer's observation and evaluation. His recommendation should be viewed only as a potential dispositional aid to be weighed among other factors as the judge decides on the exact nature of the disposition.

The ability of the probation officer to work positively with

the child and his family can be enhanced or damaged during the course of the hearing. The judge should not ask the probation officer for verbal recommendation since an adverse recommendation can well influence both the child and parents to believe that the probation officer is against them to the detriment of the child's future rehabilitation. Whenever the court places a child on probation against the recommendation of the probation officer, if parents and child are aware of adverse recommendations of the probation officer, then the court should assign supervision to another officer and, if that is not possible, the court should satisfy the parents and the child in open court of the probation officer's willing consent and cooperation.

Many judges find it helpful to discuss the disposition of the case with the child, his parents, and counsel after the facts have been established. Often the child and his parents are able to concur with the judge in terms of the disposition.

In making the disposition, the judge should make certain that all parties understand the effects of the decision in terms of their own obligations and situation.

It is most helpful if the probation officer reviews the judge's decision with the child and interested parties after the hearing. This procedure provides an excellent opportunity for the probation officer to drain off emotional tension, to help all parties understand and accept the court's decision and to establish a working relationship with the child and family on the basis of the decision.

Social Studies

No disposition, except dismissal should be made without the benefit of a written social study on the child.

Social studies should not be made on children who deny the alleged delinquency unless and until they are adjudicated delinquent.

Social studies should be completed promptly.

The Effect of the Hearing

As a result of the court hearing, a child neither acquires civil disabilities nor is a finding of guilt in a Juvenile Court pro-

ceeding considered as a record of a prior conviction for purposes of criminal proceedings in an Adult Court. Evidence developed in a juvenile court hearing is not admissible as evidence against the child in any other court. Juvenile court records, including the social histories, however, should be available to criminal courts as presentence information in the event of later prosecution and conviction in a criminal court on another charge. The juvenile court judge should make arrangements with the press to prevent printing of the names of juveniles appearing before the court, except with the permission of the court and as provided in law.

Court Records

A verbatim report of the hearing is not necessary unless the hearing is on an appeal. Many judges, however, find it valuable to have a verbatim report but only require that the significant portions of the hearing be transcribed as part of the court record.

The Juvenile Act 333 of 1972 in Sections 37 and 38 provides that the records of proceedings of the juvenile courts shall be kept in a docket separate from all other proceedings of such courts and shall be withheld from public inspection. Such records, however, shall be open to inspection by the child's parents, representative or other person deemed by the judge to have legitimate interest. Although this provision applies only to the juvenile courts, it illustrates the philosophy of the Juvenile Court Act and would be meaningless if police departments and other agencies that refer children to court maintained similar records of juvenile cases which were open to public inspection.

Police Records

The importance in police work of keeping records of prior offenses and of persons having contact with the police is recognized. Such records are commonly and properly used to define delinquency areas, and to evaluate programs for the prevention of juvenile delinquency and to provide information to the police and the courts of a juvenile who has had a previous involvement with the police. It is suggested, however, that such records be maintained separately from other police records and that they be accessible only to authorized members of the police departments for approved purposes. It would be appropriate to keep them

in a locked container under the supervision of one designated person. Inquiries concerning juvenile cases should be referred to the juvenile court or probation office without indicating whether or not the juvenile has a record.

Adoption of these recommendations will provide a uniform method and a uniform county policy on the release of information on juvenile cases.

Modification, Revocation and Appeal

The Juvenile Act provides that within 21 days after the final order by which a child is committed or placed, the child, his parents or next friend has the right to petition the court and to have the case reviewed and reheard if it is alleged that there have been errors of law or fact or that the order has been inadvertently or improvidently made. If a rehearing is granted, testimony shall be taken by an official court stenographer. An appeal to the superior court from the final order of the juvenile court in such review and rehearing proceedings is a matter of right. When children are not represented by counsel, the judge should make certain that they are fully advised of the right of appeal.

Under the Juvenile Act, at any time after the court's final order of commitment or placement, the child's parent or next friend has the right to petition the court and to have the case reheard if in his opinion there has been a change of circumstances which warrants the revocation or modification of such final order. An appeal to the superior court from the final order of the juvenile court in such rehearing proceedings is a matter of right.

Disposition

DISPOSITION PROCEDURES FOR JUVENILE COURT

Purpose and Philosophy

The purpose of the juvenile court disposition are the protection of the child and the safety and peace of the community. These dual purposes become harmonious in the rehabilitation of the child.

The juvenile court disposition is treatment-oriented consistent with its existence as a court for children. Its dispositions, therefore, should take into consideration child diagnostic-treatment techniques and resources. All the court's staff, procedure and resource are organized to support the disposition. A wise decision can change the course of the child's life. The disposition is the process through which the juvenile court actualizes itself as a child rehabilitative control center. Only the juvenile court has the unique power and prestige to prescribe and enforce the treatment of a delinquent child.

Disposition without Petition

As some complaints are inconsequential, it is good administrative practice for the juvenile court to have an intake service for the initial screening and processing of all complaints. The intake staff may, with the approval of the court, resolve the less serious complaints without the necessity of petition or hearing. Aside from recommending a petition for formal hearing, intake staff may adjust the complaint, make an agency referral or provide for a period of supervision by probation staff subject to court approval, as provided for in Section 8 of Juvenile Act 333 of 1972 and Act 41 of 1977.

The criteria that the judge may use in establishing policy regarding decisions on unofficial cases with his intake staff appear in the Task Force Report on Standards for Juvenile Court Intake reported under Intake Standards and Procedures.

Disposition with Petition

As the judge decides upon a disposition, he is aware that the child, if properly motivated, may change his anti-social behavior. The judge, therefore, is conscious of the necessity to understand the child and the reason for his misbehavior so these insights might be reflected in the decision.

As an aid to understanding the child who has been determined to be delinquent, full use should be made of all the community's diagnostic resources. School reports, which usually contain the results of psychological testing, should be routinely available to the court. Reports should also be available from any family or child care agency that has worked with the child or his parents. If the offense which it has been determined the child committed is serious or the child's behavior so indicates, a psychiatric and/or psychological evaluation should be secured.

All of the aforesaid diagnostic information when available to the court after a finding of delinquency should be summarized in the probation officer's social investigation and all should be made available to the child's attorney. In addition, this report must contain the probation officer's own evaluation of the causative factors behind the child's delinquency. Juvenile courts should require probation officers to make a recommendation, which is among the factors the judge considers in reaching a decision.

Kind of Disposition

Dismissal

Other jurisdictional factors being present, the decision to dismiss a case is based on the finding that the child has not been involved in the alleged act of delinquency or on the finding that the child has committed a delinquent act, but that his best interest and that of the State do not require his care, guidance and control.

In some instances, a judge may continue a case under a consent decree for a period of six months which may be extended by court for an additional six months, placing the child under probation staff supervision in the interval, with the hope that the child will be able to prove his ability to adjust during this interval and that the case consequently can be dismissed without the necessity of a delinquency adjudication. The court should adhere to conditions and requirements of Section 8.1 of Juvenile Act 333 of 1972 and Act 41 of 1977.

Probation

Probation is properly used when the judge believes the delinquent child can be helped by a period of supervision in the com-

munity. Usually the child will continue to live with his family and the juvenile court probation officer will carry the responsibility for supervision and counselling. Broadly speaking, however, probation, as supervision in the community, may be implemented while the child is in foster home placement or living in the home of a relative. The child's principal treatment agency may be a child guidance clinic or family and child agency.

Probation does least damage to a child's self-respect and to his reputation in the community. It has the very substantial advantage of allowing the child to learn to redirect his attitude and behavior in relation to those people, institutions and societal norms that provide meaning, order and satisfaction to all responsible members of society.

The strength of the child's home is an important consideration in arriving at the probation decision. Probation in the child's home and reestablishment of the child in the community should be carefully considered specifically where the cooperation of the family is doubtful and not assured.

Another consideration in influencing the decision to place a child on probation is the strength of the court's probation service. A probation status that will not result in a program of active supervision should not be established lest it engender child disrespect and disregard for the court. Probation service should recommend and the court should consider placing on probation only such a number of juveniles as can be effectively supervised by the probation staff in keeping with the Juvenile Court Judges' Commission Caseload standards.

Commitment

A child who is not able to adjust in the community needs the controlled living experience available through commitment to a good children's institution, as does a child who, by his aggressive actions, presents a danger to the community.

The ability of the child's family to control and be a positive force in the child's life is a vital consideration in the commitment determination.

Commitment should not be looked upon as a punishment, or

as a disposition of last resort, but rather in terms of the child's need for this specific treatment experience. This viewpoint should be emphasized with the child and his parents. Subject to regulations of the institution, parents should be encouraged to visit and write to the child while he is in commitment and, plan for his return to the family. Casework services should be made available to the family during the child's period of institutionalization.

In making the commitment decision, the judge is faced with the necessity of choosing a specific institutional setting. It is, therefore, necessary for him to know the nature, program and climate of the State's institutional resources. The judge should, wherever possible, visit all the facilities available to his use. The probation officer should acquire full information and knowledge of all available institutional resources. The Juvenile Court Judges' Commission now provides a program of organized visits to juvenile institutions.

Act 41 of 1977 amends Section 25(4) of Juvenile Act 333 of 1972 by restricting the commitment of only juveniles over 12 years to institutions operated by the Dept. of Public Welfare and limits the commitment to a minimum period consistent with the protection of the public and the rehabilitation of the juvenile.

Restitution

Restitution is a legitimate concern of an injured party. The principle of accountability is part of the moral climate of any anti-social act and there can be no dispute of the child's moral responsibility to right any wrong that he has committed within the limits of his ability and status as a child.

Restitution should be encouraged in every way possible not as a punishment, but as a factor in the child's rehabilitation. Restitution ordered by the Juvenile Court should be in accordance with the amendments provided by Act 41 of 1977 to Section 25(5) and (6) of Juvenile Act 333 of 1972.

Juvenile Court Police Procedures

STANDARDS FOR JUVENILE COURT-POLICE PROCEDURES

The following standards are set forth as a guide for the development of uniform and efficient juvenile court-police procedures. The standards pertain to areas of practice involving juvenile court-police interrelationships and are not intended as a manual for police work with juveniles. It is anticipated that the principles herein set forth will be equally applicable to urban and rural juvenile court-police jurisdictions.

The Juvenile Act and the philosophy and practice it conveys is a guide to police as well as to the juvenile court on the handling of children. The police, no less than the court, need to be aware of society's will towards its children who come into conflict with the law. The best interests and welfare of the child should be a concern as central to the police as to the juvenile courts. It is expedient that these two agencies, which play primary and interrelated roles in the control and prevention of juvenile delinquency, should jointly act according to established practices and procedures.

Police must exercise the same vigilance in the detection, apprehension, and disposition of all offenders whether they be juvenile or adult. Offenses against persons or proptery are no less damaging when committed by a juvenile than when commited by an adult.

Police Custody

Police are authorized to take a child into custody under the following circumstances as provided in Section 11 of Juvenile Act 333 of 1972:

1. On the basis of a juvenile court order
2. When the child, in the presence of an officer, violates any law of the Commonwealth or ordinance of any city, borough or township.
3. When the officer has a reasonable basis for belief that the child has committed an offense that, if committed by an adult, would be a felony.
4. When the officer has a reasonable basis for belief that the child is a runaway from his home or a fugitive from

justice.

5. Pursuant to the laws of arrest.

6. By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child is suffering from illness or injury or is in imminent danger from his surroundings, and that his removal is necessary; or

7. By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child has violated conditions of his probation.

Within the bounds of their normal discretion, police should exercise their full powers of custody, investigation, and case disposition in behalf of children on probation or who engage in forbidden behavior. Where it appears that there is a basis for court jurisdiction and that the welfare of the child and community demands the child's immediate custody, the police officer should not hesitate to take the necessary steps to accomplish this result but should forthwith notify the probation office.

Police officers should be acutely aware of the obligation tc approach the child on an objective basis. Both juvenile court and police authorities agree that the offending child should not be approached with force or threat unless utterly necessary in the interests of the community and the child.

The police, upon taking the child into custody, must immediately notify the child's parents. No child should be held in police custody longer than the pediod of time required to contact parents or probation officer or to hand over the child to the detention center. Police should strictly comply with the requirements of Section 13 of Juvenile Act 333 of 1972.

Police Interviews with Children

The circumstances under which the interview takes place should contain no element of duress. The child should be allowed to seek the counsel of his parents and lawyer. His physical needs must be adequately met.

Because a child's delinquency is a family problem, police, where practicable should interview children in their own home.

Police Interrogation of Children

Children are entitled to the same basic constitutional safeguards as are adults. In addition, admissions and confessions of juveniles require special caution and, therefore, great care should be exercised by the police to ascertain that the child and his parents fully comprehend the child's constitutional rights in order that there be an effectual and intelligent waiver of such rights. Before engaging in an oral interrogation of a child which would intend to elicit an incriminating statement, the child and his parents, if present, must be informed:

1. Of his right to remain silent.
2. That anything he says can and will be used against him in court.
3. That he has a right to talk with a lawyer of his own choice before any questions are asked and also to have a lawyer present during the questioning.
4. That if he and his parents cannot afford to employ an attorney, a lawyer will be provided for him prior to any interrogation without cost to the parents or the chlid.
5. That if he is willing to answer questions he has a right to stop at any time he wishes.

Unless such constitutional warnings are given and intelligently and understandingly waived by the child and his parents, no statement or admission can be used against him in adversary proceeding.

Detention

Police must be made aware that the purpose of detention is not rehabilitation but care in secure custody pending court dispositions for children who might run away or endanger themselves or the community. Except in cases of serious nature, the police officer may release children to their parents, if it is apparent that the child's family is strong enough to provide necessary controls pending juvenile court action.

During court hours, it is appropriate for police to refer all cases directly to juvenile court intake service.

Where children are placed in detention after court hours, a written report should be filed with the detention facility or with the juvenile probation department.

The juvenile court's detention policies should be available in written form for the guidance of both police and court intake workers.

In developing written detention policies and procedures, it is appropriate for the judge to give consideration to the viewpoints of both children and police departments.

Police Disposition

Guidelines for police disposition of dismissing or referring a juvenile who has committed a delinquent act are as follows:

1. Consideration for dismissing a juvenile who has committed a delinquent act.
   a. Minor offense with no apparent need for court referral.
   b. No habitual delinquency pattern,
   c. Family is stable,
   d. Relationship between juvenile and parents is good. Parents seem aware of child's problems and are able to cope with them,
   e. Adequate help is being given by public or voluntary agencies in the community.
2. Considerations for referring a juvenile who has committed a delinquent act.
   a. The offense is of a serious nature,
   b. Juvenile has a record of repeated delinquency extending over a period of time, is on probation, or has been known to the court in the past.
   c. Juvenile and/or parents have shown themselves unable or unwilling to cooperate,
   d. Casework with juvenile by non-authoritative agency has failed in the past, or the treatment services needed can only be obtained through the court,
   e. Juvenile denies offense and officer believes judicial

determination is called for, and there is sufficient evidence to warrant referral or the officer believes the child needs aid.

The above criteria are presented as general guidelines. However, the local juvenile court and those police departments operating within its jurisdiction must establish their criteria for police referrals to court on the basis of community conditions and viewpoint.

In light of the foregoing criteria, if the child's act and overall situation do not seem cause for serious concern, the officer may dispose of the case by releasing the child to his parents. The nature of the offense, its meaning to the child, his parents and the community all enter into a police decision to dispose of a case simply by releasing the child to his parents. An officer is justified in making this decision only if he is convinced that the delinquent act is not characteristic of the child's general behavior pattern and, therefore, that the child is not in need of the consistent long-term help available through the juvenile court.

As a result of his investigation, it may appear to the officer that the problem is not one that needs to be resolved by the authority of the court, but is rather one that might be best resolved through the non-authoritarian counseling approach of a social agency.

Police should be aware that referral of a child or his family to a social agency is not an alternative to juvenile court action. If the situation is critical enough to require that the child accept help and supervision, this service should be secured through the juvenile court, which agency has been designed under the law to protect both society and the child through the use of authoritative techniques. It is recommended that the police officer consult with the probation department.

When in doubt regarding the disposition of a case, the police officer should always refer the child to the juvenile court.

Police Information on Court Referrals

The information presented by the police on children referred to the juvenile court for adjudication should be sufficient to support the facts of the delinquency allegation. The probation officer

should not participate in providing evidence necessary to the delinquency adjudication nor assist police in investigating delinquency allegations.

The police should provide the following information to the court on every delinquency referral:

1. The facts which bring the child within the jurisdiction of the court and this act, with a statement that it is in the best interest of the child and the public that the proceeding be brought and, if delinquency is alleged, that the child is in need of treatment, supervision or rehabilitation.
2. The name, age, and residence address, if any, of the child on whose behalf the petition is brought.
3. The names and residence addresses, if known to the petitioner, of the parents, guardian, or custodian of the child and of the child's spouse, if any. If none of his parents, guardian, or custodian resides or can be found within the State, or if their respective places of residence are unknown, the name of any known adult relative residing within the county, or if there be none, the known adult relative residing nearest to the location of the court.
4. If the child is in custody and, if so, the place of his detention and the time he was taken into custody.

A substantial aid to securing the foregoing information is a uniform information sheet that can be promulgated by the court for the use of all police jurisdictions. The joint development and utilization of such an information sheet is recommended as appropriate for juvenile courts and police jurisdictions.

Juvenile Court Action on Police Referrals

On the basis of the police information report, the juvenile court intake worker conducts a screening investigation and, with the approval of the judge, determines further court action.

Petition

If a petition is necessary, its preparation is arranged by some designated official. It is advisable that either the complainant or the police officer referring the case sign the petition as they are in a position to have the most complete knowledge of the de-

linquency allegation. The police officer may sign the petition on the basis of information and belief.

Police Role in Court Hearing

The juvenile court should regularly report its official or unofficial decisions to those police jurisdictions responsible for the delinquency referrals. If the local police have knowledge of restrictions placed on juveniles within their jurisdiction, they will be better able to cooperate with the probation department. While it is not the function of the police to supervise or counsel with a child on any probation basis, the police officer does have opportunity to observe the child's companions, hours and behavior and thus is able to offer direction and inform the child's supervising probation officer of any unfavorable conditions. This mutual sharing of responsibility for the child builds good juvenile court–police relationships.

Police Records

The police, in establishing a policy on record control, should honor the spirit of the provisions of the Juvenile Act 333 of 1972 regarding the confidentiality of juvenile court records. It is suggested that records on juveniles be maintained separately from other police records and that they be accessible only to the court or authorized members of the police department for approved purposes. Identifying information may be exchanged with other police departments. It would be appropriate to keep juvenile records in a locked container under the supervision of one designated person. Inquiries from persons or agencies, including the Armed Services and other public authorities outside the police department, concerning juveniles or juvenile cases should be referred to the juvnile court without indicating whether or not the juvenile has a record. The juvenile court judge should arrange with all police jurisdictions for the establishment of an effective county-wide policy with newspapers that will prevent publishing of the names of juveniles involved in offenses except with permission of the court and as provided by law.

Fingerprinting and Photographing of Children

If police find fingerprinting or photographing is necessary or advisable, authorization should be obtained from the juvenile

court. After the prints have served their purpose, disposition or distribution should be directed by the juvenile court.

Special Police for Handling of Juveniles

The juvenile court judge should support the creation of a special juvenile division in the various police jurisdictions or the designation of particular officers to handle juvenile cases. An officer handling juvenile cases should have a specialized knowledge of the behavior, growth and development of children; the community's resources for helping problem children; the Juvenile Court law; and established court-police procedures for the most effective handling of children. The police officer designated to handle juvenile cases should be well experienced in general law enforcement and should have the opportunity to receive specialized training and instruction.

Development of Local Juvenile Court-Police Guides

The juvenile court judge should, with the cooperation of the police, develop written procedures incorporating effective joint practices for the prevention and control of juvenile delinquency. Aside from the obvious value of such a manual, the development of these written procedures affords an opportunity for the juvenile court staff to work closely with police officers, thus engendering increased mutual understanding and respect.

Operation of Juvenile Probation Offices

STANDARDS FOR
THE OPERATION OF JUVENILE PROBATION OFFICES

As the chief administrator of the juvenile court, it is the responsibility of the juvenile court judge to prescribe and oversee the execution of minimal standards for the operation of the juvenile probation office.

Staff Organization

The probation office standards will designate positions on the basis of lines of authority and specific job functions. For example:

1. If there is more than one probation officer, the judge will appoint a chief probation officer and require him to see that the probation standards are carried out.

2. There will be sufficient probation officer staff to individualize the child and carry out a rehabilitative program.

It is the chief probation officer's responsibility to inform the judge of staff shortages if he finds that the probation officers do not have adequate time to see children under their care.

3. There will also be sufficient clerical staff to take care of the probation officer's clerical needs. In this respect, the practice of keeping current and adequate written records of probation officer case activity is vital; it is through this medium that the probation officer's work and value judgments become permanently available to the judge and other appropriate parties. The discipline of translating case contacts into a written record helps the probation officer gain a better idea of the child's problems and needs.

Office Space and Equipment

1. There will be adequate waiting rooms with provisions for separating persons not attending hearings from those who have been called to court.

2. Individual offices for each probation officer are recommended; however, where space is not available, private interviewing facilities may be substituted.

3. Adequate space not accessible to the general public for stenographic work and filing of records must be available.

4. Adequate equipment will be provided to enable the probation office to fulfill its responsibilities.

Where the court is very small, many functions may have to be combined, but the principles of privacy, informality without loss of dignity, lack of confusion, and comfort for those waiting should be maintained.

Duties of Probation Staff

The probation officer shall assume responsibility as soon as possible after a child is called to the attention of the juvenile court. The probation officer will conduct a preliminary investigation to determine whether the best interests of the child and the community require that the case be handled in juvenile court, handled informally by the probation office, referred to an appropriate community resource for service, or closed out as without need for further service. With the approval of the judge, the probation officer initiates the appropriate processes and determines whether the child will be placed in detention.

If the case requires a hearing, it is necessary for the probation officer to prepare a social study to help the judge understand the child and arrive at a treatment disposition. The social study includes the probation officer's evaluation of the child's and parent's attitudes, behavior, and relationships. The probation officer shall make recommendation, with a rationale for such recommendations, to the judge for case disposition. This recommendation will be based upon a thorough study by the probation officer, taking into account the nature of the offense, the welfare of the community and all of the existing resources offered by the community and the State. Social studies will not be available to the judge until after adjudication.

The probation officer is required to attend court hearings involving children assigned to him for study and care, prepare the child and his parents for the court hearings, serve any necessary process, and report his findings and recommendations to the court with any additional investigation that may be requested by the judge.

If a child is placed on probation, it shall be the responsibility of the probation officer to help the child to live within the limits of probation as decided by the court. This provides the basic focus of probation. This does not mean concentration upon the offense, or checking up. It does mean emphasis on a positive supportive relationship to assist the day-to-day adjustment of the child and

of constantly being aware of resources available to the child and his family in working out their problems. The court experience and probation are seen as a point around which the child and family can find a definite orientation which may stimulate change. The limits imposed by probation are arrived at on an individual basis with the total situation of the particular child in mind.

The probation officer shall guide, counsel, and supervise all children entrusted to his care, under such probation plans as shall be ordered by the judge and developed by the court to rehabilitate the delinquent in his home, school and community. In case the delinquent is confined in an institution, it shall be the obligation of the probation officer to interpret to the parents of the delinquent his progress in the institution where he is confined and prepare them for his return to the community, including planning for his aftercare.

Employment and Personnel Standards

1. Probation officers shall be selected upon merit only; no political sponsorship shall be required for appointment of officers working with children.

2. The minimal requirement for the employment of probation officers in Pennsylvania shall be a Bachelor's Degree in a behavioral or social science or social work from an accredited college or university. A copy of the transcript showing such degree must be filed with the Juvenile Court Judge's Commission. Appointments shall be subject to satisfactory achievement on such attitude and aptitude tests and special examinations on the subject of juvenile probation as shall be prescribed by the individual juvenile courts of the State or the Juvenile Court Judges' Commission. In the selection of probation officers, integrity, emotional maturity, broad common sense and the ability to learn from experience should be deemed essential qualities.

3. It is the intention of the Commission that no juvenile probation officer be displaced from his position by reason of any new Commission employment standards.

4. The juvenile probation officer staff will be encouraged to participate periodically in in-service training programs approved by the Commission and the Court.

5. Counties not requiring a full time probation officer may

make arrangements with adjoining counties to jointly employ a qualified probation officer, a qualified person may be employed on a full or part–time basis to supervise adult and juvenile probation and parole and child care cases, or the juvenile court judge of a county may submit a plan for probation in his county for the approval of the Commission.

6. The counties shall pay their juvenile probation officers no less than the minimum salary authorize by the Commission. It is recognized that, in order to secure properly qualified officers, salaries must be commensurate with those of social, correctional, and teaching services, calling for similar skills and responsibilities.

7. A twelve month probationary period is required for probation officer positions. This probationary period is a natural part of the selection process and will enable the appointee's superior to observe the former's work and make a judgment regarding his capacity to adapt to the job. It also provides the appointee the opportunity to evaluate himself in terms of whether or not he will be comfortable and successful as a probation officer.

8. Every probation officer shall have his performance evaluated in writing by his supervisor at least annually. This evaluation shall be by a form approved by the Juvenile Court Judges' Commission and a copy shall be on file in the probation office.

9. Courts may and are encouraged to provide employment of limited duration for college students who are working towards a degree and display an interest in probation work as a career. Work assignments shall recognize the student's limited experience and training and afford orientation to the probation officer job. These student positions are exempted from the Commsision's salary minimums.

10. Each probation officer shall be compensated for his services in an amount at least equal to the amount indicated for a probation officer of his classification and years of experience on the current pay scale adopted by the Juvenile Court Judges' Commission for probation officers. A copy of the current scale is available from the Juvenile Court Judges' Commission.

Summary of Classification System

Juvenile Probation Officer Intern I.

Is an entry level position of one year's duration for employ–

ees that have had no previous relevant work experience. Upon completion of the intern year, composed of special training, supervision, and evaluation, the employee shall either be promoted to Juvenile Probation Officer I or dismissed.

Requirements: Bachelor's degree in a behavioral science, social science or social work.

Juvenile Probation Officer I.

Is the first working level.

Requirements: One year of experience as juvenile probation officer intern or in counselling the socially maladjusted and a bachelor's degree in a behaviorial science, social science, or social work. A master's degree in a behavioral or social science may be substituted for the one year of experience.

Juvenile Probation Officer II

Is an advanced working level. Minor supervisory responsibility may be assumed at this level. The working level intake probation officer and the chief probation officer of the smaller counties are allocated at this level.

Requirements: Two years of appropriate experience as heretofore defined and a bachelor's degree as heretofore defined.

A master's degree representing two years of full time study may be substituted for the two years of experience.

Juvenile Probation Officer III.

Is the second supervisory level. Chief Probation Officers responsible for the supervision of total workloads that would justify three subordinate officers are classified at this level.

Requirements: Three years of appropriate experience and education as defined for the previous level, or a Doctorate in a closely related field, e. g., social work, counselling.

Juvenile Probation Supervision Specialist.

Employees in this class have special academic training in rehabilitation techniques. They are assigned to the most difficult probation cases. They may develop and implement staff in-service training plans. They may serve as casework consultants to jour-

neyman probation officer staff.

Requirements: Two years of appropriate experience as defined in the previous level and a Master's degree in a behavioral or social science or one year of appropriate experience and a Master's degree representing two years of full-time study or a Doctor's degree as defined in the previous level.

Juvenile Probation Officer IV.

Is a chief probation officer for a court with a workload that would justify four or more subordinates.

Requirements: As for a Juvenile Probation Officer III plus an additional year of experience, six months of which shall have been in supervision.

Juvenile Probation Officer V.

Is a chief probation officer for a court with a workload that would justify six subordinates. Chief probation officers in this class may be also responsible for management of a detention facility.

Requirements: As for Juvenile Probation Officer IV plus one additional year of experience which must be in supervision.

Social Study

STANDARDS FOR THE DEVELOPMENT OF THE SOCIAL STUDY

The Social Study is a written report to the judge by the probation officer. It contains a narrative account of the child's life history with special emphasis on those factors which have resulted in the child's present problems and delinquent behavior. An evaluation of the child's potential social adjustment is included in this report. Its purpose is to help the court understand and individualize the child so that a disposition can be made that will both meet the child's rehabilitative need and protect the community.

Sources of Social Information

Following are the principal sources of social information, together with a discussion of the unique contributions of each:

The Child

The child is the best source of information as to his own attitudes, behavior and problems. Even the child's omissions or misrepresentations are important as an indication of the way he reacts.

Parents, other relatives or guardians

The parents, other relatives or guardians, are the next best source of information. Aside from their possession of important data on the child's growth, development and socialization, the parent's reaction to the child and to the offense present significant clues regarding the disposition. The parent's ability to be a positive force in the child's life are related to their own general adequacy and information should be obtained on their marital, economic, health, and social adjustment.

The School

Except for the child and his parents, the school usually will have more information than any other source. The child's response to authority, his relationship to peers, his initiative and his ability to achieve, and psychological evaluation are among the data available through the school. The Social Study should also include information about school attendance and grades received over the last several years.

The Police

Police information on the offense should be clear and complete. Police, also, can give significant information on the reaction of the child and parents immediately following the offense. Information from police files on previous police contacts with the child are valuable aids in determining the pattern of the child's behavior.

Injured Parties

Injured parties subject to a consideration of their adverse interests, can supplement the accounts of the child and the police regarding the offense and the child's involvement and attitude. The attitude and the relationship between the child and his parents and the injured party sometimes is significant in terms of the child's motivation.

Community Persons

Any relationship that the child or the child and his parents have had with the clergy, recreational leaders and others are valuable informational resources. The clergyman often is familiar with the general adequacy of the parents and may be especially valuable to the child and family as a treatment resource. Recreation leaders will have a special knowledge of the child's relationship with his peers.

Focus

The study will include:

1. The significance of the offense, or offenses which brought the child to the attention of the juvenile court.

2. The child's behavior pattern at home, the school and in the community.

3. The development of the child, physically, intellectually, emotionally and socially with emphasis upon increasing understanding of the child's present behavior and possible future difficulties.

4. The attitudes of the family, school and community as they may effect the child's chances for re–adjustment.

5. Psychological, psychiatric, and medical evaluation where this kind of help is indicated.

6. Employers and opportunity for employment.

7. An evaluation. Based on the information developed in the factual portion of the social study, the probation officer will evaluate the child in terms of his adjustment potential.

8. A recommendation. The probation officer will recommend a disposition plan in the social study. The recommendation will be based on the facts developed in the social history and will be definite and realistic from the standpoint of the child, his parents and the commnuity.

Format and Style

The probation officer will have a definite format for the organization of material in the social study.

A good format will provide for the assembling of information under certain headings. For example, there might be separate headings to summarize information on "Offense", "Behavior Pattern", "Family Background", etc.

The headings will stand out from the body of the report by capitalization and extension to the left-hand margin. The use of standard headings and heading sequences will help the judge to quickly locate particular details of the case which become pertinent as disposition progresses.

The language of the report will be non-technical, the style concise, and the ideas simply stated with a view to conveying maximum content in minimum reading time.

Use of Social Study

The social study will be made available to the judge in ample time for him to become familiar with its content before the dispositional hearing, but if the child denies the delinquency, the social study will not be resorted to unless and until the child is adjudicated delinquent.

The social study itself will not be made public at the hearing lest the child and parents interpret critical material as an indica-

tion that the probation officer is against them and they lose faith in him as a helping person. Nevertheless, all facts which directly influence the disposition decision will be disclosed upon request of the child, his parents, or counsel, and they shall have the opportunity to produce evidence at all hearings, including the dispositional hearing.

Social studies frequently are of value to agencies or institutions who are to receive the child for service or care and will be forwarded to those agencies with the child.

Gathering the details and concerns of the child and his family life for the developmet of the social study provides an excellent opportunity for the probation officer to develop a good working relationship with the family. He will consciously regard this information-gathering phase as the beginning of his treatment effort with the child and his family.

Juvenile Records

STANDARD
PROCEDURES FOR THE
KEEPING OF JUVENILE COURT RECORDS

Records are essential to document the work of the Juvenile Court and to provide for the efficient administration of court work and court staff.

Juvenile court records can be classified as legal, social and administrative.

Legal Records

Content

The purpose of the court's legal records is to show the child's current legal status including the history of court jurisdiction, process and disposition. Among the court's legal records are petitions, processes, notices, findings, orders and transcripts.

In all cases where a child is discharged from probation or an institution, a record of such discharge shall be kept in the court docket.

Terminology

In keeping with the intent of the Juvenile Act and Act 41 (1977) to separate children from adult criminal processes and to approach the child on the basis of the need of treatment supervision, or rehabilitation, juvenile courts do not use criminal terminology in their legal records.

Although non-criminal terminology is used, it is nevertheless important that the basis for the juvenile court's jurisdiction, findings and disposition be clearly set forth in terms of the Juvenile Act and Act 41 (1977).

Safekeeping

The Clerk of Courts is responsible for keeping the Juvenile Court's legal records. The Judge shall make sure that these records are filed separately and withheld from indiscriminate public inspection. The Judge shall provide the Clerk of Courts with a written statement of policy setting forth the procedures for record security and release of information, as provided in the Juvenile Act and Act 41 (1977).

Social Records

Social records are kept by the Juvenile Court as a primary aid in helping the court understand and treat the child.

The social records are developed by the juvenile probation staff who are responsible for their accuracy, completeness and safekeeping. Like the legal records, the social records should not be open to indiscriminate public inspection. The confidential material contained in the social records suggests that the court should be more careful in disclosing information from these records or in allowing their inspection. The social records of the juvenile court are filed together. The principal social records included in this file are the face sheet, the social history, the chronological record of case activity, and pertinent documents, correspondence and reports.

Face Sheet

The face sheet is positioned at the beginning of the social record to afford a rapid, overall view of the principal facts about the child and his life situation. It typically carries such items as name, age, sex, address, home composition, school information, and line summation of juvenile court complaints and dispositions.

Social History

The social history is a narrative account of the child's life history. It contains information about the child's growth and development and his interactions with family, school, friends and society at large. Its purpose is to help the court understand and individualize the child so that a disposition can be made that will meet the child's needs.

Chronological Record

Chronological Record is a probation officer's written record of his work with the child and the child's progress following the juvenile court disposition. Information is usually set forth under the various dates that the child had been seen by the probation officer. Probation Officers will find it helpful to write periodic summaries into the chlonological record.

Pertinent Documents

The back of the social record is usually reserved as a repository for the various documents pertinent to the case, such as evaluative reports and correspondence. All entries must be in chronological order. Copies of important juvenile court legal papers, such as informal adjustment agreements, consent decrees, petitions, notices, court orders, transcripts, are all filed in this section.

The allegation form and police information, along with the preliminary screening contacts with the juvenile court's intake service are carried in the beginning of the social record following the face sheet.

Safekeeping

The Chief Juvenile Probation Officer is responsible for keeping the Juvenile Court's social records. The Judge should make sure that these records are filed separately and withheld from indiscriminate public inspection. The Judge should provide the Chief Juvenile Probation Officer with a written statement of policy setting forth the procedures for security and release of information, as provided in the Juvenile Act and Act 41 (1977).

Administrative Records

The purpose of administrative records is to help the court to efficiently carry out its function. Administrative records aid in the organization and processing of court business and provide a written record of court activity as a basis of court report to fiscal authorities and the community.

Intake Register

A record showing complaint, date, child, and referral source should be made on each allegation received. This same record can be expanded to show case progress through the court in terms of the various dispositional phases through final court decision. This record shows total juvenile court case activity and insures that complaints are not lost.

Index Cards

Identifying information is recorded on an index card for each

child that comes to the court's attention on a complaint. These cards are filed alphabetically in a master file. They provide an efficient way to determine whether or not a child or his famliy is known to the court. These cards also indicate the presence and location of the social record.

Control File

The control file is the probation officer's own record of assigned cases including cases on probation, cases held open for services to children who have been committed and cases pending court hearing. This control file should be alphabetically organized and may be set up as index cards, as duplicate statistical cards, or as a loose-leaf notebook.

Work Activity Report

Good administrative control of probation office work requires that each probation officer regularly submit a work activity report. Probation officers with assigned caseloads should submit monthly inventory reports of caseload additions, deletions, and month-end totals together with a report on the number of social history investigations completed during the month. Intake workers should keep a daily tally of the number of complaints handled.

Statistical Records

Court records should cover information regarding the number of allegations and petitions handled and should provide for some detailed statistical summary of the nature of the complaint, and the child's court experience through final disposition. A single but most satisfactory way of keeping this particular record is afforded by the statistical card promulgated by the Juvenile Court Judges' Commission.

In general, large courts with the problem of communication and supervision of large staff will need numerous records to insure administrative control. In smaller courts, where the Judge, Probation Officer and Clerk of Courts have much face-to-face contact, it is not necessary to develop a multiplicity of records.

Laws

THE JUVENILE ACT

No. 333

AN ACT

Relating to the care, guidance. control, trial, placement and commitment of delinquent and deprived children.

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

Section 1. Short Title and Purposes.—(a) This act shall be known as the "Juvenile Act."

(b) This act shall be interpreted and construed as to effectuate the following purposes:

(1) To preserve the unity of the family whenever possible and to provide for the care, protection, and wholesome mental and physical development of children coming within the provisions of this act;

(2) Consistent with the protection of the public interest, to remove from children committing delinquent acts the consequences of criminal behavior, and to substitute therefor a program of supervision, care and rehabilitation;

(3) To achieve the foregoing purposes in a family environment whenever possible, separating the child from parents only when necessary for his welfare or in the interests of public safety;

(4) To provide means through which the provisions of this act are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced.

Section 2. Definitions.—As used in this act:

(1) "Child" means an individual who is: (i) under the age of eighteen years; or (ii) under the age of twenty-one years who committed an act of delinquency before reaching the age of eighteen years.

(2) "Delinquent act" means: (i) an act designated a crime under the law of this State, or of another state if the act occurred in that state, or under Federal law, or under local ordinances; or (ii) a specific act or acts of habitual disobedience of the reasonable and lawful commands of his parent, guardian, or other custodian committed by a child who is ungovernable. "Delinquent act" shall not include the crime of murder nor shall it include summary offenses unless the child fails to pay a fine levied thereunder, in which event notice of such fact shall be certified to the court.

(3) "Delinquent child" means a child whom the court has found to have committed a delinquent act and is in need of treatment, supervision or rehabilitation.

(4) "Deprived child" means a child who: (i) is without proper

parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals; or (ii) has been placed for care or adoption in violation of law; or (iii) has been abandoned by his parents, guardian, or other custodian; or (iv) is without a parent, guardian, or legal custodian; or (v) while subject to compulsory school attendance is habitually and without justification truant from school.

(5) "Shelter care" means temporary care of a child in physically unrestricted facilities.

(6) "Protective supervision" means supervision ordered by the court of children found to be deprived.

(7) "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child, or a person to whom legal custody of the child has been given by order of a court.

(8) "Court" means the court of common pleas of any county.

Section 3. Jurisdiction.—This act shall apply exclusively to the following:

(1) Proceedings in which a child is alleged to be delinquent or deprived.

(2) Proceedings arising under sections 32 through 35.

(3) Transfers arising under section 7.

(4) Proceedings under the "Interstate Compact on Juveniles," section 731, act of June 13, 1967 (P.L. 31), known as the "Public Welfare Code."

Section 4. Powers and Duties of Probation Officers.—(a) For the purpose of carrying out the objectives and purposes of this act, and subject to the limitations of this act or imposed by the court, a probation officer shall:

(1) Make investigations, reports, and recommendations to the court.

(2) Receive and examine complaints and charges of delinquency or deprivation of a child for the purpose of considering the commencement of proceedings under this act.

(3) Supervise and assist a child placed on probation or in protective supervision or care by order of the court or other authority of law.

(4) Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.

(5) Take into custody and detain a child who is under his supervision or care as a delinquent or deprived child if the probation officer has reasonable cause to believe that the child's health or safety is in imminent danger, or that he may abscond or be removed from the jurisdiction of the court, or when ordered by the court pursuant to this act or that he violated the conditions of his probation.

(6) Perform all other functions designated by this act or by

order of the court pursuant thereto.

(b) Any of the foregoing functions may be performed in another state if authorized by the court of this State and permitted by the laws of the other state.

Section 5. Masters.—(a) The Supreme Court may promulgate rules for the selection and appointment of masters on a full-time or part-time basis. A master shall be a member of the bar of the Supreme Court. The number and compensation of masters shall be fixed by the Supreme Court, and their compensation shall be paid by the county.

(b) The court of common pleas may direct that hearings in any case or class of cases be conducted in the first instance by the master in the manner provided by this act. Before commencing the hearing the master shall inform the parties who have appeared that they are entitled to have the matter heard by the judge. If a party objects, the hearing shall be conducted by the judge.

(c) Upon the conclusion of a hearing before a master, he shall transmit written findings and recommendations for disposition to the judge. Prompt written notice and copies of the findings and recommendations shall be given to the parties to the proceeding.

(d) A rehearing before the judge may be ordered by the judge at any time upon cause shown. Unless a rehearing is ordered, the findings and recommendations become the findings and order of the court when confirmed in writing by the judge.

Section 6 Commencement of Proceedings.—A proceeding under this act may be commenced:

(1) By transfer of a case as provided in section 7;

(2) By the court accepting jurisdiction as provided in section 33 or accepting supervision of a child as provided in section 35; or

(3) In other cases by the filing of a petition as provided in this act. The petition and all other documents in the proceeding shall be entitled "In the interest of ....., a minor". and shall be captioned and docketed as provided by rule of the Supreme Court.

Section 7. Criminal Proceedings; Transfer.—If it appears to the court in a criminal proceeding other than murder, that the defendant is a child, this act shall immediately become applicable, and the judge shall forthwith halt further criminal proceedings, and, where appropriate, transfer the case to the Family Court Division or to a judge of the court assigned to conduct juvenile hearings, together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. If it appears to the court in a criminal proceeding charging murder, that the defendant is a child, the case may similarly be transferred and the provisions of this act applied. The defendant shall be taken forthwith to the probation officer or to a place of detention designated by the court or released to the custody of his parent, guardian, custodian, or other person legally

responsible for him, to be brought before the court at a time to be designated. The accusatory pleading may serve in lieu of a petition otherwise required by this act, unless the court directs the filing of a petition.

If in a criminal proceeding charging murder the child is convicted of a crime less than murder, the case may be transferred to the Family Court Division or to a judge assigned to conduct juvenile hearings for disposition.

Section 8. Informal Adjustment.—(a) Before a petition is filed, the probation officer or other officer of the court designated by it, subject to its direction, shall, in the case of a deprived child or in the case of a delinquent child to be charged under section 2 (2) (ii), and may, in the case of a delinquent child to be charged under section 2(2) (i) of this act, where commitment is clearly not appropriate and if otherwise appropriate, refer the child and his parents to any public or private social agency available for assisting in the matter. Upon referral, the agency shall indicate its willingness to accept the child and shall report back to the referring officer within three months concerning the status of the referral. The agency may return the referral to the probation officer or other officer for further informal adjustment if it is in the best interests of the child.

(b) Such social agencies and the probation officer or other officer of the court may give counsel and advice to the parties with a view to an informal adjustment if it appears:

(1) Counsel and advice without an adjudication would be in the best interest of the public and the child; and

(2) The child and his parents, guardian, or other custodian consent thereto with knowledge that consent is not obligatory; and

(3) In the case of the probation officer or other officer of the court, the admitted facts bring the case within the jurisdiction of the court.

(c) The giving of counsel and advice by the probation or other officer of the court shall not extend beyond six months from the day commenced unless extended by an order of court for an additional period not to exceed three months. Nothing herein contained shall authorize the detention of the child.

(d) An incriminating statement made by a participant to the person giving counsel or advice and in the discussions or conferences incident thereto shall not be used against the declarant over objection in any criminal proceeding or hearing under this act.

Section 8.1. Consent Decree.—(a) At any time after the filing of a petition and before the entry of an adjudication order, the court may, on motion of the district attorney or that of counsel for the child, suspend the proceedings, and continue the child under supervision in his own home, under terms and conditions negotiated with probation services and agreed to by all parties affected. The court's order continuing the child under supervision shall be known as a consent decree.

(b) Where the child objects to a consent decree, the court shall proceed to findings, adjudication and disposition. Where the child does not object, but an objection is made by the district attorney after consultation with probation services, the court shall, after considering the objections and reasons therefor, proceed to determine whether it is appropriate to enter a consent decree.

(c) A consent decree shall remain in force for six months unless the child is discharged sooner by probation services. Upon application of probation services or other agency supervising the child, made before expiration of the six-month period, a consent decree may be extended by the court for an additional six months.

(d) If prior to discharge by the probation services or expiration of the consent decree, a new petition is filed against the child, or the child otherwise fails to fulfill express terms and conditions of the decree, the petition under which the child was continued under supervision may, in the discretion of the district attorney following consultation with probation services, be reinstated and the child held accountable just as if the consent decree had never been entered.

(e) A child who is discharged by the probation services, or who completes a period of continuance under supervision without reinstatement of the original petition, shall not again be proceeded against in any court for the same offense alleged in the petition or an offense based upon the same conduct.

Section 9. Venue.— A proceeding under this act may be commenced (i) in the county in which the child resides, or (ii) if delinquency is alleged, in the county in which the acts constituting the alleged delinquency occurred, or (iii) if deprivation is alleged, in the county in which the child is present when it is commenced.

Section 10. Transfer to Another Court Within the State.—(a) If the child resides in a county of the State and the proceeding is commenced in a court of another county, the court, on motion of a party or on its own motion made after the adjudicatory hearing or at any time prior to final disposition, may transfer the proceedings to the county of the child's residence for further action. Like transfers may be made if the residence of the child changes pending the proceeding. The proceeding may be transferred if the child has been adjudicated delinquent and other proceedings involving the child are pending in the court of the county of his residence.

(b) Certified copies of all legal and social documents and records pertaining to the case on file with the court shall accompany the transfer.

Section 11. Taking Into Custody.——A child may be taken into custody:

(1) Pursuant to an order of the court under this act;

(2) Pursuant to the laws of arrest;

(3) By a law enforcement officer or duly authorized officer of

the court if there are reasonable grounds to believe that the child is suffering from illness or injury or is in imminent danger from his surroundings, and that his removal is necessary; or

(4) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child has run away from his parents, guardian, or other custodian; or

(5) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child has violated conditions of his probation.

Section 12. Detention of Child.—A child taken into custody shall not be detained or placed in shelter care prior to the hearing on the petition unless his detention or care is required to protect the person or property of others or of the child or because the child may abscond or be removed from the jurisdiction of the court or because he has no parent, guardian, or custodian or other person able to provide supervision and care for him and return him to the court when required, or an order for his detention or shelter care has been made by the court pursuant to this act.

Section 13. Release or Delivery to Court.—(a) 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 child's apprehension 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 12; 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 act and rules of court.

(b) 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 a warrant directing that the child be taken into custody and brought before the court.

Section 14. Place of Detention.—(a) A child alleged to be delinquent may be detained only in:

(1) A licensed foster home or a home approved by he court;

(2) A facility operated by a licensed child welfare agency or one approved by the court;

(3) A detention home, camp, center or other facility for delinquent children which is under the direction or supervision of the

court or other public authority or private agency, and is approved by the Department of Public Welfare; or

(4) Any other suitable place or facility, designated or operated by the court and approved by the Department of Public Welfare. Under no circumstances shall a child be detained, placed, or committed in any facility with adults, or where he or she is apt to be abused by other children unless there is no appropriate facility available, in which case the child shall be kept separate and apart from such adults at all times and shall be detained, placed, or committed under such circumstances for not more than five days.

(b) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under the age of eighteen years is received at the facility and shall bring him before the court upon request or deliver him to a detention or shelter care facility designated by the court

(c) If a case is transferred for criminal prosecution the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime. The court in making the transfer may order continued detention as a juvenile pending trial if the child is unable to provide bail.

(d) A child alleged to be deprived may be detained or placed in shelter care only in the facilities stated in clauses (1), (2) and (4) of subsection (a), and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of children alleged to be delinquent.

Section 15. Release from Detention or Shelter Care; Hearing; Conditions of Release.—(a) If a child is brought before the court or delivered to a detention or shelter care facility designated by the court, the intake or other authorized officer of the court shall immediately make an investigation and release the child unless it appears that his detention or shelter care is warranted or required under section 12. The release of the child shall not prevent the subsequent filing of a petition as provided in this act. If he is not so released, a petition shall be promptly made and presented to the court.

(b) An informal detention hearing shall be held promptly by the court or the master and not later than seventy-two hours after he is placed in detention to determine whether his detention or shelter care is required under section 12. Reasonable notice thereof, either oral or written, stating the time, place, and purpose of the detention hearing shall be given to the child and if they can be found, to his parents, guardian, or other custodian. Prior to the commencement of the hearing the court or master shall inform the parties of their right to counsel and to appointed counsel if they are needy persons, and of the child's right to remain silent with respect to any allegations of delinquency.

(c) If the child is not so released and a parent, guardian or other custodian has not been notified of the hearing, did not ap-

pear or waive appearance at the hearing, and files his affidavit showing these facts, the court or master shall rehear the matter without unnecessary delay and order his release, unless it appears from the hearing that the child's detention or shelter care is required under section 12.

Section 16. Subpoena.—Upon application of a child, parent, guardian, custodian, probation officer, district attorney, or other party to the proceedings, the court, master, or the clerk of the court shall issue, or the court or master may on its own motion issue, subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing under this act.

Section 17. Petition.—A petition, which shall be verified and may be on information and belief, may be brought by any person including a law enforcement officer. It shall set forth plainly:

(1) The facts which bring the child within the jurisdiction of the court and this act, with a statement that it is in the best interest of the child and the public that the proceeding be brought and, if delinquency is alleged, that the child is in need of treatment, supervision or rehabilitation.

(2) The name, age, and residence address, if any, of the child on whose behalf the petition is brought.

(3) The names and residence addresses, if known to the petitioner, of the parents, guardian, or custodian of the child and of the child's spouse, if any. If none of his parents, guardian, or custodian resides or can be found within the State, or if their respective places of residence address are unknown, the name of any known adult relative residing within the county, or if there be none, the known adult relative residing nearest to the location of the court.

(4) If the child is in custody and, if so, the place of his detention and the time he was taken into custody.

Section 18. Summons.—(a) After the petition has been filed the court shall fix a time for hearing thereon, which, if the child is in detention, shall not be later than ten days after the filing of the petition. If the hearing is not held within such time, the child shall be immediately released from detention. The court shall direct the issuance of a summons to the parents, guardian, or other custodian, a guardian ad litem, and any other persons as appear to the court to be proper or necessary parties to the proceeding, requiring them to appear before the court at the time fixed to answer the allegations of the petition. The summons shall also be directed to the child if he is fourteen or more years of age or is alleged to be a delinquent. A copy of the petition shall accompany the summons.

(b) The court may endorse upon the summons an order (i) directing the parents, guardian, or other custodian of the child to appear personally at the hearing, and (ii) directing the person having the physical custody or control of the child to bring the child to the hearing.

(c) If it appears from affidavit filed or from sworn testimony before the court that the conduct, condition, or surroundings of the child are endangering his health or welfare or those of others, or that he may abscond or be removed from the jurisdiction of the court or will not be brought before the court notwithstanding the service of the summons, the court may issue a warrant of arrest.

(d) A summons and warrant of arrest shall be in such form and shall be served as prescribed by the Rules of Criminal Procedure.

(e) A party, other than the child, may waive service of summons by written stipulation or by voluntary appearance at the hearing. If the child is present at the hearing, his counsel, with the consent of the parent, guardian, or other custodian, or guardian ad litem, may waive service of summons in his behalf.

Section 19. Conduct of Hearings.— (a) Hearings under this act shall be conducted by the court without a jury, in an informal but orderly manner, and separate from other proceedings not included in section 3.

(b) The district attorney, upon request of the court, shall present the evidence in support of the petition and otherwise conduct the proceedings on behalf of the State.

(c) If requested by the party or ordered by the court the proceedings shall be recorded by appropriate means. If not so recorded, full minutes of the proceedings shall be kept by the court.

(d) Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings under this act. Only the parties, their counsel, witnesses, and other persons accompanying a party for his assistance, and any other persons as the court finds have a proper interest in the proceedings or in the work of the court may be admitted by the court The court may temporarily exclude the child from the hearing except while allegations of his delinquency are being heard.

Section 20. Right to Counsel.—Except as otherwise provided under this act a party is entitled to representation by legal counsel at all stages of any proceedings under this act and if he is without financial resources or otherwise unable to employ counsel, to have the court provide counsel for him. If a party appears without counsel the court shall ascertain whether he knows of his right thereto and to be provided with counsel by the court if applicable. The court may continue the proceeding to enable a party to obtain counsel. Counsel must be provided for a child unless his parent, guardian, or custodian is present in court and affirmatively waive it. However, the parent, guardian, or custodian may not waive counsel for a child when their interest may be in conflict with the interest or interests of the child. If the interests of two or more parties may conflict, separate counsel shall be provided for each of them.

Section 21. Other Basic Rights.—(a) A party is entitled to the

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opportunity to introduce evidence and otherwise be heard in his own behalf and to cross-examine witnesses.

(b) A child charged with a delinquent act need not be a witness against or otherwise incriminate himself. An extrajudicial statement, if obtained in the course of violation of this act or which could be constitutionally inadmissible in a criminal proceeding, shall not be used against him. Evidence illegally seized or obtained shall not be received over objection to establish the allegations made against him. A confession validly made by a child out of court at a time when the child is under eighteen years of age shall be insufficient to support an adjudication of delinquency unless it is corroborated by other evidence.

Section 22. Investigation and Report.—(a) If the allegations of a petition are admitted by a party or notice of hearing under section 28 has been given, the court, prior to the hearing on need for treatment or disposition, may direct that a social study and report in writing to the court be made by an officer of the court or other person designated by the court, concerning the child, his family, his environment, and other matters relevant to disposition of the case. If the allegations of the petition are not admitted and notice of a hearing under section 28 has not been given, the court shall not direct the making of the study and report until after the court has heard the petition upon notice of hearing given pursuant to this act and the court has found that the child committed a delinquent act or is a deprived child.

(b) During the pendency of any proceeding the court may order the child to be examined at a suitable place by a physician or psychologist and may also order medical or surgical treatment of a child who is suffering from a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, even if the parent, guardian, or other custodian has not been given notice of a hearing, is not available, or without good cause informs the court of his refusal to consent to the treatment.

Section 23. Hearing; Findings; Dismissal.—(a) After hearing the evidence on the petition the court shall make and file its findings as to whether the child is a deprived child, or if the petition alleges that the child is delinquent, whether the acts ascribed to the child were committed by him. If the court finds that the child is not a deprived child or that the allegations of delinquency have not been established it shall dismiss the petition and order the child discharged from any detention or other restriction theretofore ordered in the proceeding.

(b) If the court finds on proof beyond a reasonable doubt that the child committed the acts by reason of which he is alleged to be delinquent it shall enter such finding on the record and it shall then proceed immediately or at a postponed hearing to hear evidence as to whether the child is in need of treatment, supervision or rehabilitation and to make and file its findings thereon. In the absence of evidence to the contrary, evidence of the commission

of acts which constitute a felony shall be sufficient to sustain a finding that the child is in need of treatment, supervision or rehabilitation. If the court finds that the child is not in need of treatment, supervision or rehabilitation it shall dismiss the proceeding and discharge the child from any detention or other restriction theretofore ordered.

(c) If the court finds from clear and convincing evidence that the child is deprived, the court shall proceed immediately or at a postponed hearing to make a proper disposition of the case.

(d) 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. 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.

(e) On its motion or that of a party the court may continue the hearings under this section for a reasonable period to receive reports and other evidence bearing on the disposition or the need for treatment, supervision or rehabilitation. In this event the court shall make an appropriate order for detention of the child or his release from detention subject to supervision of the court during the period of the continuance. In scheduling investigations and hearings the court shall give priority to proceedings in which a child is in detention or has otherwise been removed from his home before an order of disposition has been made.

Section 24. Disposition of Deprived Child.—(a) If the child is found to be a deprived child the court may make any of the following orders of disposition best suited to the protection and physical, mental, and moral welfare of the child:

(1) Permit the child to remain with his parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child.

(2) Subject to conditions and limitations as the court prescribes transfer temporary legal custody to any of the following: (i) any individual in or outside Pennsylvania who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child: (ii) an agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child or (iii) a public agency authorized by law to receive and provide care for the child.

(3) Without making any of the foregoing orders transfer custody of the child to the juvenile court of another state if authorized by and in accordance with section 32.

(b) Unless a child found to be deprived is found also to be delinquent he shall not be committed to or confined in an institu-

tion or other facility designed or operated for the benefit of delinquent children.

Section 25. Disposition of Delinquent Child.—If the child is found to be a delinquent child the court may make any of the following orders of disposition best suited to his treatment, supervision, rehabilitation, and welfare:

(1) Any order authorized by section 24 for the disposition of a deprived child.

(2) Placing the child on probation under supervision of the probation officer of the court or the court of another state as provided in section 34, under conditions and limitations the court prescribes.

(3) Committing the child to an institution, youth development center, camp, or other facility for delinquent children operated under the direction or supervision of the court or other public authority and approved by the Department of Public Welfare.

(4) Committing the child to an institution operated by the Department of Public Welfare or special facility for children operated by the Department of Justice.

Section 26. Limitation on Length of Commitment.—No child shall initially be committed to an institution for a period longer than three years or a period longer than he could have been sentenced by the court if he had been convicted of the same offense as an adult, whichever is less. The initial commitment may be extended for a similar period of time, or modified, if the court finds after hearing that the extension or modification will effectuate the original purpose for which the order was entered. The child shall have notice of the extension or modification hearing and shall be given an opportunity to be heard. The committing court shall review each commitment every six months and shall hold a disposition review hearing at least every twelve months.

Section 27. Order of Adjudication; Noncriminal.—(a) An order of disposition or other adjudication in a proceeding under this act is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment. A child shall not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of adults convicted of a crime, unless there is no other appropriate facility available, in which case the child shall be kept separate and apart from such adults at all times.

(b) The dispositon of a child under this act may not be used against him in any proceeding in any court other than at a subsequent juvenile hearing, whether before or after reaching majority, except (i) in dispositional proceedings after conviction of a felony for the purposes of a presentence investigation and report or (ii) if relevant, where he has put his reputation or character in issue in a civil proceeding.

Section 28. Transfer.—(a) After a petition has been filed alleging delinquency based on conduct which is designated a crime or public offense under the laws, including local ordinances, of this State, the court before hearing the petition on its merits may rule that this act is not applicable and that the offense should be prosecuted, and transfer the offense, where appropriate, to the trial or criminal division or to a judge of the court assigned to conduct criminal proceedings, for prosecution of the offense if:

(1) The child was fourteen or more years of age at the time of the alleged conduct; and

(2) A hearing on whether the transfer should be made is held in conformity with this act; and

(3) Notice in writing of the time, place, and purpose of the hearing is given to the child and his parents, guardian, or other custodian at least three days before the hearing; and

(4) The court finds that there is a prima facie case that the child committed the delinquent act alleged, and the court finds that there are reasonable grounds to believe that: (i) the child is not amenable to treatment, supervision or rehabilitation as a juvenile through available facilities, in determining this the court may consider age, mental capacity, maturity, previous record and probation or institutional reports; and (ii) the child is not committable to an institution for the mentally retarded or mentally ill, and (iii) the interests of the community require that the child be placed under legal restraint or discipline or that the offense is one which would carry a sentence of more than three years if committed as an adult.

(b) The transfer terminates the applicability of this act over the child with respect to the delinquent acts alleged in the petition.

(c) The child may request that the case be transferred for prosecution in which event the court may order this act not applicable.

(d) No hearing shall be conducted where this act becomes applicable because of a previous determination by the court in a criminal proceeding.

(e) Where the petition alleges conduct which if proven would constitute murder, the court shall require the offense to be prosecuted under the criminal law and procedures except where the case has been transferred from the criminal court pursuant to section 7 of this act.

(f) The decision of the court to transfer or not to transfer the case shall be interlocutory.

Section 29.* Disposition of Mentally Ill or Mentally Retarded Child.—If, at a dispositional hearing of a child found to be a delinquent or at any hearing, the evidence indicates that the child may be subject to commitment or detention under the provisions of the act of October 20, 1966 (P.L. 96), known as the "Mental Health and Mental Retardation Act of 1966," the court shall proceed under the provisions of said act.

Section 30. Rights and Duties of Legal Custodian.—A custodian to whom legal custody has been given by the court under this act has the right to the physical custody of the child, the right to determine the nature of the care and treatment of the child, including ordinary medical care and the right and duty to provide for the care, protection, training, and education, and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.

Section 31. Disposition of Nonresident Child.—(a) If the court finds that a child who has been adjudged to have committed a delinquent act or to be deprived is or is about to become a resident of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar act which includes provisions corrresponding to this section and section 32 hereof, the court may defer hearing on need of treatment and disposition and request by any appropriate means the appropriate court of the county of the child's residence or prospective residence to accept jurisdiction of the child.

(b) If the child becomes a resident of another state while on probation or under protective supervision under order of a court of this State, the court may request the court of the state in which the child has become a resident to accept jurisdiction of the child and to continue his probation or protective supervision.

(c) Upon receipt and filing of an acceptance the court of this State shall transfer custody of the child to the accepting court and cause him to be delivered to the person designated by that court to receive his custody. It also shall provide that court with certified copies of the order adjudging the child to be a delinquent, or deprived child, of the order of transfer, and if the child is on probation or under protective supervision under order of the court, of the order of disposition. It also shall provide that court with a statement of the facts found by the court of this State and any recommendations and other information or documents it considers of assistance to the accepting court in making a disposition of the case or in supervising the child on probation or otherwise.

(d) Upon compliance with subsection (c) the jurisdiction of the court of this State over the child is terminated.

Section 32. Disposition of Resident Child Received from Another State.—(a) If a juvenile court of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar act which includes provisions corresponding to section 31 and this section, requests a court of this State to accept jurisdiction of a child found by the requesting court to have committed a delinquent act or to be an unruly or deprived child, and the court of this State finds, after investigation that the child is, or is about to become, a resident of the county in which the court presides. it shall promptly and not later than fourteen days after receiving the request issue its acceptance in writing to the requesting court and direct its probation officer or other person designated

by it to take physical custody of the child from the requesting court and bring him before the court of this State or make other appropriate provisions for his appearance before the court.

(b) Upon the filing of certified copies of the orders of the requesting court (i) determining that the child committed a delinquent act or an unruly or deprived child, and (ii) committing the child to the jurisdiction of the court of this State, the court of this State shall immediately fix a time for a hearing on the need for treatment, supervision or rehabilitation and disposition of the child or on the continuance of any probation or protective supervision.

(c) The hearing and notice thereof and all subsequent proceedings are governed by this act. The court may make any order of disposition permitted by the facts and this act. The orders of the requesting court are conclusive that the child committed the delinquent act or is an unruly or deprived child and of the facts found by the court in making the orders. If the requesting court has made an order placing the child on probation or under protective supervision, a like order shall be entered by the court of this State.

Section 33. Ordering Out-of-State Supervision.—(a) Subject to the provisions of this act governing dispositions and to the extent that funds of the county are available the court may place a child in the custody of a suitable person in another state. On obtaining the written consent of a juvenile court of another state which has adopted the Uniform Juvenile Court Act or a substantially similar act which includes provisions corresponding to this section and section 34, the court of this State may order that the child be placed under the supervision of a probation officer or other appropriate official designated by the accepting court. One certified copy of the order shall be sent to the accepting court and another filed with the clerk of the requesting court of this State

(b) The reasonable cost of the supervision including the expenses of necessary travel shall be borne by the county of the requesting court of this State. Upon receiving a certified statement signed by the judge of the accepting court of the cost incurred by the supervision the court of this State shall certify if it so appears that the sum so stated was reasonably incurred and file it with the appropriate officials of the county for payment. The appropriate officials shall thereupon issue a warrant for the sum stated, payable to the appropriate officials of the county of the accepting court.

Section 34. Supervision Under Out-of-State Order.—(a) Upon receiving a request of a juvenile court of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar act which includes provisions corresponding to section 33 of this act to provide supervision of a child under the jurisdiction of that court, a court of this State may issue its written acceptance to the requesting court and designate its probation

or other appropriate officer who is to provide supervision, stating the probable cost per day therefor.

(b) Upon the receipt and filing of a certified copy of the order of the requesting court placing the child under the supervision of the officer so designated the officer shall arrange for the reception of the child from the requesting court, provide supervision pursuant to the order and this act, and report thereon from time to time together with any recommendations he may have to the requesting court.

(c) The court in this State from time to time shall certify to the requesting court the cost of supervision that has been incurred and request payment therefor from the appropriate officials of the county of the requesting court to the appropriate officials of the county of the accepting court.

(d) The court of this State at any time may terminate supervision by notifying the requesting court. In that case, or if the supervision is terminated by the requesting court, the probation officer supervising the child shall return the child to a representative of the requesting court authorized to receive him.

Section 35. Powers of Out-of-State Probation Officers.—If a child has been placed on probation or protective supervision by a juvenile court of another state which has adopted the Uniform Juvenile Court Act or a substantially similar act which includes provisions corresponding to this section, and the child is in this State with or without the permission of that court, the probation officer of that court or other person designated by that court to supervise or take custody of the child has all the powers and privileges in this State with respect to the child as given by this act to like officers or persons of this State including the right of visitation, counseling, control, and direction, taking into custody, and returning to that state.

Section 36.**Costs and Expenses for Care of Child.—(a) The following expenses shall be paid one-half by the Department of Public Welfare and one-half by the county, upon certification thereof by the court:

(1) The cost of medical and other examinations and treatment of a child ordered by the court.

(2) The cost of care and support of a child committed by the court to the legal custody of a public agency approved by the Department of Public Welfare other than one operated by the Department of Public Welfare, or to a private agency approved by the Department of Public Welfare, or individual other than a parent.

(3) The expense of service of summons, warrants, notices, subpoenas, travel expense of witnesses, transportation of the child, and other like expenses incurred in the proceedings under this act.

(b) If, after due notice to the parents or other persons legally obligated to care for and support the child, and after affording

them an opportunity to be heard, the court finds that they are financially able to pay all or part of the costs and expenses stated in clauses (1), (2) and (3) of subsection (a), the court may order them to pay the same and prescribe the manner of payment. Unless otherwise ordered, payment shall be made to the clerk of the court for remittance to the person to whom compensation is due, or if the costs and expenses have been paid by the county, to the appropriate officer of the county.

Section 37. Inspection of Court Files and Records.—All files and records of the court in a proceeding under this act are open to inspection only by:

(1) The judge, officers, and professional staff of the court.

(2) The parties to the proceeding and their counsel and representatives, but the person in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court.

(3) A public or private agency or institution providing supervision or having custody of the child under order of the court.

(4) A court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to the proceeding in juvenile court.

(5) With leave of court, any other person or agency or institution having a legitimate interest in the proceedings or in the work of the courts.

Section 38. Law Enforcement Records.—Law enforcement records and files concerning a child shall be kept separate from the records and files of arrests of adults. Unless a charge of delinquency is transferred for criminal prosecution under section 28, the interest of national security requires, or the court otherwise orders in the interest of the child, the records and files shall not be open to public inspection or their contents disclosed to the public; but inspection of the records and files is permitted by:

(1) The court having the child before it in any proceeding;

(2) Counsel for a party to the proceeding;

(3) The officers of institutions or agencies to whom the child is committed;

(4) Law enforcement officers of other jurisdictions when necessary for the discharge of their official duties; and

(5) A court in which he is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him.

Section 39. Contempt Powers.—The court may punish a per-

son for contempt of court for disobeying an order of the court or for obstructing or interfering with the proceedings of the court or the enforcement of its orders subject to the laws relating to the procedures therefor and the limitations thereon.

Section 40. Repeals.—(a) The following acts are repealed absolutely:

(1) The act of June 2, 1933 (P.L. 1433), known as "The Juvenile Court Law"

(2) The act of June 3, 1933 (P.L. 1449), known as the "Juvenile Court Law of Allegheny County."

(b) All other acts and parts of acts, general, local, and special, are repealed in so far as they are inconsistent herewith.

Section 41. Effective Date.——This act shall take effect in sixty days.

* Section 29 is repealed by Act 143 of 1977 except as far as it pertains to the Mentally Retarded Child.

** Section 36 is repealed by Act 148 of 1976.

No. 1977-41

AN ACT

Amending the act of December 6, 1972 (P.L. 1464, No. 333), entitled "An act relating to the care, guidance, control, trial, placement and commitment of delinquent and deprived children," further defining "child," "delinquent act," and "deprived child," further defining certain words, changing certain references from "deprived" to "dependent," further providing for informal adjustment and consent decrees, further regulating detention and shelter care and imposing certain duties on counties and the Department of Public Welfare, further providing for transfers and for the disclosure of certain records, making related changes and making certain repeals and providing an appropriation.

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

Section 1. Clauses (1), (2), (3), (4), and (6) of section 2, section 3, subsection (a) of section 4, subsection (a) of section 8, subsection (c) of section 8.1, sections 9, 14 and 14.1, subsections (a) and (b) of section 15, subsection (a) of section 18, subsection (a) of section 22, subsections (a), (b) and (c) of section 23, sections 24, 25, and 26, subsection (a) of sectoin 27, clause (4) of subsection (a) of section 28, and sections 31, 32, and 38, act of December 6, 1972 (P.L. 1464, No. 333), known as the "Juvenile Act" are amended or added to read:

Section 2. Definitions.—As used in this act:

(1) "Child" means an individual who is: (i) under the age of eighteen years; or (ii) under the age of twenty-one years who committed an act of delinquency before reaching the age of eighteen years; or who was adjudicated dependent before reaching the age of eighteen years and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event shall a child remain in a course of instruction or treatment past the age of twenty-one years.

(2) "Delinquent act" means an act designated a crime under the law of this State, or of another state if the act occurred in that state, or under Federal law, or under local ordinances. "Delinquent act" shall not include the crime of murder nor shall it include summary offenses unless the child fails to pay a fine levied thereunder, in which event notice of such fact shall be certified to the court. No child shall be detained, committed or sentenced to imprisonment by a district magistrate, municipal court judge, or traffic court judge.

(3) "Delinquent child" means a child ten years of age or older whom the court has found to have committed a delinquent act and is in need of treatment, supervision or rehabilitation.

(4) "Dependent child" means a child who: (i) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals; or (ii) has been placed for care or adoption in violation of law; or (iii) has been abandoned by his parents, guardian, or other custodian; or (iv) is without a parent, guardian, or legal custodian; or

out justification truant from school; (vi) has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of his parent, guardian or other custodian and who is ungovernable and found to be in need of care, treatment or supervision; (vii) is under the age of ten years and has committed a delinquent act; or (viii) has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in section 2(4) (vi); or a child who has been referred pursuant to section 8, and who commits an act which is defined as ungovernable in section 2(4) (vi).

* * *

(6) "Protective supervision" means supervision ordered by the court of children found to be dependent.

* * *

Section 3. Jurisdiction.—This act shall apply exclusively to the following:

(1) Proceedings in which a child is alleged to be delinquent or dependent.

(2) Proceedings arising under sections 32 through 35.

(3) Transfers arising under section 7.

(4) Proceedings under the "interstate Compact on Juveniles" section 731, act of June 13, 1967 (P.L. 31, No. 21), known as the "Public Welfare Code."

Section 4. Powers and Duties of Probation Officers.—(a) For the purpose of carrying out the objectives and purposes of this act, and subject to the limitations of this act or imposed by the court, a probation officer shall:

(1) Make investigations, reports, and recommendations to the court.

(2) Receive and examine complaints and charges of delinquency or dependency of a child for the purpose of considering the commencement of proceedings under this Act.

(3) Supervise and assist a child placed on probation or in his protective supervision or care by order of the court or other authority of law.

(4) Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.

(5) Take into custody and detain a child who is under his supervision or care as a delinquent or dependent child if the probation officer has reasonable cause to believe that the child's health or safety is in imminent danger, or that he may abscond or be removed from the jurisdiction of the court, or when ordered by the court pursuant to this act or that he violated the conditions of his probation.

(6) Perform all other functions designated by this act or by order of the court pursuant thereto.

* * *

Section 8. Informal Adjustment.—(a) Before a petition is filed, the probation officer or other officer of the court designated by it, subject to its direction, shall, in the case of a dependent child where the court's jurisdiction is premised upon the provisions of section 2(4) (i), (ii), (iii),

(iv), (v) or (vii) and if otherwise appropriate, refer the child and his parents to any public or private social agency available for assisting in the matter. Upon referral, the agency shall indicate its willingness to accept the child and shall report back to the referring officer within three months concerning the status of the referral. Similarly, the probation officer may in the case of a delinquent child, or a dependent child where the court's jurisdiction is permitted in section 2(4) (vi) refer to the child and his parents to an agency for assisting in the matter. The agency may return the referral to the probation officer or other officer for further informal adjustment if it is in the best interests of the child.

* * *

Section 8.1 Consent Decree.—* * *

(c) A consent decree shall remain in force for six months unless the child is discharged sooner by probation services with the approval of the court. Upon application of probation services or other agency supervising the child, made before expiration of the six month period, a consent decree may be extended by the court for an additional six months.

* * *

Section 9. Venue.—A proceeding under this act may be commenced (i) in the county in which the child resides, or (ii) if delinquency is alleged, in the county in which the acts constituting the alleged delinquency occurred, or (iii) if [**deprivation**] **dependency** is alleged, in the county in which the child is present when it is commenced.

Section 14. Place of Detention. (a)—A child alleged to be delinquent may be detained only in:

(1) A licensed foster home or a home approved by the court;

(2) A facility operated by a licensed child welfare agency or one approved by the court;

(3) A detention home, camp, center or other facility for delinquent children which is under the direction or supervision of the court or other public authority or private agency, and is approved by the Department of Public Welfare; or

(4) Any other suitable place or facility, designated or operated by the court and approved by the Department of Public Welfare. Under no circumstances shall a child be detained in any facility with adults, or where he or she is apt to be abused by other children. Until December 31, 1979, a child may be detained in a facility with adults if there is no appropriate facility available within a reasonable distance or a contiguous county, whichever is nearer, for the detention of the child in which case the child shall be kept separate and apart from such adults at all times and shall be detained under such circumstances for not more than five days.

(b) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under the age of eighteen years is received at the facility and shall bring him before the court upon request or deliver him to a detention or shelter care facility designated by the court.

(b.1) After December 31, 1979, it shall be unlawful for any person in charge of or employed by a jail knowingly to receive for detention or to detain in such jail any person whom he has or should have reason to believe is a child. Until such time, a jail may be used for the detention of a child who is alleged to be delinquent only if such detention is necessary for the safety of the public and if such jail has been approved for the detention of such child by the Department of Public Welfare in good faith and such detention has been ordered by the court. The Department of Public Welfare shall approve for use for purposes of and in accordance with the provisions of this section any jail which it finds maintains, for the detention of such child, an appropriate room under adequate supervision: Provided, That the Department of Public Welfare shall, no later than sixty days after the effective date of the act, by regulation promulgate standards governing the operations of such provisions of such jails as are used for the detention of children pursuant to this section and shall cause such jails to be inspected by the Department of Public Welfare at least once every six months until this confinement is terminated in accordance with provisions in this act.

(c) If a case is transferred for criminal prosecution the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention or persons charged with crime. The court in making the transfer may order continued detention as a juvenile pending trial if the child is unable to provide bail.

(d) A child alleged to be dependent may be detained or placed only in a Department of Public Welfare approved shelter care facility as stated in clauses (1), (2) and (4) of subsection (a), and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses but may be detained in the same shelter care facilities with alleged delinquent children.

(e) The Department of Public Welfare shall develop or assist in the development in each county of the Commonwealth approved programs for the provisions of shelter care for children referred to or under the jurisdiction of the court.

(f) (1) Each county, acting alone or in conjunction with other counties, as provided in section 14.1, shall by December 31, 1978, submit to the Department of Public Welfare for approval a plan for the removal of children from adult facilities. If no such plan is submitted or accepted by the department within the allocation period, the department, after determining the detention needs of individual counties, shall thereafter take whatever steps it deems necessary to provide the required detention services for any such county or counties; including the construction of a regional detention facility to meet the needs of the counties insofar as is consistent with prohibitions against the use of adult facilities for juvenile offenders as herein provided. The department, after exhausting all other available funds including law enforcement assistance administration funds and any other Federal or State funds available for such purpose, shall charge the cost of establishing the necessary regional detention facilities to the counties that will utilize its services.

(2) The amount due the Commonwealth for the services or facilities provided pursuant to clause (1) shall be paid by the county within fifteen

months after receipt of notice of the amount due. In determining the amount which each county shall be charged for the establishment of a regional detention facility, the department shall take into account the extent to which the participating counties shall utilize the facilities.

(3) Except as provided in clause (4), the charges made by the department against any county pursuant to this subsection shall not exceed $50,000.

(4) In addition to the charges authorized for the providing of regional detention facilities and notwithstanding the limitations on such charges set forth in clause (3), the Commonwealth shall be entitled to an additional amount for providing such facilities equivalent to 7% of the costs imposed on the county.

(5) All sums collected from the counties pursuant to this subsection shall be paid into the General Funds and credited to the Department of Public Welfare.

Section 14.1 Regional Detention Facilities.—(a) Where the operation of an approved detention facility by a single county would not be feasible, economical, or conducive to the best interest of a child needing detention care, the Department of Public Welfare shall:

(1) Make provisions directly or by contract with a single county for the implementation and operation, in accordance with the regulations promulgated by the Department of Public Welfare of regional detention facilities serving the needs of two or more counties.

(2) Arrive at mutually agreeable arrangements with counties participating in the use of such regional detention facilities for the equitable sharing in the costs of constructing and operating such regional detention facilities, including necessary expenditures to transport children and, if financially indigent, their parents, guardians, or custodians to and from such regional detention facilities with funds contributed by the State and by such counties. The department shall only operate a regional detention facility, established under subsection (f) of section 14, upon refusal of the counties participating in its use to operate the facility pursuant to department regulations.

(b) The Department of General Services shall make available any vacant Commonwealth building which the Department of Public Welfare certifies as appropriate for renovation as a regional detention facility.

Section 15. Release from Detention or Shelter Care; Hearing Conditions of Release.—(a) If a child is brought before the court or delivered to a detention or shelter care facility designated by the court, the intake or other authorized officer of the court shall immediately make an investigation and release the child unless it appears that his detention or shelter care is warranted or required under section 12. The release of the child shall not prevent the subsequent filing of a petition as provided in this act. If he is not so released, a petition shall be promptly made and presented to the court within twenty-four hours or the next court business day of the child's admission to detention or shelter care.

(b) An informal hearing shall be held promptly by the court or the master and not later than seventy-two hours after the child is placed in detention or shelter care to determine whether his detention or shelter

care is required under section 12 and if the child is alleged to be delinquent, that probable cause exists that the child has committed a delinquent act. Reasonable notice thereof, either oral or written, stating the time, place, and purpose of the hearing shall be given to the child and if they can be found, to his parents, guardian, or other custodian. Prior to the commencement of the hearing the court or master shall inform the parties of their right to counsel and to appointed counsel if they are needy persons, and of the child's right to remain silent with respect to any allegations of delinquency.

* * *

Section 18. Summons.—(a) After the petition has been filed the court shall fix a time for hearing thereon, which, if the child is in detention or shelter care, shall not be later than ten days after the filing of the petition. If the hearing is not held within such time, the child shall be immediately released from detention or shelter care. A child may be detained or kept in shelter care for an additional single period not to exceed ten days where the court determines at a hearing that evidence material to the case is unavailable and due diligence to obtain such evidence has been exercised and there are reasonable grounds to believe that such evidence will be available at a later date and the court finds by clear and convincing evidence that the child's life would be in danger, the community would be exposed to a specific danger or that the child will abscond or be removed from the jurisdiction of the court. The court shall direct the issuance of a summons to the parents, guardian, or other custodian, a guardian ad litem, and any other persons as appear to the court to be proper or necessary parties to the proceeding, requiring them to appear before the court at the time fixed to answer the allegations of the petition. The summons shall also be directed to the child if he is fourteen or more years of age or is alleged to be a delinquent. A copy of the petition shall accompany the summons.

* * *

Section 22. Investigation and Report.—(a) If the allegations of a petition are admitted by a party or notice of hearing under section 28 has been given, the court, prior to the hearing on need for treatment or disposition, may direct that a social study and report in writing to the court be made by an officer of the court or other person designated by the court, concerning the child, his family, his environment, and other matters relevant to disposition of the case. If the allegations of the petition are not admitted and notice of a hearing under section 28 has not been given, the court shall not direct the making of the study and report until after the court has heard the petition upon notice of hearing given pursuant to this act and the court has found that the child committed a delinquent act or is a dependent child.

Section 23. Hearing: Findings; Dismissal.—(a) After hearing the evidence on the petition the court shall make and file its findings as to whether the child is a dependent child, or if the petition alleges that the child is delinquent, whether the acts ascribed to the child were commited by him. If the court finds that the child is not a dependent child or that the allegations of delinquency have not been established it shall dismiss the petition and order the child discharged from any

detention or other restriction theretofore ordered in the proceeding.

(b) If the court finds on proof beyond a reasonable doubt that the child committed the acts by reason of which he is alleged to be delinquent it shall enter such finding on the record and it shall then proceed immediately or at a postponed hearing, which shall occur not later than twenty days after adjudication if the child is in detention, to hear evidence as to whether the child is in need of treatment, supervision or rehabilitation and to make and file its findings thereon. In the absence of evidence to the contrary, evidence of the commission of acts which constitute a felony shall be sufficient to sustain a finding that the child is in need of treatment, supervision or rehabilitation. If the court finds that the child is not in need of treatment, supervision or rehabilitation, it shall dismiss the proceeding and discharge the child from any detention or other restriction theretofore ordered.

(c) If the court finds from clear and convincing evidence that the child is dependent, the court shall proceed immediately or at a postponed hearing, which shall occur not later than twenty days after adjudication if the child has been removed from his home, to make a proper disposition of the case.

* * *

Section 24. Dependent Disposition of Dependent Child.—(a) If the child is found to be a child, the court may make any of the following orders of disposition best suited to the protection and physical, mental and moral welfare of the child:

(1) Permit the child to remain with his parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child.

(2) Subject to conditions and limitations as the court prescribes transfer temporary legal custody to any of the following: (i) any individual in or outside Pennsylvania who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child; (ii) an agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child or (iii) a public agency authorized by law to receive and provide care for the child.

(3) Without making any of the foregoing orders transfer custody of the child to the juvenile court of another state if authorized by and in accordance with section 32.

(b) Unless a child found to be dependent is found also to be delinquent he shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children.

(c) Every county of the Commonwealth shall develop programs for children under Section 2(4) (v) or (vi).

Section 25. Disposition of Delinquent Child.—If the child is found to be a delinquent child the court may make any of the following orders of disposition best suited to his treatment, supervision, rehabilitation, and welfare:

(1) Any order authorized by section 24 for the disposition of a

dependent child.

(2) Placing the child on probation under supervision of the probation officer of the court or the court of another state as provided in section 34, under conditions and limitations the court prescribes.

(3) Committing the child to an institution, youth development center, camp, or other facility for delinquent children operated under the direction or supervision of the court or other public authority and approved by the Department of Public Welfare.

(4) If the child is twelve years of age or older, committing the child to an institution operated by the Department of Public Welfare. In selecting from the alternatives set forth in this section, the court shall follow the general principle that the disposition imposed should provide the means through which the provisions of this act are executed and enforced consistent with section 1 and when confinement is necessary, the court shall impose the minimum amount of confinement that is consistent with the protection of the public and the rehabilitation needs of the child.

(5) Ordering payment by the child of reasonable amounts of money as fines, costs or restitution as deemed appropriate as part of the plan of rehabilitation considering the nature of the acts committed and the earning capacity of the child.

(6) An order of the terms of probation may include an appropriate fine considering the nature of the act committed or restitution not in excess of actual damages caused by the child which shall be paid from the child's earnings received through participation in a constructive program of service or education acceptable to the victim and the court whereby, during the course of such service, the child shall be paid not less than the State's minimum wage. In ordering such service, the court shall take into consideration the child's age, physical and mental capacity and the service shall be designed to impress upon the child a sense of responsibility for the injuries caused to the person or property of another. The court's order shall be limited in duration consistent with the limitations in section 26 and in the act of May 13, 1915 (P.L. 286, No. 177), known as the "Child Labor Law." The court order shall specify the nature of the work, the number of hours to be spent performing the assigned tasks, and shall further specify that as part of a plan of treatment and rehabilitation that up to 75% of the child's earnings be used for restitution in order to provide positive reinforcement for the work performed.

Section 26. Limitation on Commitment.—(a) No child shall initially be committed to an institution for a period longer than three years or a period longer than he could have been sentenced by the court if he had been convicted of the same offense as an adult, whichever is less. The initial commitment may be extended for a similar period of time, or modified, if the court finds after hearing that the extension or modification will effectuate the original purpose for which the order was entered. The child shall have notice of the extension or modification hearing and shall be given an opportunity to be heard. The committing court shall review each commitment every six months and shall hold a disposition review hearing at least every nine months.

(b) After placement of the child, and if his progress with the institution warrants it, the institution may seek to transfer said child to a less secure facility, including a group home or foster boarding home. The institution shall give the committing court written notice of such transfer. If the court does not object to such transfer within ten days after receipt of the notice, such transfer may be effectuated. If the court objects to such transfer, it shall hold a hearing within twenty days after objecting to the transfer for the purpose of reviewing its commitment order. If the institution seeks to transfer to a more secure facility the child must have a full hearing before the committing court. At the hearing, the court may reaffirm or modify its commitment order.

(c) Immediately after the Commonwealth adopts its budget, the Department of Public Welfare shall notify the courts and the Legislature, for each Department of Public Welfare region, of the available: (i) secure beds for the serious juvenile offenders; (ii) general residential beds for the adjudicated delinquent child; and (iii) the community-based programs for the adjudicated delinquent child. If the population at a particular institution or program exceeds 110% of capacity, the department shall notify the courts and the Legislature that intake to that institution or program is temporarily closed and shall make available services to children in equivalent facilities.

Section 27. Order of Adjudication; Noncriminal.—(a) An order of disposition or other adjudication in a proceeding under this act is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment. A child shall not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of adults convicted of a crime.

* * *

Section 28. Transfer.—(a) After a petition has been filed alleging delinquency based on conduct which is designated a crime or public offense under the laws, including local ordinances, of this State, the court before hearing the petition on its merits may rule that this act is not applicable and that the offense should be prosecuted, and transfer the offense, where appropriate, to the trial or criminal division or to a judge of the court assigned to conduct criminal proceedings, for prosecution of the offense if:

* * *

(4) The court finds that there is a prima facie case that the child committed the delinquent act alleged, and that the delinquent act would be considered a felony if committed by an adult, and the court finds that there are reasonable grounds to believe that: (i) the child is not amenable to treatment, supervision or rehabilitation as a juvenile through available facilities, in determining this the court may consider age, mental capacity, maturity, previous record and probation or institutional reports; and (ii) the child is not committable to an institution for the mentally retarded or mentally ill; and (iii) the interests of the community require that the child be placed under legal restraint or discipline or that the offense is one which would carry a sentence of more than

three years if committed as an adult.

* * *

Section 31. Disposition of Nonresident Child.—(a) If the court finds that a child who has been adjudged to have committed a delinquent act or to be dependent is or is about to become a resident of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar act which includes provisions corresponding to this section and section 32 hereof, the court may defer hearing on need of treatment and disposition and request by any appropriate means the appropriate court of the county of the child's residence or prospective residence to accept jurisdiction of the child.

(b) If the child becomes a resident of another state while on probation or under protective supervision under order of a court of this State, the court may request the court of the state in which the child has become a resident to accept jurisdiction of the child and to continue his probation or protective supervision.

(c) Upon receipt and filing of an acceptance the court of this State shall transfer custody of the child to the accepting court and cause him to be delivered to the person designated by that court to receive his custody. It also shall provide that court with certified copies of the order adjudging the child to be a delinquent, or dependent child, of the order of transfer, and if the child is on probation or under protective supervision under order of the court, of the order of disposition. It also shall provide that court with a statement of the facts found by the court of this State and any recommendations and other information or documents it considers of assistance to the accepting court in making a disposition of the case or in supervising the child on probation or otherwise.

(d) Upon complaince with subsection (c) the jurisdiction of the court of this State over the child is terminated.

Section 32. Disposition of Resident Child Received from Another State.—(a) If a juvenile court of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar act which includes provisions corresponding to section 31 and this section, requests a court of this State to accept jurisdiction of a child found by the requesting court to have committed a delinquent act or to be an unruly or dependent child, and the court of this State finds, after investigation that the child is, or is about to become, a resident of the county in which the court presides, it shall promptly and not later than fourteen days after receiving the request issue its acceptance in writing to the requesting court and direct its probation officer or other person designated by it to take physical custody of the child from the requesting court and bring him before the court of this State or make other appropriate provisions for his appearance before the court.

(b) Upon the filing of certified copies of the orders of the requesting court (i) determining that the child committed a delinquent act or an unruly or dependent child, and (ii) committing the child to the jurisdiction of the court of this State, the court of this State shall immediately fix a time for a hearing on the need for treatment, super-

vision or rehabilitation and disposition of the child or on the continuance of any probation or protective supervision.

(c) The hearing and notice thereof and all subsequent proceedings are governed by this act. The court may make any order of disposition permitted by the facts and this act. The orders of the requesting court are conclusive that the child committed the delinquent act or is an unruly or dependent child and of the facts found by the court in making the orders. If the requesting court has made an order placing the child on probation or under protective supervision, a like order shall be entered by the court of this State.

Section 38. Law Enforcement Records.—(a) Law enforcement records and files concerning a child shall be kept separate from the records and files of arrests of adults. Unless a charge of delinquency is transferred for criminal prosecution under Section 28, the interest of national security requires, or the court otherwise orders in the interest of the child, the records and files shall not be open to public inspection or their contents disclosed to the public except as provided in subsection (b); but inspection of the records and files is permitted by:

(1) The court having the child before it in any proceeding;

(2) Counsel for a party to the proceeding;

(3) The officers of institutions or agencies to whom the child is committed;

(4) Law enforcement officers of other jurisdictions when necessary for the discharge of their official duties; and

(5) A court in which he is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him.

(b) (1) The contents of law enforcement records and files concerning a child shall not be disclosed to the public except if the child is fourteen or more years of age at the time of the alleged conduct and if:

(i) The child has been adjudicated delinquent by a court as a result of an act or acts which include the elements of rape, kidnapping, murder, robbery, arson, burglary or other act involving the use of or threat of serious bodily harm; or

(ii) A petition alleging delinquency has been filed by a law enforcement agency alleging that the child has committed an act or acts which include the elements of rape, kidnapping, murder, robbery, arson, burglary or other act involving the use of or threat of serious bodily harm and the child previously has been adjudicated delinquent by a court as a result of an act or acts which included the elements of one of such crimes.

(2) If the child's conduct meets the requirements for disclosure as set forth in paragraph (1), then the court or law enforcement agency, as the case may be, shall disclose the name of the child and the nature of the conduct in question.

Section 2. Subsection (b) of section 343, act of June 13, 1967 (P.L.

31, No. 21), known as the "Public Welfare Code," is repealed.

Section 3. The sum of $1,500,000, or as much thereof as may be necessary, is hereby appropriated to the Department of Public Welfare to be used by the Department to implement the provisions of section 1711 and to provide grants to counties for the same purpose. Excluding probation services, no county shall be required to pay more than 10% of the costs of operating new shelter care programs required to implement the reclassification provided for in section 2(4)(vi), provided that the county:

(1) Has applied for existing Federal funds to implement section 2(4)(vi);

(2) The county has not been deemed ineligible for these Federal funds; and

(3) The programs are approved as necessary by the Department of Public Welfare to implement section 2(4)(vi). For the purposes of this section, shelter care shall not include institutional facilities.

Section 4. This act shall take effect immediately, but the jurisdictional changes contained in section 2(2) and (4) shall apply only to proceedings instituted after the effective date.

ACT

ESTABLISHING THE JUVENILE COURT JUDGES' COMMISSION

Providing for the creation and operation of the Juvenile Court Judges' Commission in the Department of Justice; prescribing its powers and duties and making an appropriation.

(Act of December 21, 1959, P.L. 1962, 11 P.S. §270)

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

Section 1. (a) There is hereby created in the Department of Justice, a "Juvenile Court Judges' Commission."

(b) The provisions of this act shall not apply to juvenile courts, juvenile court judges or probation offices in counties of the first class.

Section 2. The Commission shall consist of nine judges who shall be appointed by the Governor from a list of judges, serving in the juvenile courts, selected and submitted by the Chief Justice of Pennsylvania. Three of the first nine appointed shall serve for three years, three for two years, and three for one year. Thereafter, the term for all members shall be for three years. The Commission shall, annually, select one of their number to be chairman and one to be secretary. Five members shall constitute a quorum.

Section 3. The chairman, with the approval of the majority of the Commission, may appoint and fix the compensation of such assistants, clerks, and stenographers as are necessary to enable the Commission to perform the powers and duties vested in it. The compensation of such assistants, clerks and stenographers shall be fixed within limitations fixed by the Executive Board, and shall be eligible to apply for membership in the State Employes' Retirement System. During his term of employment, no assistant shall engage, directly or indirectly, in the practice of law in any juvenile court of the Commonwealth.

Section 4. The Commission shall have the power and its duty shall be—

(1) To advise the juvenile court judges of the Commonwealth in all matters pertaining to the proper care and maintenance of delinquent children.

(2) Examine the administrative methods and judicial procedure used in juvenile courts throughout the State, establish standards and make recommendations on the same to the courts.

(3) Examine the personnel practices and employment standards used in probation offices in the Commonwealth, establish standards and make recommendations on the same to the courts.

(4) Collect, compile and publish such statistical and other data as may be needed to accomplish reasonable and efficient administration of the juvenile courts.

Section 5. Each year there shall be quarterly meetings of the Commission, and such additional meetings as the chairman shall deem neces-

sary. Each commissioner attending such meetings shall be paid only his necessary expenses incurred in attending the meetings.

Section 6. The sum of fifteen thousand dollars ($15,000), or as much thereof as may be necessary, is hereby appropriated from the General Fund of the Commonwealth to the Department of Justice for the use of the Juvenile Court Judges' Commission for the payment of expenses incurred in the fiscal biennium beginning June 1, 1959.

Section 7. This act shall take effect immediately.

* * * *

POWER TO MAKE GRANTS

(Act of July 2, 1968, P.L. 147, P.S. §295.1)

The Department of Justice, by and through the Juvenile Court Judges' Commission, shall have the power, and its duty shall be to make annual grants to political subdivisions for the development and improvement of probation services for juveniles.

Relevant Parts

(Act of June 13, 1967, P.L. 31, No. 21 62 P.S. §§721-735)

Article VII. Children and Youth

(b) **Departmental Powers and Duties as to Delinquency**

Section 721. Consultation to community agencies; grants to political subdivisions

The Department of Public Welfare shall have the power and its duty shall be:

(1) To offer consultation and advice to local and State-wide public or private agencies, including juvenile courts, to community groups concerned with the prevention of juvenile delinquency in the planning and developing of measures to reduce the incidence of delinquency and to make grants to political subdivisions for delinquency prevention projects developed jointly with the department;

(2) To offer consultation, guidence and assistance to public and voluntary agencies and institutions, including the juvenile courts, in developing, strengthening and improving programs for predisposition study, probation supervision, institutional treatment and after-care of delinquent youth, including training courses for personnel of the agencies and institutions. In order to develop or strengthen police and probation services for juveniles, and upon assurance that such services will meet standards approved by the department, the department shall make annual grants to political subdivisions.

Section 722. Statistics; assistance for research

The department shall gather, collate, interpret and disseminate statistics and reports relating to the problem of juvenile delinquency and to the treatment of juveniles. It shall also assist counties and local public and private agencies to study the causes and methods of prevention of juvenile delinquency.

Section 723. Gifts and donations

Through the secretary or his designee, the department may accept or refuse grants, appropriations, contributions, or unencumbered property, real, personal or mixed, tangible or intangible, or any interest therein, for the purposes described in this section from the Federal Government, the Commonwealth and any donor. All grants, appropriations and contributions of money accepted shall be held by the State Treasurer as custodian for the Department of Public Welfare and shall be paid out on its requisition to further the objectives of this article.

Section 724. Institutional programs; recommendations, additional facilities; charges

(a) The department shall develop recommended measures for corrective treatment of juvenile delinquents requiring differing corrective techniques and to assure the availability of appropriate facilities for them, the department shall plan with and offer a recommended program of coordination among existing public and private institutions for the development of specialized programs of re-education, treatment, and re-

habilitation, and shall establish and operate any additional facilities needed.

(b) Using actual costs of maintenance and service to juveniles as the basis of calculations, the department, in consultation with the training schools, shall establish rates of care to be charged by the training schools to the counties and to the departments of public welfare of cities of the first class.

Section 725. Study of delinquents; recommendations to courts

The department shall have the power, and its duty shall be:

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

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

(c) Interstate Compact on Juveniles

Section 731. Authorization; compact provisions

(a) The Governor is hereby authorized and directed to execute a compact on behalf of the Commonwealth of Pennsylvania with any other state or states legally joining them in form substantially as follows:

INTERSTATE COMPACT ON JUVENILES

The contracting states solemnly agree:

ARTICLE I. FINDINGS AND PURPOSES

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return,

from one state to another, of non-delinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the non-criminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II. EXISTING RIGHTS AND REMEDIES

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures and shall not be in derogation of parental rights and responsibilities.

ARTICLE III. Definitions

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation and parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

ARTICLE IV. RETURN OF RUNAWAYS

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letter of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing

thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the Judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him into take custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein

he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

ARTICLE V. RETURN OF ESCAPEES AND ABSCONDERS

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before

a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person, and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

ARTICLE VI. VOLUNTARY RETURN PROCEDURE

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge

of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located, and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

ARTICLE VII. COOPERATIVE SUPERVISION OF PROBATIONERS AND PAROLEES

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing

the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

ARTICLE VIII. RESPONSIBILITY FOR COSTS

(a) That the provisions of Articles IV(b), V(b) and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV(b), V(b) or VII(D) of this compact.

ARTICLE IX. DETENTION PRACTICES

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

ARTICLE X. SUPPLEMENTARY AGREEMENTS

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character

of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

ARTICLE XI. ACCEPTANCE OF FEDERAL AND OTHER AID

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

ARTICLE XII. COMPACT ADMINISTRATORS

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XIII. EXECUTION OF COMPACT

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

ARTICLE XIV. RENUNCIATION

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

ARTICLE XV. SEVERABILITY

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

ARTICLE XVI. ADDITIONAL REMEDIES

That this Article shall provide additional remedies and shall be binding only as among and between those party states which specifically execute the same. For the purposes of this Article, "child" as used herein means any minor within the jurisdictional age limits of any court in the home state. When any child is brought before a court of a state of which such child is not a resident and such state is willing to permit such child's return to the home state of such child, such home state, upon being so advised by the state in which such proceeding is pending, shall immediately institute proceedings to determine the residence and jurisdictional facts as to such child in such home state, and upon finding that such child is in fact a resident of said state and subject to the jurisdiction of the court thereof, shall, within five days, authorize the return of such child to the home state and to the parent or custodial agency legally authorized to accept such custody in such home state and at the expense of such home state to be paid from such funds as such home state may procure, designate or provide, prompt action being of the essence.

(b) The Governor is authorized and directed to execute, with any other state or states legally joining in the same, an amendment to the Interstate Compact on Juveniles in form substantially as follows:

ARTICLE XVII. AMENDMENT TO THE INTERSTATE COMPACT ON JUVENILES, INTERSTATE RENDITION OF JUVENILES ALLEGED TO BE DELINQUENT

(a) This amendment shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) All provisions and procedures of Articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition

in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of the criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

No. 148

AN ACT

Amending the act of June 13, 1967 (P.L. 31, No. 21) entitled "An act to consolidate, editorially revise, and codify the public welfare laws of the Commonwealth," increasing the maximum annual State grants to county institution districts or their successors for cost of child welfare programs; further providing for the payment of the costs and expenses for the care of the child; making certain repeals; and placing a duty upon the Auditor General to ascertain and certify certain costs.

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

Section 1. Sections 346, 354, and 704, act of June 13, 1967 (P.L. 31, No. 21) known as the "Public Welfare Code", are repealed.

Section 2. The act is amended by adding sections to read:

Section 704.1 Payments to Counties for Services to Children.—

(a) The department shall reimburse county institution districts or their successors for expenditures incurred by them in the performance of their obligation pursuant to this act and the act of December 6, 1972 (P.L. 1464, No. 333), known as the "Juvenile Act", in the following percentages:

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

(2) No less than seventy-five percent and no more than ninety percent of the reasonable cost including staff costs of child welfare services, informal adjustment services provided pursuant to section 8 of the act of December 6, 1972 (P.L. 1464, No. 333), known as the "Juvenile Act," and such services approved by the department, including but not limited to, foster home care, group home care, shelter care, community residential care, youth service bureaus, day treatment centers and service to children in their own home and any other alternative treatment programs approved by the department.

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

(4) Fifty percent of the actual cost of care and support of a child placed by a county child welfare agency or a child committed by a court pursuant to the act of December 6, 1972 (P.L. 1464, No. 333), known as the "Juvenile Act" to the legal custody of a public or private agency approved or operated by the department other than those services described in clause (2). The Auditor General shall ascertain the actual expense for fiscal year 1974-1975 and each year thereafter by the Department of Public Welfare for each of the several counties and each city of the first class whose children resident within the county or city of the first class directly received the benefit of the Commonwealth's expenditure. The Auditor General shall also ascertain for each Commonwealth institution or facility rendering services to delinquent or deprived children the actual average daily cost of providing said services.

The Auditor General shall certify to each county and city of the first class the allocated Commonwealth expenditures incurred on behalf of its children and notify the Secretary of Public Welfare and each county and city of the first class of same.

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

(b) The department shall make additional grants to any county institution district or its successor to assist in establishing new services to children in accordance with a plan approved by the department for up to the first three years of operation of those services. In order to provide necessary information to the General Assembly relative to the grants provided under this subsection, a report will be developed by the Legislative Budget and Finance Committee and provided to the members of the General Assembly no later than July 1, 1980, concerning all grants made and expenditures accomplished under the provisions of this subsection for the period up to and including December 31, 1979. This report shall include information on the amount of moneys that went to individual counties and a description of activities and services financed with these moneys including the number and types of clients served under each of the grant programs and any other information necessary in order to fully inform the General Assembly on such programs. All officials of the Department of Public Welfare, grant recipient county organizations, and other agencies which receive State moneys under the provisions of this subsection shall cooperate with the committee and its staff in carrying out this reporting requirement, including making available all necessary fiscal and programmatic data.

(c) No payment pursuant to subsection (a) (2), (3), or (4) or of subsection (b) shall be made for any period in which the county institution district or its successor fails to substantially comply with the regulations of the department promulgated pursuant to section 703 including but not limited to those regulations relating to minimum child welfare services and minimum standards of child welfare administration on the merit basis.

(d) Amounts due from county institution districts or their successors for children committed to facilities operated by the department shall be paid by the counties to the Department of Revenue by orders to be drawn by the duly authorized agent of the Department of Revenue at each youth development center or forestry camp on the treasurers of such counties, who shall accept and pay for the same to the Department of Revenue. Promptly after the last calendar day of each month the agent of the Department of Revenue shall mail accounts to the commissioners of such counties as may have become liable to the Commonwealth during the month under the provisions of this section. These accounts shall be duly sworn or affirmed to, and it shall be the duty of said commissioners, immediately upon receipt of such accounts, to notify the

treasurers of their respective counties to the amounts of said accounts, with instructions to pay promptly to the Department of Revenue the amounts of said orders when presented. It shall then be the duty of such county treasurers to make such payments as instructed by their respective county commissioners. In lieu of payments by the county to the Commonwealth, the department may deduct the amount due the Commonwealth from the reimbursement payments by the department to the county institution districts or their successors.

(e) If, after due notice to the parents or other persons legally obligated to care for and support the child, and after affording them an opportunity to be heard, the court finds that they are financially able to pay all or part of the costs and expenses stated in subsection (a), the court may order them to pay the same and prescribe the manner of payment. Unless otherwise ordered, payment shall be made to the clerk of the court for remittance to the person to whom compensation is due, or if the costs and expenses have been paid by the county, to the appropriate officer of the county.

(f) The department shall prescribe the time at, and the form on which county institution districts or their successors shall submit to the department annual estimates of who will be served and the cost of such service under each category of service set forth in subsection (a).

(g) The department shall, within forty-five days of each calendar quarter, pay fifty percent of the department's share of the county institution district's or its successor's estimated expenditures for that quarter.

(h) At the end of each of calendar years 1978 and 1979, every county shall compare the amount received in child welfare reimbursements for calendar year 1976 pursuant to section 704 of this act and section 36 of the act of December 6, 1972 (P.L. 1464, No. 333), known as the "Juvenile Act" with child welfare reimbursements received for each of calendar years 1978 and 1979 pursuant to this section. The resulting difference in reimbursements for child welfare services received between calendar year 1976 and each of calendar years 1978 and 1979 shall then be compared with the amount the county paid in each of calendar years 1978 and 1979 for youth development centers or forestry camp commitments pursuant to subsection (a)(4). If there is an increase in reimbursements for child welfare services and that increase is less in either or both of calendar years 1978 and 1979 than the amount expended by the county for its share of the cost of youth development center and forestry camp commitments, then any such county shall be entitled to receive additional block grants as provided in subsection (b) equal to the amount of such difference.

Section 704.2 Contingent Liability of State and Local Government; Intention of Act.—(a) Neither the State nor a county institution district or its successor shall be required to expend public funds for services described in section 704.1 on behalf of a child until such child has exhausted his eligibility and receipt of benefits under all other existing or future private, public, local, State or Federal programs other than programs funded by the act of October 20, 1966 (3rd Sp. Sess., P.L. 96, No. 6), known as the "Mental Health and Mental Retardation

Act of 1966".

(b) Upon exhaustion of such eligibility as aforesaid, the Commonwealth and the county institution districts or their successors shall share the financial obligation accruing under section 704.1 to the extent such obligations are not borne by the Federal Government or any private person or agency.

(c) It is the intention of this section that its provisions be construed so as to maintain and not decrease or destroy any eligibility of any person, any facility of the State or any political subdivision to receive any Federal assistance, grants or funds.

Section 3. Sections 705, 706, and 707 of the act are hereby repealed.

Section 4. Section 708 of the act is amended to read:

Section 708. Departmental Administration of County Child Welfare Services.—On and after January 1, 1968, the department shall provide, maintain, administer, manage and operate a program of child welfare services in a county institution district or its successor or when the department determines, after hearing, that such county institution district or its successor is not complying with the regulations prescribing minimum child welfare services or minimum standards of performance of child welfare services or minimum standards of child welfare personnel administration on a merit basis, and that, as a result, the needs of children and youth are not being adequately served.

When, in pursuance of this section, the department takes charge of, and directs the operation of the child welfare services of a county institution district or its successor, the county shall be charged and shall pay the cost of such services, including reasonable expenditures incident to the administration thereof incurred by the department. The amount so charged and to be paid by the county shall be reduced by the amount of the payments that would have been made pursuant to section 704.1 if the county institution district or its successor had maintained a child welfare program in compliance with the regulations of the department.

The amount due the Commonwealth may be deducted from any Commonwealth funds otherwise payable to the county. All sums collected from the county under this section, in whatever manner such collections are made, shall be paid into the State treasury and shall be credited to the current appropriation to the department for child welfare.

The department shall relinquish the administration of the child welfare program of the county institution district or its successor when the department is assured that the regulations of the department will be complied with thereafter and that the needs of children and youth will be adequately served.

Section 5. Section 36 of the act of December 6, 1972 (P.L. 1464, No. 333), known as the "Juvenile Act," is hereby repealed.

Section 6. This act shall take effect January 1, 1978.

requires full or part-time residence in a facility. For the purpose of this act, a "facility" means any mental health establishment, hospital, clinic, institution, center, day care center, base service unti, community mental health center, or part thereof, that provides for the diagnosis, treatment, care or rehabilitation of mentally ill persons, whether as outpatients or inpatients.

Section 104. Provision for Treatment.—Adequate treatment means a course of treatment designed and administered to alleviate a person's pain and distress and to maximize the probability of his recovery from mental illness. It shall be provided to all persons in treatment who are subject to this act. It may include inpatient treatment, partial hospitalization, or outpatient treatment. Adequate inpatient treatment shall include such education and medical care as are necessary to maintain decent, safe and healthful living conditions. Treatment shall include diagnosis, evaluation, therapy, or rehabilitation needed to alleviate pain and distress and to facilitate the recovery of a person from mental illness and shall also include care and other services that supplement treatment and aid or promote such recovery.

Section 105. Treatment Facilities.—Involuntary treatment and voluntary treatment funded in whole or in part by public moneys shall be available at a facility approved for such purposes by the county administrator (who shall be the County Mental Health and Mental Retardation Administrator of a county or counties, or his duly authorized delegate), or by the Department of Public Welfare, hereinafter cited as the "department." Approval of facilities shall be made by the appropriate authority which can be the department pursuant to regulations adopted by the department. Treatment may be ordered at the Veterans Administration or other agency of the United States upon receipt of a certificate that the person is eligible for such hospitalization or treatment and that there is available space for his care. Mental health facilities operated under the direct control of the Veterans Administration or other Federal agency are exempt from obtaining State approval. The department's standards for approval shall be at least as stringent as those of the joint commission for accreditation of hospitals and those of the Federal Government pursuant to Titles 18 and 19 of the Federal Social Security Act to the extent that the type of facility is one in which those standards are intended to apply. An exemption from the standards may be granted by the department for a period not in excess of one year and may be renewed. Notice of each exemption and the rationale for allowing the exemption must be published pursuant to the act of July 31, 1968 (P.L. 769, No. 240), known as the "Commonwealth Documents Law," and shall be prominently posted at the entrance to the main office and in the reception areas of the facility.

Section 106. Persons Responsible for Formulation and Review of Treatment Plan.—(a) Pursuant to sections 107 and 108 of this act, a treatment team shall formulate and review an individualized treatment plan for every person who is in treatment under this act.

(b) A treatment team must be under the direction of either a physician or a licensed clinical psychologist and may include other mental

health professionals.

(c) A treatment team must be under the direction of a physician when:

(1) failure to do so would jeopardize Federal payments made on behalf of a patient; or

(2) the director of a facility requires the treatment to be under the direction of a physician.

(d) All treatment teams must include a physician and the administration of all drugs shall be controlled by the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

Section 107. Individualized Treatment Plan.—Individualized treatment plan means a plan of treatment formulated for a particular person in a program appropriate to his specific needs. To the extent possible, the plan shall be made with the cooperation, understanding and consent of the person in treatment, and shall impose the least restrictive alternative consistent with affording the person adequate treatment for his condition.

Section 108. Periodic Reexamination, Review and Redisposition.—(a) Reexamination and Review.—Every person who is in treatment under this act shall be examined by a treatment team and his treatment plan reviewed not less than once in every 30 days.

(b) Redisposition.—On the basis of reexamination and review, the treatment team may either authorize continuation of the existing treatment plan if appropriate, formulate a new individualized treatment plan, or recommend to the director the discharge of the person. A person shall not remain in treatment or under any particular mode of treatment for longer than such treatment is necessary and appropriate to his needs.

(c) Record of Reexamination and Review.—The treatment team responsible for the treatment plan shall maintain a record of each reexamination and review under this section for each person in treatment to include:

(1) a report of the reexamination, including a diagnosis and prognosis;

(2) a brief description of the treatment provided to the person during the period preceding the reexamination and the results of that treatment;

(3) a statement of the reason for discharge or for continued treatment;

(4) an individualized treatment plan for the next period, if any;

(5) a statement of the reasons that such treatment plan imposes the least restrictive alternative consistent with adequate treatment of his condition; and

(6) a certification that the adequate treatment recommended is available and will be afforded in the treatment program.

Section 109. Mental Health Review Officer.—Legal proceedings concerning extended involuntary emergency treatment under section 303(c), or court-ordered involuntary treatment under section 304, may be con-

No. 143

AN ACT

Relating to mental health procedures; providing for the treatment and rights of mentally disabled persons, for voluntary and involuntary examination and treatment and for determinations affecting those charged with crime or under sentence.

TABLE OF CONTENTS

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

ARTICLE I

General Provisions

Section 101. Short Title.—This act shall be known and may be cited as the "Mental Health Procedures Act."

Section 102. Statement of Policy.—It is the policy of the Commonwealth of Pennsylvania to seek to assure the availability of adequate treatment to persons who are mentally ill, and it is the purpose of this act to establish procedures whereby this policy can be effected. Treatment on a voluntary basis shall be preferred to involuntary treatment; and in every case, the least restrictions consistent with adequate treatment shall be employed. Persons who are mentally retarded, senile, alcoholic, or drug dependent shall receive mental health treatment only if they are also diagnosed as mentally ill, but these conditions of themselves shall not be deemed to constitute mental illness.

Section 103. Scope of Act.—This act establishes rights and procedures for all involuntary treatment of mentally ill persons, whether inpatient or outpatient, and for all voluntary inpatient treatment of mentally ill persons. "Inpatient treatment" shall include all treatment that

ducted by a judge of the court of common pleas or by a mental health review officer authorized by the court to conduct the proceedings. Mental health review officers shall be members of the bar of the Supreme Court of Pennsylvania, without restriction as to the county of their residence and where possible should be familiar with the field of mental health. They shall be appointed by the respective courts of common pleas for terms not to exceed one year, and may be reappointed to successive terms.

Section 110. Written Applications. Petitions, Statements and Certifications.—(a) All written statements pursuant to section 302(a)(2), and all applications, petitions, and certifications required under the provisions of this act shall be made subject to the penalties provided under 18 Pa. C.S. §4909 (relating to unsworn falsification to authorities) and shall contain a notice to that effect.

(b) All such applications, petitions, statements and certifications shall be filed with the county administrator in the county where the person was made subject to examination and treatment and such other county in the Commonwealth, if any, in which the person usually resides.

Section 111. Confidentiality of Records.—All documents concerning persons in treatment shall be kept confidential and, without the person's written consent, may not be released or their contents disclosed to anyone except:

(1) those engaged in providing treatment for the person;

(2) the county administrator, pursuant to section 110;

(3) a court in the course of legal proceedings authorized by this act; and

(4) pursuant to Federal rules, statutes and regulations governing disclosure of patient information where treatment is undertaken in a Federal agency.

In no event, however, shall privileged communications, whether written or oral, be disclosed to anyone without such written consent. This shall not restrict the collection and analysis of clinical or statistical data by the department, the county administrator or the facility so long as the use and dissemination of such data does not identify individual patients. Nothing herein shall be construed to conflict with section 8 of the act of April 14, 1972 (P.L. 221, No. 63), known as the "Pennsylvania Drug and Alcohol Abuse Control Act."

Section 112. Rules, Regulations and Forms.—The department shall adopt such rules, regulations and forms as may be required to effectuate the provisions of this act. Rules and regulations adopted under the provisions of this act shall be adopted according to provisions of section 201 of the act of October 20, 1966 (3rd Sp. Sess., P.L. 96, No. 6), known as the "Mental Health and Mental Retardation Act of 1966," and the act of July 31, 1968 (P.L. 769, No. 240), known as the "Commonwealth Documents Law."

Section 113. Rights and Remedies of Persons in Treatment.—Every person who is in treatment shall be entitled to all other rights now or hereafter provided under the laws of this Commonwealth, in addition

to any rights provided for in this act. Actions requesting damages, declaratory judgment, injunction, mandamus, writs of prohibition, habeas corpus, including challenges to the legality of detention or degree of restraint, and any other remedies or relief granted by law may be maintained in order to protect and effectuate the rights granted under this act.

Section 114. Immunity from Civil and Criminal Liability.—(a) In the absence of willful misconduct or gross negligence, a county administrator, a director of a facility, a physician or any other authorized person who participates in a decision that a person be examined or treated under this act, or that a person be discharged, or placed under partial hospitalization, outpatient care or leave of absence, or that the restraint upon such person be otherwise reduced, or a county administrator or other authorized person who denies an application for involuntary emergency examination and treatment, shall not be civilly or criminally liable for such decision or for any of its consequences.

(b) A judge or a mental health review officer shall not be civilly or criminally liable for any actions taken or decisions made by him pursuant to the authority conferred by this act.

Section 115. Venue and Location of Legal Proceedings.—(a) The jurisdiction of the courts of common pleas and juvenile courts conferred by Articles II and III shall be exercised initially by the court for the county in which the subject of the proceedings is or resides. Whenever involuntary treatment is ordered, jurisdiction over any subsequent proceeding shall be retained by the court in which the initial proceedings took place, but may be transferred to the county of the person's usual residence. In all cases, a judge of the court of common pleas or a mental health review officer of the county of venue may conduct legal proceedings at a facility where the person is in treatment whether or not its location is within the county.

(b) Venue for actions instituted to effectuate rights under this act shall be as now or hereafter provided by law.

ARTICLE II

Voluntary Examination and Treatment

Section 201. Persons Who may Authorize Voluntary Treatment.—Any person 14 years of age or over who believes that he is in need of treatment and substantially understands the nature of voluntary commitment may submit himself to examination and treatment under this act, provided that the decision to do so is made voluntarily. A parent, guardian, or person standing in loco parentis to a child less than 14 years of age may subject such child to examination and treatment under this act, and in so doing shall be deemed to be acting for the child. Except as otherwise authorized in this act, all of the provisions of this act governing examination and treatment shall apply.

Section 202. To Whom Application May be Made.—Application for voluntary examination and treatment shall be made to an approved facility or to the county administrator, Veterans Administration or other

agency of the United States operating a facility for the care and treatment of mental illness. When application is made to the county administrator, he shall designate the approved facility for examination and for such treatment as may be appropriate.

Section 203. Explanation and Consent.—Before a person is accepted for voluntary inpatient treatment, an explanation shall be made to him of such treatment, including the types of treatment in which he may be involved, and any restraints or restrictions to which he may be subject, together with a statement of his rights under this act. Consent shall be given in writing upon a form adopted by the department. The consent shall include the following representations: That the person understands his treatment will involve inpatient status; that he is willing to be admitted to a designated facility for the purpose of such examination and treatment; and that he consents to such admission voluntarily, without coercion or duress; and, if applicable, that he has voluntarily agreed to remain in treatment for a specified period of no longer than 72 hours after having given written notice of his intent to withdraw from treatment. The consent shall be part of the person's record.

Section 204. Notice to Parents.—Upon the acceptance of an application for examination and treatment by a minor 14 years or over but less than 18 years of age, the director of the facility shall promptly notify the minor's parents, guardian, or person standing in loco parentis, and shall inform them of the right to be heard upon the filing of an objection. Whenever such objection is filed, a hearing shall be held within 72 hours by a judge or mental health review officer, who shall determine whether or not the voluntary treatment is in the best interest of the minor.

Section 205. Physical Examination and Formulation of Individualized Treatment Plan.—Upon acceptance of a person for voluntary examination and treatment he shall be given a physical examination. Within 72 hours after acceptance of a person an individualized treatment plan shall be formulated by a treatment team. The person shall be advised of the treatment plan, which shall become a part of his record. The treatment plan shall state whether inpatient treatment is considered necessary, and what restraints or restrictions, if any, will be administered, and shall set forth the bases for such conclusions.

Section 206. Withdrawal from Voluntary Inpatient Treatment.—(a) A person in voluntary inpatient treatment may withdraw at any time by giving written notice unless, as stated in section 203, he has agreed in writing at the time of his admission that his release can be delayed following such notice for a period to be specified in the agreement, provided that such period shall not exceed 72 hours.

(b) If the person is under the age of 14, his parent, legal guardian, or person standing in loco parentis may effect his release. If any responsible party believes that it would be in the best interest of a person under 14 years of age in voluntary treatment to be withdrawn therefrom or afforded treatment constituting a less restrictive alternative, such party may file a petition in the Juvenile Division of the court of common pleas for the county in which the person under 14 years of age resides, requesting a withdrawal from or modification of treatment. The court

shall promptly appoint an attorney for such minor person and schedule a hearing to determine what inpatient treatment, if any, is in the minor's best interest. The hearing shall be held within ten days of receipt of the petition, unless continued upon the request of the attorney for such minor. The hearing shall be conducted in accordance with the rules governing other Juvenile Court proceedings.

(c) Nothing in this act shall be construed to require a facility to continue inpatient treatment where the director of the facility determines such treatment is not medically indicated. Any dispute between a facility and a county administrator as to the medical necessity for voluntary inpatient treatment of a person shall be decided by the Commissioner of Mental Health or his designate.

Section 207. Transfer of Person in Voluntary Treatment.—A person who is in voluntary treatment may not be transferred from one facility to another without his written consent.

ARTICLE III

Involuntary Examination and Treatment

Section 301. Persons Who May be Subject to Involuntary Emergency Examination and Treatment.—(a) Persons Subject.—Whenever a person is severely mentally disabled and in need of immediate treatment, he may be made subject to involuntary emergency examination and treatment. A person is severely mentally disabled when, as a result of mental illness, his capacity to exercise self-control, judgment and discretion in the conduct of his affairs and social relations or to care for his own personal needs is so lessened that he poses a clear and present danger of harm to others or to himself.

(b) Determination of Clear and Present Danger.—(1) Clear and present danger to others shall be shown by establishing that within the past 30 days the person has inflicted or attempted to inflict serious bodily harm on another and that there is a reasonable probability that such conduct will be repeated. If, however, the person has been found incompetent to be tried or has been acquitted by reason of lack of criminal responsibility on charges arising from conduct involving infliction of or attempt to inflict substantial bodily harm on another, such 30-day limitation shall not apply so long as an application for examination and treatment is filed within 30 days after the date of such determination or verdict. In such case, a clear and present danger to others may be shown by establishing that the conduct charged in the criminal proceeding did occur, and that there is a reasonable probability that such conduct will be repeated.

(2) Clear and present danger to himself shall be shown by establishing that within the past 30 days:

(i) the person has acted in such manner as to evidence that he would be unable, without care, supervision and the continued assistance of others, to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety, and that there is a reasonable probability that death, serious bodily injury or serious physical debilitation

would ensue within 30 days unless adequate treatment were afforded under this act; or

(ii) the person has attempted suicide and that there is the reasonable probability of suicide unless adequate treatment is afforded under this act; or

(iii) the person has severely mutilated himself or attempted to mutilate himself severely and that there is the reasonable probability of mutilation unless adequate treatment is afforded under this act.

Section 302. Involuntary Emergency Examination and Treatment Authorized by a Physician—Not to Exceed Seventy-two Hours.—(a) Application for Examination.—Emergency examination may be undertaken at a treatment facility upon the certification of a physician stating the need for such examination; or upon a warrant issued by the county administrator authorizing such examination; or without a warrant upon application by a physician or other authorized person who has personally observed conduct showing the need for such examination.

(1) Warrant for Emergency Examination.—Upon written application by a physician or other responsible party setting forth facts constituting reasonable grounds to believe a person is severely mentally disabled and in need of immediate treatment, the county administrator may issue a warrant requiring a person authorized by him, or any peace officer, to take such person to the facility specified in the warrant.

(2) Emergency Examination Without a Warrant.—Upon personal observation of the conduct of a person constituting reasonable grounds to believe that he is severely mentally disabled and in need of immediate treatment, any physician or peace officer, or anyone authorized by the county administrator may take such person to an approved facility for an emergency examination. Upon arrival, he shall make a written statement setting forth the grounds for believing the person to be in need of such examination.

(b) Examination and Determination of Need for Emergency Treatment.—A person taken to a facility shall be examined by a physician within two hours of arrival in order to determine if the person is severely mentally disabled within the meaning of section 301 and in need of immediate treatment. If it is determined that the person is severely mentally disabled and in need of emergency treatment, treatment shall be begun immediately. If the physician does not so find, or if at any time it appears there is no longer a need for immediate treatment, the person shall be discharged and returned to such place as he may reasonably direct. The physician shall make a record of the examination and his findings. In no event shall a person be accepted for involuntary emergency treatment if a previous application was granted for such treatment and the new application is not based on behavior occurring after the earlier application.

(c) Notification of Rights at Emergency Examination.—Upon arrival at the facility, the person shall be informed of the reasons for emergency examination and of his right to communicate immediately with others. He shall be given reasonable use of the telephone. He shall be requested to furnish the names of parties whom he may want notified of his custody and kept informed of his status. The county administrator or the director

of the facility shall:

(1) give notice to such parties of the whereabouts and status of the person, how and when he may be contacted and visited, and how they may obtain information concerning him while he is in inpatient treatment; and

(2) take reasonable steps to assure that while the person is detained, the health and safety needs of any of his dependents are met, and that his personal property and the premises he occupies are secure.

(d) Duration of Emergency Examination and Treatment.—A person who is in treatment pursuant to this section shall be discharged whenever it is determined that he no longer is in need of treatment and in any event within 72 hours, unless within such period:

(1) he is admitted to voluntary treatment pursuant to section 202 of this act; or

(2) a certification for extended involuntary emergency treatment is filed pursuant to section 303 of this act.

Section 303. Extended Involuntary Emergency Treatment Certified by a Judge or Mental Health Review Officer—Not to Exceed Twenty Days.—(a) Persons Subject to Extended Involuntary Emergency Treatment.—Application for extended involuntary emergency treatment may be made for any person who is being treated pursuant to section 302 whenever the facility determines that the need for emergency treatment is likely to extend beyond 72 hours. The application shall be filed forthwith in the court of common pleas, and shall state the grounds on which extended emergency treatment is believed to be necessary. The application shall state the name of any examining physician and the substance of his opinion regarding the mental condition of the person.

(b) Appointment of Counsel and Scheduling of Informal Hearing.—Upon receiving such application, the court of common pleas shall appoint an attorney who shall represent the person unless it shall appear that the person can afford, and desires to have, private representation. Within 24 hours after the application is filed, an informal hearing shall be conducted by a judge or by a mental health review officer and, if practicable, shall be held at the facility.

(c) Informal Hearing on Extended Emergency Treatment Application.—(1) At the commencement of the informal hearing, the judge or the mental health review officer shall inform the person of the nature of the proceedings. Information relevant to whether the person is severely mentally disabled and in need of treatment shall be reviewed, including the reasons that continued involuntary treatment is considered necessary. Such explanation shall be made by a physician who examined the person and shall be in terms understandable to a layman. The person or his representative shall have the right to ask questions of the physician and of any other witnesses and to present any relevant information. At the conclusion of the review, if the judge or the review officer finds that the person is severely mentally disabled and in need of continued involuntary treatment, he shall so certify. Otherwise, he shall direct that the facility director or his designee discharge the person.

(2) A stenographic or other sufficient record of the proceedings shall

be made. Such record shall be kept by the court or mental health review officer for at least one year.

(d) Contents of Certification.—A certification for extended involuntary treatment shall be made in writing upon a form adopted by the department and shall include:

(1) findings by the judge or mental health review officer as to the reasons that extended involuntary emergency treatment is necessary;

(2) a description of the treatment to be provided together with an explanation of the adequacy and appropriateness of such treatment, based upon the information received at the hearing;

(3) any documents required by the provisions of section 302;

(4) the application as filed pursuant to section 303(a);

(5) a statement that the person is represented by counsel; and

(6) an explanation of the effect of the certification, the person's right to petition the court for release under subsection (g), and the continuing right to be represented by counsel.

(e) Filing and Service.—The certification shall be filed with the director of the facility and a copy served on the person, such other parties as the person requested to be notified pursuant to section 302(c), and on counsel.

(f) Effect of Certification.—Upon the filing and service of a certification for extended involuntary emergency treatment, the person may be given treatment in an approved facility for a period not to exceed 20 days.

(g) Petition to Common Pleas Court.—In all cases in which the hearing was conducted by a mental health review officer, a person made subject to treatment pursuant to this section shall have the right to petition the court of common pleas for review of the certification. A hearing shall be held within 72 hours after the petition is filed unless a continuance is requested by the person's counsel. The hearing shall include a review of the certification and such evidence as the court may receive or require. If the court determines that further involuntary treatment is necessary and that the procedures prescribed by this act have been followed, it shall deny the petition. Otherwise, the person shall be discharged.

(h) Duration of Extended Involuntary Emergency Treatment.—Whenever a person is no longer severely mentally disabled or in need of immediate treatment and, in any event, within 20 days after the filing of the certification, he shall be discharged, unless within such period:

(1) he is admitted to voluntary treatment pursuant to section 202; or

(2) the court orders involuntary treatment pursuant to section 304.

Section 304. Court-ordered Involuntary Treatment Not to Exceed Ninety Days.—(a) Persons for Whom Application May be Made.—(1) A person who is severely mentally disabled and in need of treatment, as defined in section 301(a), may be made subject to court-ordered involuntary treatment upon a determination of clear and present danger under section 301(b)(1) (serious bodily harm to others), or section

301(b)(2)(i) (inability to care for himself, creating a danger of death or serious harm to himself), or 301(b)(2)(ii) (attempted suicide), or 301(b)(2)(iii) (self-mutilation).

(2) Where a petition is filed for a person already subject to involuntary treatment, it shall be sufficient to represent, and upon hearing to reestablish, that the conduct originally required by section 301 in fact occurred, and that his condition continues to evidence a clear and present danger to himself or others. In such event, it shall not be necessary to show the reoccurrence of dangerous conduct, either harmful or debilitating, within the past 30 days.

(b) Procedures for Initiating Court-ordered Involuntary Treatment for Persons Already Subject to Involuntary Treatment.—(1) Petition for court-ordered involuntary treatment for persons already subject to treatment under sections 303 and 305 may be made by the county administrator to the court of common pleas.

(2) The petition shall be in writing upon a form adopted by the department and shall include a statement of the facts constituting reasonable grounds to believe that the person is severely mentally disabled and in need of treatment. The petition shall state the name of any examining physician and the substance of his opinion regarding the mental condition of the person. It shall also state that the person has been given the information required by subsection (b)(3) and shall include copies of all documents relating to examination and treatment of the person which are required under this act.

(3) Upon the filing of the petition the county administrator shall serve a copy on the person, his attorney, and those designated to be kept informed, as provided in section 302(c), including an explanation of the nature of the proceedings, the person's right to an attorney and the services of an expert in the field of mental health, as provided by subsection (d).

(4) A hearing on the petition shall be held in all cases, not more than five days after the filing of the petition.

(5) Treatment shall be permitted to be maintained pending the determination of the petition.

(c) Procedures for Initiating Court-ordered Involuntary Treatment for Persons not in Involuntary Treatment.—(1) Any responsible party may file a petition in the court of common pleas requesting court-ordered involuntary treatment for any person not already in involuntary treatment for whom application could be made under subsection (a).

(2) The petition shall be in writing upon a form adopted by the department and shall set forth facts constituting reasonable grounds to believe that the person is within the criteria for court-ordered treatment set forth in subsection (a). The petition shall state the name of any examining physician and the substance of his opinion regarding the mental condition of the person.

(3) Upon a determination that the petition sets forth such reasonable cause, the court shall appoint an attorney to represent the person and set a date for the hearing as soon as practicable. The attorney shall represent the person unless it shall appear that he can afford, and desires to

have, private representation.

(4) The court, by summons, shall direct the person to appear for a hearing. The court may issue a warrant directing a person authorized by the county administrator or a peace officer to bring such person before the court at the time of the hearing if there are reasonable grounds to believe that the person will not appear voluntarily. A copy of the petition shall be served on such person at least three days before the hearing together with a notice advising him that an attorney has been appointed who shall represent him unless he obtains an attorney himself, that he has a right to be assisted in the proceedings by an expert in the field of mental health, and that he may request or be made subject to psychiatric examination under subsection (c) (5).

(5) Upon motion of either the petitioner or the person, or upon its own motion, the court may order the person to be examined by a psychiatrist appointed by the court. Such examination shall be conducted on an outpatient basis, and the person shall have the right to have counsel present. A report of the examination shall be given to the court and counsel at least 48 hours prior to the hearing.

(6) Involuntary treatment shall not be authorized during the pendency of a petition except in accordance with section 302 or section 303.

(d) Professional Assistance.—A person with respect to whom a hearing has been ordered under this section shall have and be informed of a right to employ a physician, clinical psychologist or other expert in mental health of his choice to assist him in connection with the hearing and to testify on his behalf. If the person cannot afford to engage such a professional, the court shall, on application, allow a reasonable fee for such purpose. The fee shall be a charge against the mental health and mental retardation program of the locality.

(e) Hearings on Petition for Court-ordered Involuntary Treatment.—A hearing on a petition for court-ordered involuntary treatment shall be conducted according to the following:

(1) The person shall have the right to counsel and to the assistance of an expert in mental health.

(2) The person shall not be called as a witness without his consent.

(3) The person shall have the right to confront and cross-examine all witnesses and to present evidence in his own behalf.

(4) The hearing shall be public unless it is requested to be private by the person or his counsel.

(5) A stenographic or other sufficient record shall be made, which shall be impounded by the court and may be obtained or examined only upon the request of the person or his counsel or by order of the court on good cause shown.

(6) The hearing shall be conducted by a judge or by a mental health review officer and may be held at a location other than a courthouse when doing so appears to be in the best interest of the person.

(7) A decision shall be rendered within 48 hours after the close

of evidence.

(f) Determination and Order.—Upon a finding by clear and convincing evidence that the person is severely mentally disabled and in need of treatment and subject to subsection (a), an order shall be entered directing treatment of the person in an approved facility as an inpatient or an outpatient. Inpatient treatment shall be deemed appropriate only after full consideration has been given to less restrictive alternatives. Investigation of treatment alternatives shall include consideration of the person's relationship to his community and family, his employment possibilities, all available community resources, and guardianship services. An order for inpatient treatment shall include findings on this issue.

(g) Duration of Court-ordered Involuntary Treatment.—(1) A person may be made subject to court-ordered involuntary treatment under this section for a period not to exceed 90 days, excepting only that: Persons may be made subject to court-ordered involuntary treatment under this section for a period not to exceed one year if:

(i) severe mental disability is based on acts giving rise to the following charges under the Pennsylvania Crimes Code: murder (§2502); voluntary manslaughter (§2503); aggravated assault (§2702); kidnapping (2901); rape (§3121(1) and (2)); involuntary deviate sexual intercourse (§3123(1) and (2)); and

(ii) a finding of incompetency to be tried or a verdict of acquittal because of lack of criminal responsibility has been entered.

(2) If at any time the director of a facility concludes that the person is not severely mentally disabled or in need of treatment pursuant to subsection (a), he shall discharge the person.

Section 305. Additional Periods of Court-ordered Involuntary Treatment.—At the expiration of a period of court-ordered involuntary treatment under section 304(g), the court may order treatment for an additional period upon the application of the county administrator or the director of the facility in which the person is receiving treatment. Such order shall be entered upon hearing on findings as required by sections 304(a) and (b), and the further finding of a need for continuing involuntary treatment as shown by conduct during the person's most recent period of court-ordered treatment. A person found dangerous to himself under section 301(b)(2)(i), (ii) or (iii) shall be subject to an additional period of involuntary full-time inpatient treatment only if he has first been released to a less restrictive alternative. This limitation shall not apply where, upon application made by the county administrator or facility director, it is determined by a judge or mental health review officer that such release would not be in the person's best interest.

Section 306. Transfer of Persons in Involuntary Treatment.—Person in involuntary treatment pursuant to this act may be transferred to any approved facility. Whenever such transfer will constitute a greater restraint, it shall not take place unless, upon hearing, a judge or mental health review officer finds it to be necessary and appropriate.

ARTICLE IV

Determinations Affecting Those Charged With Crime, or Under Sentence

Section 401. Examination and Treatment of a Person Charged with Crime or Serving Sentence.—(a) Examination and Treatment to be Pursuant to Civil Provisions.—Whenever a person who is charged with crime, or who is undergoing sentence, is or becomes severely mentally disabled, proceedings may be instituted for examination and treatment under the civil provisions of this act in the same manner as if he were not so charged or sentenced. Proceedings under this section shall not be initiated for examination and treatment at Veterans Administration facilities if such examination and treatment requires preparation of competency reports and/or the facility is required to maintain custody and control over the person. Such proceedings, however, shall not affect the conditions of security required by his criminal detention or incarceration.

(b) Status in Involuntary Treatment.—Whenever a person who is detained on criminal charges or is incarcerated is made subject to inpatient examination or treatment, he shall be transferred, for this purpose, to a mental health facility. Transfer may be made to a Veterans Administration facility provided that neither custody nor control are required in addition to examination and treatment. Such individuals transferred to the Veterans Administration are not subject to return by the Federal agency to the authority entitled to have them in custody. During such period, provisions for his security shall continue to be enforced, unless in the interim a pretrial release is effected, or the term of imprisonment expires or is terminated, or it is otherwise ordered by the court having jurisdiction over his criminal status. Upon discharge from treatment, a person who is or remains subject to a detainer or sentence shall be returned to the authority entitled to have him in custody. The period of involuntary treatment shall be credited as time served on account of any sentence to be imposed on pending charges or any unexpired term of imprisonment.

(c) Persons Subject to the Juvenile Act.—As to any person who is subject to a petition or who has been committed under the Juvenile Act, the civil provisions of this act applicable to children of his age shall apply to all proceedings for his examination and treatment. If such a person is in detention or is committed, the court having jurisdiction under the Juvenile Act shall determine whether such security conditions shall continue to be enforced during any period of involuntary treatment and to whom the person should be released thereafter.

Section 402. Incompetence to Proceed on Criminal Charges and Lack of Criminal Responsibility as Defense.—(a) Definition of Incompetency.—Whenever a person who has been charged with a crime is found to be substantially unable to understand the nature or object of the proceedings against him or to participate and assist in his defense, he shall be deemed incompetent to be tried, convicted or sentenced so long as such incapacity continues.

(b) Involuntary Treatment of Persons Found Incompetent to Stand Trial Who are Not Mentally Disabled.—Notwithstanding the provisions of Article III of this act, a court may order involuntary treatment of a

of evidence.

(f) Determination and Order.—Upon a finding by clear and convincing evidence that the person is severely mentally disabled and in need of treatment and subject to subsection (a), an order shall be entered directing treatment of the person in an approved facility as an inpatient or an outpatient. Inpatient treatment shall be deemed appropriate only after full consideration has been given to less restrictive alternatives. Investigation of treatment alternatives shall include consideration of the person's relationship to his community and family, his employment possibilities, all available community resources, and guardianship services. An order for inpatient treatment shall include findings on this issue.

(g) Duration of Court-ordered Involuntary Treatment.—(1) A person may be made subject to court-ordered involuntary treatment under this section for a period not to exceed 90 days, excepting only that: Persons may be made subject to court-ordered involuntary treatment under this section for a period not to exceed one year if:

(i) severe mental disability is based on acts giving rise to the following charges under the Pennsylvania Crimes Code: murder (§2502); voluntary manslaughter (§2503); aggravated assault (§2702); kidnapping (2901); rape (§3121(1) and (2)); involuntary deviate sexual intercourse (§3123(1) and (2)); and

(ii) a finding of incompetency to be tried or a verdict of acquittal because of lack of criminal responsibility has been entered.

(2) If at any time the director of a facility concludes that the person is not severely mentally disabled or in need of treatment pursuant to subsection (a), he shall discharge the person.

Section 305. Additional Periods of Court-ordered Involuntary Treatment.—At the expiration of a period of court-ordered involuntary treatment under section 304(g), the court may order treatment for an additional period upon the application of the county administrator or the director of the facility in which the person is receiving treatment. Such order shall be entered upon hearing on findings as required by sections 304(a) and (b), and the further finding of a need for continuing involuntary treatment as shown by conduct during the person's most recent period of court-ordered treatment. A person found dangerous to himself under section 301(b)(2)(i), (ii) or (iii) shall be subject to an additional period of involuntary full-time inpatient treatment only if he has first been released to a less restrictive alternative. This limitation shall not apply where, upon application made by the county administrator or facility director, it is determined by a judge or mental health review officer that such release would not be in the person's best interest.

Section 306. Transfer of Persons in Involuntary Treatment.—Person in involuntary treatment pursuant to this act may be transferred to any approved facility. Whenever such transfer will constitute a greater restraint, it shall not take place unless, upon hearing, a judge or mental health review officer finds it to be necessary and appropriate.

ARTICLE IV

Determinations Affecting Those Charged With Crime, or Under Sentence

Section 401. Examination and Treatment of a Person Charged with Crime or Serving Sentence.—(a) Examination and Treatment to be Pursuant to Civil Provisions.—Whenever a person who is charged with crime, or who is undergoing sentence, is or becomes severely mentally disabled, proceedings may be instituted for examination and treatment under the civil provisions of this act in the same manner as if he were not so charged or sentenced. Proceedings under this section shall not be initiated for examination and treatment at Veterans Administration facilities if such examination and treatment requires preparation of competency reports and/or the facility is required to maintain custody and control over the person. Such proceedings, however, shall not affect the conditions of security required by his criminal detention or incarceration.

(b) Status in Involuntary Treatment.—Whenever a person who is detained on criminal charges or is incarcerated is made subject to inpatient examination or treatment, he shall be transferred, for this purpose, to a mental health facility. Transfer may be made to a Veterans Administration facility provided that neither custody nor control are required in addition to examination and treatment. Such individuals transferred to the Veterans Administration are not subject to return by the Federal agency to the authority entitled to have them in custody. During such period, provisions for his security shall continue to be enforced, unless in the interim a pretrial release is effected, or the term of imprisonment expires or is terminated, or it is otherwise ordered by the court having jurisdiction over his criminal status. Upon discharge from treatment, a person who is or remains subject to a detainer or sentence shall be returned to the authority entitled to have him in custody. The period of involuntary treatment shall be credited as time served on account of any sentence to be imposed on pending charges or any unexpired term of imprisonment.

(c) Persons Subject to the Juvenile Act.—As to any person who is subject to a petition or who has been committed under the Juvenile Act, the civil provisions of this act applicable to children of his age shall apply to all proceedings for his examination and treatment. If such a person is in detention or is committed, the court having jurisdiction under the Juvenile Act shall determine whether such security conditions shall continue to be enforced during any period of involuntary treatment and to whom the person should be released thereafter.

Section 402. Incompetence to Proceed on Criminal Charges and Lack of Criminal Responsibility as Defense.—(a) Definition of Incompetency.—Whenever a person who has been charged with a crime is found to be substantially unable to understand the nature or object of the proceedings against him or to participate and assist in his defense, he shall be deemed incompetent to be tried, convicted or sentenced so long as such incapacity continues.

(b) Involuntary Treatment of Persons Found Incompetent to Stand Trial Who are Not Mentally Disabled.—Notwithstanding the provisions of Article III of this act, a court may order involuntary treatment of a

person found incompetent to stand trial but who is not severely mentally disabled, such involuntary treatment not to exceed a specific period of 30 days. Involuntary treatment pursuant to this subsection may be ordered only if the court is reasonably certain that the involuntary treatment will provide the defendant with the capacity to stand trial. The court may order outpatient treatment, partial hospitalization or inpatient treatment.

(c) Application for Incompetency Examination.—Application to the court for an order directing an incompetency examination may be presented by an attorney for the Commonwealth, a person charged with a crime, his counsel, or the warden or other official in charge of the institution or place in which he is detained. A person charged with crime shall be represented either by counsel of his selection or by court-appointed counsel.

(d) Hearing; When Required.—The court, either on application or on its own motion, may order an incompetency examination at any stage in the proceedings and may do so without a hearing unless the examination is objected to by the person charged with a crime or by his counsel. In such event, an examination shall be ordered only after determination upon a hearing that there is a prima facie question of incompetency.

(e) Conduct of Examination; Report.—When ordered by the court, an incompetency examination shall take place under the following conditions:

(1) It shall be conducted as an outpatient examination unless an inpatient examination is, or has been, authorized under another provision of this act.

(2) It shall be conducted by at least one psychiatrist and may relate both to competency to proceed and to criminal responsibility for the crime charged.

(3 The person shall be entitled to have counsel present with him and shall not be required to answer any questions or to perform tests unless he has moved for or agreed to the examination. Nothing said or done by such person during the examination may be used as evidence against him in any criminal proceedings on any issue other than that of his mental condition.

(4) A report shall be submitted to the court and to counsel and shall contain a description of the examination, which shall include:

(i) diagnosis of the person's mental condition;

(ii) an opinion as to his capacity to understand the nature and object of the criminal proceedings against him and to assist in his defense;

(iii) when so requested, an opinion as to his mental condition in relation to the standards for criminal responsibility as then provided by law if it appears that the facts concerning his mental condition may also be relevant to the question of legal responsibility; and

(iv) when so requested, an opinion as to whether he had the capacity to have a particular state of mind, where such state of mind is a required element of the criminal charge.

(f) Experts.—The court may allow a psychiatrist retained by the defendant or the prosecution to witness and participate in the examina-

tion. Whenever a defendant who is financially unable to retain such expert has a substantial objection to the conclusions reached by the court-appointed psychiatrist, the court shall allow reasonable compensation for the employment of a psychiatrist of his selection, which amount shall be chargeable against the mental health and mental retardation program of the locality.

(g) Time Limit on Determination.—The determination of the competency of a person who is detained under a criminal charge shall be rendered by the court within 20 days after the receipt of the report of examination unless the hearing was continued at the person's request.

Section 403. Hearing and Determination of Incompetency to Proceed; Stay of Proceedings; Dismissal of Charges.—(a) Competency Determination and Burden of Proof.—The moving party shall have the burden of establishing incompetency to proceed by clear and convincing evidence. The determination shall be made by the court.

(b) Effect as Stay—Exception.—A determination of incompetency to proceed shall effect a stay of the prosecution for so long as such incapacity persists, excepting that any legal objections suitable for determination prior to trial and without the personal participation of the person charged may be raised and decided in the interim.

(c) Defendant's Right to Counsel; Reexamination.—A person who is determined to be incompetent to proceed shall have a continuing right to counsel so long as the criminal charges are pending. Following such determination, the person charged shall be reexamined not less than every 60 days by a psychiatrist appointed by the court and a report of reexamination shall be submitted to the court and to counsel.

(d) Effect on Criminal Detention.—Whenever a person who has been charged with a crime has been determined to be incompetent to proceed, he shall not for that reason alone be denied pretrial release. Nor shall he in any event be detained on the criminal charge longer than the reasonable period of time necessary to determine whether there is a substantial probability that he will attain that capacity in the foreseeable future. If the court determines there is no such probability, it shall discharge the person. Otherwise, he may continue to be criminally detained so long as such probability exists but in no event longer than the period of time specified in subsection (f).

(e) Resumption of Proceedings or Dismissal.—When the court, on its own motion or upon the application of the attorney for the Commonwealth or counsel for the defendant, determines that such person has regained his competence to proceed, the proceedings shall be resumed. If the court is of the opinion that by reason of the passage of time and its effect upon the criminal proceedings it would be unjust to resume the prosecution, the court may dismiss the charge and order the person discharged.

(f) Stay of Proceedings.—In no instance shall the proceedings be stayed for a period in excess of the maximum sentence that may be imposed for the crime or crimes charged, or five years, whichever is less.

Section 404. Hearing and Determination of Criminal Responsibility; Bifurcated Trial.—(a) Criminal Responsibility Determination by Court.—

At a hearing under section 403 of this act the court may, in its discretion, also hear evidence on whether the person was criminally responsible for the commission of the crime charged. It shall do so in accordance with the rules governing the consideration and determination of the same issue at criminal trial. If the person is found to have lacked crimiinal responsibility, an acquittal shall be entered. If the person is not so acquitted, he may raise the defense at such time as he may be tried.

(b) Opinion Evidence on Mental Condition.—At a hearing under section 403 or upon trial, a psychiatrist appointed by the court may be called as a witness by the attorney for the Commonwealth or by the defendant and each party may also summon any other psychiatrist or other expert to testify.

(c) Bifurcation of Issues or Trial.—Upon trial, the court, in the interest of justice, may direct that the issue of criminal responsibility be heard and determined separately from the other issues in the case and, in a trial by jury, that the issue of criminal responsibility be submitted to a separate jury. Upon a request for bifurcation, the court shall consider the substantiality of the defense of lack of responsibility and its effect upon other defenses, and the probability of a fair trial.

Section 405. Examination of Person Charged with Crime as Aid in Sentencing.—Examination Before Imposition of Sentence. Whenever a person who has been criminally charged is to be sentenced, the court may defer sentence and order him to be examined for mental illness to aid it in the determination of disposition. This action may be taken on the court's initiative or on the application of the attorney for the Commonwealth, the person charged, his counsel, or any other person acting in his interest. If at the time of sentencing the person is not in detention, examination shall be on an outpatient basis unless inpatient examination for this purpose is ordered pursuant to the civil commitment provisions of Article III.

Section 406. Civil Procedure for Court-ordered Involuntary Treatment Following a Determination of Incompetency, or Acquittal by Reason of Lack of Criminal Responsibility or in Conjunction with Sentencing.—Upon a finding of incompetency to stand trial under section 403, after an acquittal by reason of lack of responsibility under section 404, or following an examination in aid of sentencing under section 405, the attorney for the Commonwealth, on his own or acting at the direction of the court, the defendant, his counsel, the county administrator, or any other interested party may petition the sme court for an order directing involuntary treatment under section 304.

ARTICLE V

Effective Date, Applicability, Repeals and Severability

Section 501. Effective Date and Applicability.—This act shall take effect 60 days after its enactment and shall thereupon apply immediately to all persons receiving voluntary treatment. As to all persons who were made subject to involuntary treatment prior to the effective date, it shall become applicable 180 days thereafter.

Section 502. Repeals.—(a) The definition of "mental disability" in section 102, and sections 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 416, 418, 419, 420 and 426, act of October 20, 1966 (3rd Sp. Sess., P.L. 96, No. 6), known as the "Mental Health and Mental Retardation Act of 1966," are hereby repealed, except in so far as they relate to mental retardation or to persons who are mentally retarded.

Section 29 of the act of December 6, 1972 (P.L. 1464, No. 333), known as the "Juvenile Act," except so far as it relates to mental retardation or to persons who are mentally retarded, is hereby repealed.

(b) All acts and parts of acts are repealed in so far as they are inconsistent herewith.

Section 503. Severability.—If any provision of this act including, but not limited to, any provision relating to children or the appilcation thereof including but not limited to an application thereof to a child is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application and to this end the provisions of this act are declared severable.

No. 63

AN ACT

Establishing the Governor's Council On Drug and Alcohol Abuse; imposing duties on the council to develop and coordinate the implementation of a comprehensive health, education and rehabilitation program for the prevention and treatment of drug and alcohol abuse and rug and alcohol dependence; providing for emergency medical treatment; providing for treatment and rehabilitation alternatives to the criminal process for drug and alcohol dependence; and making repeals.

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

Section 1. Short Title.—This act shall be known and may be cited as the "Pennsylvania Drug and Alcohol Abuse Control Act."

Section 2. Definitions:

(a) The definitions contained and used in the Controlled Substance, Drug, Device and Cosmetic Act shall also apply for the purposes of this act.

(b) As used in this act:

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of the Controlled Substance, Drug, Device and Cosmetic Act.

"Council" means the Governor's Council On Drug and Alcohol Abuse established by this act.

"Court" means all courts of the Commonwealth of Pennsylvania, including magistrates and justices of the peace.

"Director" means the Executive Director of the Governor's Council On Drug and Alcohol Abuse.

"Drug" means (i) substances recognized in the official United States Pharmacopeia, or official National Formulary, or any supplement to either of them; and (ii) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and (iii) substances (other than food) intended to affect the structure or any function of the body of man or other animals; and (iv) substances intended for use as a component of any article specified in clause (i), (ii) or (iii), but not including devices or their components, parts or accessories.

"Drug abuser" means any person who uses any controlled substance under circumstances that constitute a violation of the law.

"Drug dependent person" means a person who is using a drug, controlled substance or alcohol, and who is in a state of psychic or physical dependence, or both, arising from administration of that drug, controlled substance or alcohol on a continuing basis. Such dependence is characterized by behavioral and other responses which include a strong compulsion to take the drug, controlled substance or alcohol on a continuous basis in order to experience its psychic effects, or to avoid the discomfort

of its absence. This definition shall include those persons commonly known as "drug addicts."

"Emergency medical services" includes all appropriate short term services for the acute effects of abuse and dependence which: (i) are available twenty-four hours a day; (ii) are community based and located so as to be quickly and easily accessible to patients; (iii) are affiliated with and constitute an integral (but not necessarily physical) part of the general medical services of a general hospital; and (iv) provide drug and alcohol withdrawal and other appropriate medical care and treatment, medical examination, diagnosis, and classification with respect to possible dependence, and referral for other treatment and rehabilitation.

"Government attorney" means an attorney authorized to represent the Commonwealth or any political subdivision in any judicial proceeding within the scope of this act.

"Inpatient services" includes all treatment and rehabilitation services for drug and alcohol abuse and dependence provided for a resident patient while he spends full time in a treatment institution including but not limited to a hospital, rehabilitative center, residential facility, hostel or foster home.

"Outpatient services" means all treatment and rehabilitation services, including but not limited to medical, psychological, vocational and social rehabilitational services, for drug and alcohol abuse and dependence provided while the patient is not a resident of a treatment institution.

"Prevention and treatment" means all appropriate forms of educational programs and services (including but not limited to radio, television, films, books, pamphlets, lectures, adult education and school courses); planning, coordinating, statistical, research, training, evaluation, reporting, classification, and other administrative, scientific or technical programs or services; and screening, diagnosis, treatment (emergency medical services, inpatient services, intermediate care and outpatient services), vocational rehabilitation, job training and referral, and other rehabilitation programs or services.

"State plan" means the master State plan for the control, prevention, treatment, rehabilitation, research, education and training aspects of drug and alcohol abuse and dependence problems.

"Welfare assistance" means "assistance" as defined in section 402 of the Public Welfare Code and "State Blind Pension" as defined by section 502 of the Public Welfare Code.

Section 3. Council Established.—(a) There is hereby established a Governor's Council On Drug and Alcohol Abuse which shall develop, adopt and coordinate the implementation of a comprehensive health, education and rehabilitation program for the prevention and treatment of drug and alcohol abuse and dependence.

(b) The council shall be composed of the Governor, who shall serve as chairman of the council, and six other members at least four of whom shall be public members who shall be appointed by the Governor and who shall have substantial training or experience in the fields of drug or alcohol education, rehabilitation, treatment or enforcement. Officers and employes of the Commonwealth may be appointed as members of

the council. Each member of the council, who is not otherwise an officer or employe of the Commonwealth, when actually engaged in official meetings or otherwise in the performance of his official duties as directed by the chairman, shall receive reimbursement for expenses incurred and per diem compensation at a rate to be set by the Executive Board.

(c) A majority of the members shall constitute a quorum for the purpose of conducting the business of the council, and exercising all of its powers. A vote of the majority of the members present shall be sufficient for all actions of the council.

(d) The council shall have the power to prescribe, amend and repeal bylaws, rules and regulations governing the manner in which the business of the body is conducted and the manner in which the powers granted to it are exercised.

(e) The council shall delegate supervision of the administration of council activities to an Executive Director and such other employes as the chairman shall appoint. All employes shall possess adequate qualifications and competence. Some employes may have been drug and alcoholic abusers or drug dependent persons. Prior criminal convictions shall not be a bar to such employment. Responsibilities of the council may be delegated to the Executive Director or other designated staff members. Further, the Executive Director may, with the approval of the council, employ personnel or consultants necessary in coordinating the formulation, implementation and evaluation of the State plan and in carrying out the council's responsibilities under this act.

Section 4. Council's Powers and Responsibilities.—(a) The council shall develop and adopt a State plan for the control, prevention, treatment, rehabilitation, research, education, and training aspects of drug and alcohol abuse and dependence problems. The State plan shall include, but not be limited to, provision for:

(1) Coordination of the efforts of all State agencies in the control, prevention, treatment, rehabilitation, research, education, and training aspects of drug and alcohol abuse and dependence problems. It shall allocate functional responsibility for these aspects of the drug and alcohol abuse and dependence problems among the various State agencies so as to avoid duplications and inconsistencies in the efforts of the agencies.

(2) Coordination of all health and rehabilitation efforts to deal with the problem of drug and alcohol abuse and dependence, including, but not limited to, those relating to vocational rehabilitation, manpower development and training, senior citizens, law enforcement assistance, parole and probation systems, jails and prisons, health research facilities, mental retardation facilities and community mental health centers, juvenile delinquency, health professions, educational assistance, hospital and medical facilities, social security, community health services, education professions development, higher education, Commonwealth employes health benefits, economic opportunity, comprehensive health planning, elementary and secondary education, highway safety and the civil service laws.

(3) Encouragement of the formation of local agencies and local coordinating councils, and promotion of cooperation, and coordination among such groups, and encouragement of communication of ideas and recommendations from such groups to the council.

(4) Development of model drug and alcohol abuse and dependence control plans for local government, utilizing the concepts incorporated in the State plan. The model plans shall be reviewed on a periodic basis but not less than once a year, and revised to keep them current. They shall specify how all types of community resources and existing Federal and Commonwealth legislation may be utilized.

(5) Assistance and consultation to local governments, public and private agencies, institutions, and organizations, and individuals with respect to the prevention and treatment of drug and alcohol abuse and dependence, including coordination of programs among them.

(6) Cooperation with organized medicine to disseminate medical guidelines for the use of drugs and controlled substances in medical practice.

(7) Coordination of research, scientific investigations, experiments, and studies relating to the cause, epidemiology, sociological aspects, toxicology, pharmacology, chemistry, effects on health, dangers to public health, prevention, diagnosis and treatment of drug and alcohol abuse and dependence.

(8) Investigation of methods for the more precise detection and determination of alcohol and controlled substances in urine and blood samples, and by other means, and publication on a current basis of uniform methodology for such detections and determinations.

Any information obtained through scientific investigation or research conducted pursuant to this act shall be used in ways so that no name or identifying characteristics of any person shall be divulged without the approval of the council and the consent of the person concerned. Persons engaged in research pursuant to this section shall protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons engaged in such research shall protect the privacy of such individuals and may not be compelled in any Federal, State, civil, criminal, administrative, legislative, or other proceeding to identify such individuals.

(9) Establishment of training programs for professional and non-professional personnel with respect to drug and alcohol abuse and dependence, including the encouragement of such programs by local governments.

(10 Development of a model curriculum, including the provision of relevant data and other information, for utilization by elementary and secondary schools for instructing children, and for parent-teachers' associations, adult education centers, private citizen groups, or other State and local sources, for instruction of parents and other adults, about drug and alcohol abuse and dependence.

(11) Preparation of a broad variety of educational material for use in all media, to reach all segments of the population, that can be utilized by public and private agencies, institutions, and organizations in educational programs with respect to drug and alcohol abuse and dependence.

(12) Establishment of educational courses, including the provision of relevant data and other information, on the causes and effects of, and

treatment for, drug and alcohol abuse and dependence, for law enforcement officials (including prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officers and other law enforcement personnel), welfare, vocational rehabilitation, and other State and local officials who come in contact with drug abuse and dependence problems.

(13) Recruitment, training, organization and employment of professional and other persons, including former drug and alcohol abusers and dependent persons, to organize and participate in programs of public education.

(14) Treatment and rehabilitation services for male and female juveniles and adults who are charged with, convicted of, or serving a criminal sentence for any criminal offense under the law of this Commonwealth. Provision of similar services shall be made for juveniles adjudged to be delinquent, dependent or neglected. These services shall include but are not limited to: (i) emergency medical services; (ii) inpatient services; and (iii) intermediate care, rehabilitative and outpatient services.

The State plan shall give priority to developing community based drug or alcohol abuse treatment services in a cooperative manner among State and local governmental agencies and departments and public and private agencies, institutions and organizations. Consideration shall be given to supportive medical care, services, or residential facilities for drug or alcohol dependent persons for whom treatment has repeatedly failed and for whom recovery is unlikely.

The council shall develop as part of the State plan and require the establishment of a system of emergency medical services for persons voluntarily seeking treatment, for persons admitted and committed pursuant to the provisions of section 5 of this act, and for persons charged with a crime under Pennsylvania law. Upon the establishment of such emergency medical services, the council, by regulation, shall require that appropriate emergency medical services be made available to all drug and alcohol abusers who are arrested for a crime under Pennsylvania law.

The State plan shall further provide standards for the approval by the relevant State agency for all private and public treatment and rehabilitative facilities, which may include but are not limited to State hospitals and institutions, public and private general hospitals, community mental health centers or their contracting agencies, and public and private drug or alcohol dependence and drug and alcohol abuse and dependence treatment and rehabilitation centers.

(15) Grants and contracts from the appropriate State department or agency for the prevention and treatment of drug and alcohol dependence. The grants and contracts may include assistance to local governments and public and private agencies, institutions, and organizations for prevention, treatment, rehabilitation, research, education and training aspects of the drug and alcohol abuse and dependence problems with the Commonwealth. Any grant made or contract entered into by a department or agency shall be pursuant to the functions allocated to that department or agency by the State plan.

(16) Preparation of general regulations for, and operation of, programs supported with assistance under this act.

(17) Establishment of priorities for deciding allocation of the funds under this act.

(18) Review the administration and operation of programs under this act, including the effectiveness of such programs in meeting the purposes for which they are established and operated, and make annual reports of its findings.

(19) Evaluate the programs and projects carried out under this act and disseminate the results of such evaluations.

(20) Establish such advisory committees as the council may deem necessary to assist the council in fulfilling its responsibilities under this act.

(b) In developing the State plan initially, and prior to its amendment annually, the council shall hold a public hearing at least thirty days prior to the adoption of the initial State plan and subsequent amendments and shall afford thereby all interested persons an opportunity to present their views thereon either orally or in writing. The council, through its appropriate Federal and State and local departments, boards, agencies and governmental units, and with appropriate public and private agencies, institutions, groups and organizations. Otherwise the promulgation of the State plan shall conform to the procedure contained in the Commonwealth Documents Law.

(c) The council in accordance with the State plan shall allocate the responsibility for all services, programs and other efforts provided for therein among the appropriate departments, agencies and other State personnel. The council, through its Executive Director and other employes, shall have the power and its duty shall be to implement compliance with the provisions of the State plan and to coordinate all such efforts.

(d) The council shall submit a written report of the State plan to the General Assembly as soon as practicable, but not later than one year after the effective date of this act.

(e) The council shall gather and publish statistics pertaining to drug and alcohol abuse and dependence and promulgate regulations, with the approval of the chairman, specifying uniform statistics to be obtained, records to be maintained and reports to be submitted, by public and private departments, agencies, organizations, practitioners, and other persons with respect to drug and alcohol abuse and dependence, and related problems. Such statistics and reports shall not reveal the identity of any patient or drug or alcohol dependent person or other confidential information.

(f) The council shall establish an information center, which will attempt to gather and contain all available published and unpublished data and information on the problems of drug and alcohol abuse and dependence. All Commonwealth departments and agencies shall send to the council any data and information pertinent to the cause, prevention, diagnosis and treatment of drug and alcohol abuse and dependence, and abusers and danger to the public health of alcohol, drugs and controlled substances, and the council shall make such data and information widely available.

(g) To facilitate the effectuation of the purposes of this act, the council, through its Executive Director, shall require all appropriate local and State departments, agencies, institutions and others engaged in implementing the State plan to submit as often as necessary, but no less often than annually, reports detailing the activities and effects of the efforts of the aforementioned and recommending appropriate amendments to the State plan. The Executive Director may direct at his discretion a performance audit of any activity engaged in pursuant to the State plan.

(h) The council shall submit an annual report to the General Assembly which shall specify the actions taken and services provided and funds expended under each provision of this act and an evaluation of their effectiveness, and which shall contain the current State plan. The council shall submit such additional reports as may be requested by the General Assembly and such recommendations as will further the prevention, treatment, and control of drug and alcohol abuse and dependence.

(i) The council shall make provision for facilities in each city or region or catchment area which shall provide information about the total Commonwealth drug and alcohol abuse and drug and alcohol dependency programs and services.

(j) The council may, for the authentication of its records, process and proceedings, adopt, keep and use a common seal of which seal judicial notice shall be taken in all courts of this Commonwealth and any process, writ, notice or other document, which the council may be authorized by law to issue, shall be deemed sufficient if signed by the chairman or secretary of the council and authenticated by such seal. All acts, proceedings, orders, papers, findings, minutes and records of the council and all reports and documents filed with the council, may be proved in any court of this Commonwealth by a copy thereof certified to by the chairman or secretary of the council with the seal of the council attached.

Section 5. Admissions and Commitments.—Admissions and commitments to treatment facilities may be made according to the procedural admission and commitment provisions of the act of October 20, 1966 (P.L. 96), known as the "Mental Health and Mental Retardation Act of 1966."

Section 6. Drug or Alcohol Abuse Services in Correctional Institutions, Juvenile Detention Facilities and on Probation and Parole.—(a) The services established by this act shall be used by the Department of Justice and the Department of Public Welfare for drug and alcohol abusers or drug and alcohol dependent offenders, including juveniles, placed on work release, probation, parole, or other conditional release. The council shall coordinate the development of and encourage State and appropriate local agencies and departments including the Bureau of Correction and Board of Probation and Parole, pursuant to the State plan, to establish community based drug and alcohol abuse treatment services and of drug and alcohol abuse treatment services in State and county correctional institutions.

Medical detoxification and treatment shall be provided for persons

physically dependent upon alcohol or controlled substances at correctional institutions and juvenile detention facilities or in available appropriate medical facilities.

(b) The conditional release of any drug or alcohol abuser or drug or alcohol dependent person convicted of any Commonwealth offense may be conditioned on the person's agreement to periodic urinalysis or other reasonable means of detecting controlled substances or alcohol within the body.

(c) The Bureau of Correction and Board of Probation and Parole and appropriate local agencies may transfer an offender placed on conditional release from one treatment service to another depending upon his response to treatment. The decision whether to retain or to restrict or to revoke probation or parole or other conditional release after failure to conform to a schedule for rehabilitation shall be made on the basis of what is most consistent with both the rehabilitation of the individual and the safety of the community. All reasonable methods of treatment shall be used to prevent relapses and to promote rehabilitation. The council shall provide periodic reports and recommendations to the Bureau of Correction and Board of Probation and Parole and appropriate local agencies on persons being treated pursuant to this section.

Section 7. Retention of Civil Rights and Liberties.—A person receiving care or treatment under the provisions of this act shall retain all of his civil rights and liberties except as provided by law.

Section 8. Confidentiality of Records.—(a) A complete medical, social, occupational, and family history shall be obtained as part of the diagnosis, classification and treatment of a patient pursuant to this act. Copies of all pertinent records from other agencies, practitioners, institutions, and medical facilities shall be obtained in order to develop a complete and permanent confidential personal history for purposes of the patient's treatment.

(b) All patient records (including all records relating to any commitment proceeding) prepared or obtained pursuant to this act, and all information contained therein, shall remain confidential, and may be disclosed only with the patient's consent and only (i) to medical personnel exclusively for purposes of diagnosis and treatment of the patient or (ii) to government or other officials exclusively for the purpose of obtaining benefits due the patient as a result of his drug or alcohol abuse or drug or alcohol dependence except that in emergency medical situations where the patient's life is in immediate jeopardy, patient records may be released without the patient's consent to proper medical authorities solely for the purpose of providing medical treatment to the patient. Disclosure may be made for purposes unrelated to such treatment or benefits only upon an order of a court of common pleas after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information sought to be disclosed against the possible harm of disclosure to the person to whom such information pertains, the physician-patient relationship, and to the treatment services, and may condition disclosure of the information upon any appropriate safeguards. No such records or information

may be used to initiate or substantiate criminal charges against a patient under any circumstances.

(c) All patient records and all information contained therein relating to drug or alcohol abuse or drug or alcohol dependence prepared or obtained by a private practitioner, hospital, clinic, drug rehabilitation or drug treatment center shall remain confidential and may be disclosed only with the patient's consent and only (i) to medical personnel exclusively for purposes of diagnosis and treatment of the patient or (ii) to government or other officials exclusively for the purpose of obtaining benefits due the patient as a result of his drug or alcohol abuse or drug or alcohol dependence except that in emergency medical situations where the patient's life is in immediate jeopardy, patient records may be released without the patient's consent to proper medical authorities solely for the purpose of providing medical treatment to the patient.

Section 9. Welfare.—(a) Drug and alcohol abuse and dependence shall, for the purpose of all State welfare programs be regarded as a major health and economic problem.

(b) State agencies charged with administering such welfare programs shall take action to reduce the incidence of financial indigency and family disintegration caused by drug and alcohol abuse and dependence, and treatment and rehabilitation services shall be provided for those persons enrolled in welfare programs whose financial eligibility for such assistance results, in part or in whole, from drug and alcohol dependence.

(c) Persons otherwise eligible for such welfare assistance shall not be ineligible for such assistance because of drug and alcohol abuse and dpendence unless they refuse to accept available treatment and rehabilitation services. Any person whose financial eligibility for such assistance results in whole or in part, from drug and alcohol abuse or dependence shall be provided appropriate treatment and rehabilitation services. Upon receipt of substantial evidence of such alcohol or drug dependency or abuse, the Department of Public Welfare shall refer said welfare recipient to the mental health-mental retardation program of the recipient's catchment area or to any other approved treatment program, which shall provide an appropriate examination. Treatment and rehabilitation services will be deemed to be necessary and will be considered to be available upon a certification by the administrator of the community mental health-mental retardation program for the catchment area in which the recipient resides that: (i) the recipient's financial eligibility for such assistance results in whole or in part from drug or alcohol abuse or dependence, (ii) the services will more likely than not be appropriate for the recipient, and (iii) the services can accommodate the recipient. After such certification, participation by the recipient in the available program shall be a requirement for continuing eligibility for such assistance, in the absence of good cause for nonparticipation.

(d) Any recipient of welfare assistance whose inability to work or to participate in a work training program is the result of drug and alcohol abuse or dependence shall be excused from such participation only on condition that he accept appropriate treatment and rehabilitation services made available to him and continue to participate until discharged by the director in charge of his program. Withdrawal from such program

prior to proper discharge shall constitute reason to discontinue welfare assistance.

Section 10. General.—Drug and alcohol abuse or dependence shall be regarded as a health problem, sickness, physical and mental illness, disease, disability, or similar term, for purposes of all legislation relating to health, welfare, and rehabilitation programs, services, funds and other benefits.

Section 11. Admission to Private and Public Hospitals.—Drug and alcohol abusers and drug and alcohol dependent persons shall be admitted to and treated in appropriate facilities of private and public hospitals on the basis of medical need and shall not be discriminated against because of their drug or alcohol abuse or dependence.

Section 12. Consent of Minor.—Notwithstanding any other provisions of law, a minor who suffers from the use of a controlled or harmful substance may give consent to furnishing of medical care or counseling related to diagnosis or treatment. The consent of the parents or legal guardian of the minor shall not be necessary to authorize medical care or counseling related to such diagnosis or treatment. The consent of the minor shall be valid and binding as if the minor had achieved his majority. Such consent shall not be voidable nor subject to later disaffirmance because of minority. Any physician or any agency or organization operating a drug abuse program, who provides counseling to a minor who uses any controlled or harmful substance may, but shall not be obligated to inform the parents or legal guardian of any such minor as to the treatment given or needed.

Section 13. Financial Obligations.—Except for minors, all persons receiving treatment under this act shall be subject to the provisions of Article V of the act of October 20, 1966 (P.L. 96), known as the "Mental Health and Mental Retardation Act of 1966," in so far as it relates to liabilities and payments for services rendered by the Commonwealth.

Section 14. Savings Provision.—The provisions of this act shall not affect any act done, liability incurred, or right accrued or vested, or affect any suit or prosecution pending to enforce any right or penalty or punish any offense under the authority of any act of Assembly, or part thereof, repealed by this act.

Section 15. Repeals.—(a) The following acts and parts of act are repealed to the extent indicated:

(1) Clause (4) of subsection (a) of section 616, act of April 29, 1959 (P.L. 58), known as "The Vehicle Code," absolutely.

(2) Except sections 1 and 4, the act of August 20, 1953 (P.L. 1212) entitled * * * [sections 2102, 2103, 2105 to 2113 of this title] absolutely.

(3) The act of January 14, 1952 (P.L. 1868), entitled "An act providing for treatment and cure in designated State institutions of persons habitually addicted to the use of opiates, and for their admission to and care therein and the payment of the cost thereof; and making an appropriation," absolutely.

(b) All other acts and parts of acts, general, local and special, are repealed in so far as they are inconsistent herewith.

No. 124

AN ACT

Establishing child protective services; providing procedures for reporting and investigating the abuse of children; establishing and providing access to a Statewide central register on child abuse; investigating such reports; providing for taking protective action including taking a child into protective custody; placing duties on the Department of Public Welfare and county child welfare agencies; establishing child protective services in each county child welfare agency; and providing penalties.

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

Section 1. Short Title.—This act shall be known and may be cited as the "Child Protective Services Law."

Section 2. Findings and Purpose.—Abused children are in urgent need of an effective child protective service to prevent them from suffering further injury and impairment. It is the purpose of this act to encourage more complete reporting of suspected child abuse and to establish in each county a child protective service capable of investigating such reports swiftly and competently, providing protection for children from further abuse and providing rehabilitative services for children and parents involved so as to ensure the child's well-being and to preserve and stabilize family life wherever appropriate.

Section 3. Definitions.—As used in this act:

"Abused child" means a child under 18 years of age who exhibits evidence of serious physical or mental injury not explained by the available medical history as being accidental, sexual abuse, or serious acts or omissions of the child's parents or by a person responsible for the child's welfare provided, however, no child shall be deemed to be physically or mentally abused for the sole reason he is in good faith being furnished treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof or solely on the grounds of enironmental factors which are beyond the control of the person responsible for the child's welfare such as inadequate housing, furnishings, income, clothing and medical care.

"Child protective service" means that section of each county public child welfare agency required to be established by section 16.

"Department" means the Department of Public Welfare of the Commonwealth of Pennsylvania.

"Expunge" means to strike out or obliterate entirely so that the expunged information may not be stored, identified, or later recovered by any means mechanical, electronic, or otherwise.

"Founded report" means a report made pursuant to this act if there has been any judicial adjudication based on a finding that a child who is a subject of the report has been abused.

"Indicated report" means a report made pursuant to this act if an

investigation by the child protective service determines that substantial evidence of the alleged abuse exists based on (i) available medical evidence and the child protective service investigation or (ii) an admission of th acts of abuse by the child's parent or person responsible for the child's welfare.

"Secretary" means the Secretary of the Department of Public Welfare of the Commonwealth of Pennsylvania.

"Subject of the report" means any child reported to the central register of child abuse and his parent, guardian or other person legally responsible also named in the report.

"Under investigation" means a report pursuant to this act which is being investigated to determine whether it is "founded," "indicated," or "unfounded."

"Unfounded report" means any report made pursuant to this act unless the report is a "founded report" or unless an investigation by the appropriate child protective service determines that the report is an "indicated report."

Section 4. Persons Required to Report Suspected Child Abuse.—(a) Any person who, in the course of their employment, occupation, or practice of their profession come into contact with children shall report or cause a report to be made in accordance with section 6 when they have reason to believe, on the basis of their medical, professional or other training and experience, that a child coming before them in their professional or offical capacity is an abused child.

(b) Whenever any person is required to report under subsection (c) in his capacity as a member of the staff of a medical or other public or private institution, school, facility, or agency, he shall immediately notify the person in charge of such institution, school, facility or agency, or the designated agent of the person in charge. Upon notification, such person in charge or his designated agent, if any, shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with section 6. Nothing in this act is intended to require more than one report from any such institution, school or agency.

(c) Persons required to report suspected child abuse under subsection (a) include, but are not limited to, any licensed physician, medical examiner, coroner, dentist, osteopath, optometrist, chiropractor, podiatrist, intern, registered nurse, licensed practical nurse, hospital personnel engaged in the admission, examination, care or treatment of persons, a Christian Science practitioner, school administrator, school teacher, school nurse, social services worker, day care center worker or any other child care or foster care worker, mental health professional, peace officer or law enforcement official.

Section 5. Any Person Permitted to Report.—In addition to those persons and officials required to report suspected child abuse, any person may make such a report if that person has reasonable cause to suspect that a child is an abused child.

Section 6. Reporting Procedure.—(a) Reports of suspected child abuse from persons required to report under section 4 shall be made

immediately by telephone and in writing within 48 hours after the oral report. Oral reports shall be made to the department pursuant to section 14 and may be made to the appropriate child protective service.

(b) When oral reports are made initially to the child protective service, the child protective service shall immediately prepare a child abuse report summary in such form as shall be prescribed by the department by regulation and shall immediately forward such report summary to the department to be held in the pending complaint file as provided in section 14. The initial child abuse report summary shall be supplemented as more facts become available, as the written report is received and when a determination is made as to whether a report of suspected child abuse is a founded report, an unfounded report or an indicated report.

(c) Written reports from persons required to report under section4 shall be made to the appropriate child protective service in a manner and on forms prescribed by the department by regulation. Such written reports shall include the following information, if available: the names and addresses of the child and his parents or other person responsible for his care, if known; the child's age, and sex; the nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or his siblings; the name of the person or persons responsible for causing the suspected abuse, if known; family composition; the source of the report; the person making the report and where he can be reached; the actions taken by the reporting source, including the taking of photographs and x-rays, removal or keeping of the child or notifying the medical examiner or coroner; any other information which the department may, by regulation, require.

(d) The failure of any person reporting cases of suspected child abuse to confirm an oral report in writing within 48 hours shall in no way relieve the child protective service from any duties prescribed by this act. In such event, the child protective service shall proceed as if a written report were actually made.

Section 7. Obligations of Persons Required to Report.—Any person or official required to report cases of suspected child abuse may take or cause to be taken photographs of the areas of trauma visible on a child who is subject to a report and, if medically indicated, cause to be performed a radiological examination on the child. Any photographs or x-rays taken shall be sent to the child protective service at the time the written report is sent, or as soon thereafter as possible.

Section 8. Taking a Child into Protective Custody.—(a) A child may be taken into custody:

(1) As provided by section 11 of the act of December 6, 1972 (P.L. 1464, No. 333), known as the "Juvenile Act."

(2) By a physician examining or treating the child or by the director, or a person specifically designated in writing by such director, of any hospital or other medical institution where the child is being treated, if such protective custody is immediately necessary to protect the child from further serious physical injury, sexual abuse or serious physical neglect; provided that no child shall be held in such custody for more

than 24 hours unless the appropriate child protective service is immediately notified that the child has been taken into custody and the child protective service obtains an order from a court of competent jurisdiction permitting the child to be held in custody for a longer period. The courts of common pleas of each judicial district shall insure that a judge is available on a 24 hour a day, 365 days a year basis to accept and decide such actions brought by a child protective service under this subsection within such 24-hour period.

(b) Any individual taking a child into protective custody under this act shall immediately and within 24 hours in writing, notify the child's parent, guardian or other custodian of the child's whereabouts, the reasons for the need to take the child into protective custody, and shall immediately notify the appropriate child protective service in order that proceedings under the Juvenile Act may be initiated, if appropriate.

(c) In no case shall protective custody under this act be maintained longer than 72 hours without a detention hearing. If at the detention hearing it is determined that protective custody shall be continued, the child protective services agency shall, within 48 hours file a petition with the court under the Juvenile Act.

(d) No child taken into protective custody under this act shall be detained during such protective custody except in an appropriate medical facility, foster home or other appropriate facility approved by the department for this purpose.

(e) A conference between the parent, guardian or other custodian of the child taken into temporary protective custody pursuant to this section and the case worker designated by the child protection service to be responsible for such child shall be held within 48 hours of time that the child is taken into such custody for the purpose of (i) explaining to such parent, guardian or other custodian the reasons for the temporary detention of the child and the whereabouts of the child, and (ii) to expedite, wherever possible, the return of the child to the custody of such parent, guardian or other custodian where such custody is no longer necessary.

Section 9. Admission to Private and Public Hospitals.—(a) Children appearing to suffer any physical or mental trauma which may constitute child abuse, shall be admitted to and treated in appropriate facilities of private and public hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care.

(b) The failure of any such hospital to admit and properly treat and care for a child pursuant to subsection (a) shall be cause for the department to order immediate admittance, treatment, and care by the hospital, which shall be enforceable, if necessary, by the prompt institution of an equity action by the department. In addition the child, through his attorney, shall, independent of the above, have a right to seek immediate injunctive relief and institute an appropriate civil action for damages against the hospital.

Section 10. Mandatory Reporting and Postmortem Investigation of Deaths.—Any person or official required to report cases of suspected child

abuse, including employees of a county public child welfare agency, and its child protective service, who has reasonable cause to suspect that a child died as a result of child abuse shall report that fact to the coroner. The coroner shall accept the report for investigation and shall report his finding to the police, the district attorney, the appropriate child protective service and, if the report is made by a hospital, the hospital.

Section 11. Immunity from Liability.—Any person, hospital, institution, school, facility or agency participating in good faith in the making of a report or testifying in any proceeding arising out of an instance of suspected child abuse, the taking of photographs, or the removal or keeping of a child pursuant to section 8, shall have immunity from any liability, civil or criminal, that might otherwise result by reason of such actions. For the purpose of any proceeding, civil or criminal, the good faith of any person required to report cases of child abuse pursuant to section 4 shall be presumed.

Section 12. Penalties for Failure to Report.—Any person or official required by this act to report a case of suspected child abuse who wilfully fails to do so shall be guilty of a summary offense, except that for a second or subsequent offense shall be guilty of a misdemeanor of the third degree.

Section 13. Education and Training.—The department and each child protective service, both jointly and individually, shall conduct a continuing publicity and education program for the citizens of the Commonwealth aimed at the prevention of child abuse, the identification of abused children, and the provision of necessary ameliorative services to abused children and their families. In addition, the department and each child protective service shall conduct an ongoing training and education program for local staff, persons required to report, and other appropriate persons in order to familiarize such persons with the reporting and investigative procedures for cases of suspected child abuse and the rehabilitative services that are available to children and families.

Section 14. Record Keeping Duties of the Department.—(a) There shall be established in the department (i) a pending complaint file of child abuse reports under investigation and (ii) a Statewide central register of child abuse, which shall consist of founded and indicated reports of child abuse.

(b) The department shall be capable of receiving oral reports of child abuse made pursuant to this act and report summaries of child abuse from child protective services and shall be capable of immediately identifying prior reports of child abuse in the Statewide central register and of monitoring the provision of child protective services 24 hours a day, seven days a week.

(c) The department shall establish a single Statewide toll-free telephone number that all persons, whether mandated by law or not, may use to report cases of suspected child abuse. A child protective service may use the Statewide toll-free telephone number for determining the existence of prior founded or indicated reports of child abuse in the Statewide central register. A child protective service may only request and

receive information pursuant to this subsection either on its own behalf because it has before it a child suspected of being an abused child or on behalf of a physician examining or treating a child or on behalf of the director or a person specifically designated in writing by such director of any hospital or other medical institution where a child is being treated, where the physician or the director or a person specifically designated in writing by such director suspects the child of being an abused child.

(d) Except as provided in subsections (f) and (m), no information shall be released from the Statewide central register unless pursuant to subsection (c) and unless the department has positively identified the representative of the child protective service requesting the information and the department has inquired into and is satisfied that such person has a legitimate need, within the scope of his official duties and the provisions of subsection (c), to obtain information from the Statewide central register. Information in the Statewide central register shall not be released for any purpose or to any individual not specified in this section.

(e) Except as provided in subsections (f) and (m), persons receiving information from the Statewide central register may be informed only as to whether a prior founded or indicated report exists, the number of such reports, the nature and extent of the alleged instances of suspected child abuse, and whether the reports are founded reports or indicated reports.

(f) Upon receipt of a complaint of suspected child abuse the department shall forthwith transmit in writing (and orally, if such is deemed advisable) to the appropriate child protective service notice that such complaint of suspected child abuse has been received and the substance of that complaint. If the Statewide central register contains information indicating a previous founded or indicated report concerning a subject of such report, the department shall immediately notify the appropriate child protective service of this fact. No information other than that permitted in subsection (i) shall be retained in the Statewide central register, the pending complaint file or otherwise by the department.

(g) Upon receipt of a complaint of suspected child abuse, the department shall maintain a record of the complaint of suspected child abuse in the pending complaint file. No information other than that permitted to be retained in the Statewide central register in subsection (i) shall be retained in the pending complaint file. Except as provided in subsection (m), no person, other than an employee of the department in the course of his official duties in connection with the department's responsibilities under this act shall at any time have access to any information in the pending complaint file.

(h) When a report of suspected child abuse is determined by the appropriate child protective service to be a founded report or an indicated report, the information concerning such report of suspected child abuse shall be expunged forthwith from the pending complaint file and an appropriate entry shall be made in the Statewide central register. When a report of suspected child abuse is determined by the appropriate child protective service to be an unfounded report, the information concerning such report of suspected child abuse shall be expunged forth-

with from the pending complaint file and no information other than that authorized by subsection (k), which shall not include any identifying information on any subject of such report, shall be retained by the department.

(i) The Statewide central register shall include and shall be limited to the following information: the names of the subjects of the reports; the date or dates and the nature and extent of the alleged instances of suspected child abuse; the home addresses of usbjects of the report; the age of the children suspected of being abused; the locality in which the suspected abuse occurred; whether the report is a founded report, an indicated report; and the progress of any legal proceedings brought on the basis of the report of suspected child abuse.

(j) If within 30 days from the date of an initial report of suspected child abuse the appropriate child protective service has not properly investigated such report and informed the department that the report is an indicated report or an unfounded report, or unless within that same 30-day period the report is determined to be a founded report, the department shall immediately being an inquiry into the performance of the child protective service, which inquiry may include a performance audit of the child protective service as provided in section 20. On the basis of that inquiry, the department is hereby authorized, and its duty shall be, to take appropriate action to require that the provisions of this act be strictly followed, which action may include, without limitation, the institution of appropriate legal action and/or the withholding of reimbursement for all or part of the activities of the county public child welfare agency.

(k) If an investigation of a report of suspected child abuse conducted by the appropriate child protective service pursuant to this act does not determine within 60 days of the date of the initial report of such instance of suspected child abuse that the report is an indicated report or an unfounded report, or unless within that same 60- day period the report is determined to be a founded report, said report shall be considered to be an unfounded report and all information identifying the subjects of such report shall be expunged forthwith. Nothing in this subsection shall in any way limit the powers and duties of the department as provided in subsection (j).

(l) All information identifying the subjects of any report of suspected child abuse determined to be an unfounded report shall be expunged forthwith from the pending complaint file and the Statewide central register. Such expungement shall be mandated and guaranteed by the department and persons or officials authorized to keep such records as mentioned in this subsection and subsection (n) of this section who wilfully fails to do so shall be guilty of a summary offense, except that for a second and subsequent offense shall be guilty of a misdemeanor of the third degree. Furthermore, the Attorney General shall conduct a mandated audit done randomly but at least once every three months during each year on an unannounced basis to ensure that the expungement requirements are being fully and properly conducted.

(m) The department may conduct or authorize the conducting of studies of the data contained in the pending complaint file and the

Statewide central register and disrtibute the results of such studies, provided that no such study shall contain the name or other information by which a subject of a report could be identified.

(n) All information identifying the subjects of all indicated reports and all information identifying the subject child of all founded reports shall be expunged when the subject child reaches the age of 18. Such expungement shall be mandated pursuant to subsection (l).

(o) At any time, the secretary may amend, seal or expunge any record upon good cause shown and notice to the subjects of the report. Once sealed, a record shall not be otherwise available except as provided in subsection (m) of this section or except if the secretary, upon notice to the subjects of the report, gives his personal approval for an appropriate reason.

(p) All existing files, reports and records relating to child abuse collected or filed by and in the department prior to this act shall immediately come under the control of the department pursuant to this act, and within six months from the effective date of this act the department shall destroy all individually identifiable records concerning child abuse except for the purposes of statistical study by the department pursuant to subsection (m).

Section 15. Confidentiality of Records.—(a) Except as provided in section 14, reports made pursuant to this act including but not limited to report summaries of child abuse made pursuant to section 6(b) and written reports made pursuant to section 6(c) as well as any other information obtained, reports written or photographs or x-rays taken concerning alleged instances of child abuse in the possession of the department, a county public child welfare agency or a child protective service shall be confidential and shall only be made available to:

(1) A duly authorized official of a child protective service in the course of his official duties.

(2) A physician examining or treating a child or the director or a person specifically designated in writing by such director of any hospital or other medical institution where a child is being treated, where the physician or the director or his designee suspect the child of being an abused child.

(3) A guardian ad litem for the child.

(4) A duly authorized official of the department in accordance with department regulations or in accordance with the conduct of a performance audit as authorized by section 20.

(5) A court of competent jurisdiction pursuant to a court order.

(b) At any time, a subject of a report may receive, upon written request, a copy of all information except that prohibited from being disclosed by subsection (c), contained in the Statewide central register or in any report filed pursuant to section 6.

(c) The release of data that would identify the person who made a report of suspected child abuse or person who cooperated in a subsequent investigation, is hereby prohibited unelss the secretary finds that such release will not be detrimental to the safety of such person.

(d) At any time, a subject of a report may request the secretary to amend, seal or expunge information contained in the pending complaint file and the Statewide central register or order that the appropriate child protective service to amend, seal or expunge the information contained in its files pertaining to any report filed pursuant to section 6. If the secretary refuses or does not act within a reasonable time, but in no event later than 30 days after such request, the subject shall have the right to a hearing before the secertary or his designated agent to determine whether the summary in the Statewide central register or the contents of any report filed pursuant to section 6 should be amended, sealed or expunged on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this act. The appropriate child protective service shall be given notice of the hearing. The burden of proof in such hearing shall be on the department and appropriate child protective service. In such hearings, the fact that there was a court finding of child abuse shall be presumptive evidence that the report was substantiated. The secretary or his designated agent is hereby authorized and empowered to make any appropriate order respecting the amendment or expungement of such records to make it accurate or consistent with the requirements of this act.

(e) Written notice of any expungement or amendment of any record, made pursuant to the provisions of this act, shall be served upon each subject of such record and the appropriate child protective service. The latter, upon receipt of such notice, shall take appropriate, similar action in regard to the local child abuse records and inform, for the same purpose, the appropriate coroner, if such officer has received reports pursuant to clause (3) of section 17.

(f) Any person who wilfully fails to obey a final order of the secretary or his designated agent to amend or expunge the summary of the report in the Statewide central register or the contents of any report filed pursuant to section 6 shall be guilty of a summary offense.

(g) Any person who wilfully releases or permits the release of any data and information contained in the pending complaint file, the Statewide central register or the child welfare records required by this act including records maintained by any county public child welfare agency and any child protective service to persons or agencies not permitted by this act shall be guilty of a misdemeanor of the third degree.

Section 16. Child Protective Service Responsibilities and Organization; Local Plan.—(a) Every county public child welfare agency shall establish a "child protective service" within each agency. The child protective service shall perform those functions assigned by this act to it and only such others that would further the purposes of this act. It shall have a sufficient staff of sufficient qualifications to fulfill the purposes of this act and organized in such a way as to maximize the continuity of responsibility, care and services of individual workers toward individual children and families. The child protective service of the county public child welfare agency shall be the sole agency responsible for receiving and investigating all reports of child abuse made pursuant to this act, specifically including, but not limited to reports of child abuse in facilities operated by the department and other public agencies,

for the purpose of providing protective services to prevent further abuses to children and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the child's well-being and development, and to preserve and stabilize family life wherever appropriate; provided, however, that when the suspected abuse has been committed by the agency or any of its agents or employees, the departments shall assume the role of the agency.

(b) Any other provision of law notwithstanding, but consistent with subsection (a), the county public child welfare agency, based upon the local plan of services as provided in subsection (c), may purchase and utilize the services of any appropriate public or private agency.

(c) No later than once each year as required by the department each county agency child protective service shall prepare and submit to the department after consultation with local law enforcement agencies, the court and appropriate public or private agencies and after a public hearing, a local plan for the provision of child protective services which shall describe the implementation of this act including the organization, staffing, mode of operations and financing of the child protective service as well as the provisions made for purchase of service and inter-agency relations. The local plan may take effect immediately. Within 60 days the department shall certify whether or not the local plan fulfills the purposes of and meets the requirements set forth in this act. If the department certifies that the local plan does not do so, the department shall state the reasons therefor and may withhold reimbursement for all or part of the activities of the agency. If the department finds that a proposed local plan does not meet the requirements set forth in this act, the child protective service shall revise the local plan in accordance with the department's reasons for disapproval.

(d) Each child protective service shall make available among its services for the prevention and treatment of child abuse multidisciplinary teams, instruction in education for parenthood, protective and preventive social counseling, emergency caretaker services, emergency shelter care, emergency medical services, and the establishment of groups organized by former abusing parents to encourage self-reporting and self-treatment of present abusers.

Section 17. Duties of the Child Protective Service Concerning Reports of Abuse.—Each child protective service shall:

(1) Receive on a 24 hour, seven day a week basis all reports, both oral and written, of suspected child abuse in accordance with this act, the local plan for the provision of child protective services and the regulations of the department.

(2) Upon the receipt of each report of suspected child abuse made pursuant to this act, immediately transmit, a child abuse report summary as provided in section 6 to the department. Supplemental reports shall be made at regular intervals thereafter in a manner and form prescribed by the department, by regulation to the end that the department is kept fully informed and up-to-date concerning the status of reports of child abuse.

(3) Give telephone notice and forward immediately a copy of reports made pursuant to this act which involve the death of a child to the

appropriate coroner pursuant to section 9.

(4) Upon receipt of each report of suspected child abuse, commence within 24 hours, an appropriate investigation which shall include a determination of the risk to such child or children if they continue to remain in the existing home environment, as well as a determination of the nature, extent, and cause of any condition enumerated in such report, and, after seeing to the safety of the child or children, forthwith notify the subjects of the report in writing, of the existence of the report and their rights pursuant to this act in regard to amendment or expungement. The investigation shall be completed within 30 days.

(5) The investigation shall determine whether the child is being harmed by factors beyond the control of the parent or other person responsible for the child's welfare, and if so determined, the child protective service shall promptly take all available steps to remedy and correct such conditions, including but not limited to the coordination of social services for the child and the family.

(6) Determine, within 30 days, whether the report is "founded," "indicated" or "unfounded."

(7) Pursuant to the provisions of section 8 and after court order take a child into protective custody to protect him from further abuse. No child protective services worker shall enter the home of any individual for this purpose without judicial authorization.

(8) Based on the investigation and evaluation conducted pursuant to this act, provide or contract with private or public agencies for the protection of the child in his home whenever possible, and/or those services necessary for adequate care of the child when placed in protective custody. Prior to offering such services to a family, explain that it has no legal authority to compel such family to receive said services, but may inform the family of the obligations and authority of the child protective service to initiate appropriate court proceedings.

(9) In those cases in which an appropriate offer of service is refused and the child protective service determines or if the service for any other appropriate reason determines that the best interest of the child require court action, initiate the appropriate court proceeding.

(10) Assist the court during all stages of the court proceeding in accordance with the purposes of this act.

(11) Provide or arrange for and monitor rehabilitative services for children and their families on a voluntary basis or under a final or intermediate order of the court.

(12) The child protective service shall be as equally vigilant of the status, well-being, and conditions under which a child is living and being maintained in a facility other than that of his parent, custodian or guardian from which he has been removed, as he is of the conditions in the dwelling of the parent, custodian or guardian. Where the child protective service finds that the placement for any temporary or permanent custody, care or treatment is for any reason inappropriate or harmful in any way to the child's physical or mental well-being, it shall take immediate steps to remedy these conditions including petitioning the court.

Section 18. Cooperation of Other Agencies.—The secretary may request and shall receive from departments, boards, bureaus, or other agencies of the Commonwealth, or any of its political subdivisions, or any duly authorized agency, or any other agency providing services under the local child protective services plan such assistance and data as will enable the department and the child protective services to fulfill their responsibilities properly.

Section 19. Annual Reports.—No later than April 15 of every year, the secretary shall prepare and transmit to the Governor and the General Assembly a report on the operations of the central register of child abuse and the various child protective services. The report shall include a full statistical analysis of the reports of suspected child abuse and the various child protective services. The report shall include a full statistical analysis of the reports of suspected child abuse made to the department together with a report on the implementation of this act and its total cost to the Commonwealth, the secretary's evaluation of services offered under this act and recommendations for repeal or for additional legislation to fulfill the purposes of this act. All such recommendations should contain an estimate of increased or decreased costs resulting therefrom.

Section 20. Performance Audit.—Notwithstanding any other provision of this act, the secretary or his designee may direct, at their discretion, a performance audit of any activity engaged in pursuant to this act.

Section 21. Regulations.—The department shall adopt regulations necessary to implement this act.

Section 22. Hearings and Evidence.—In addition to the rules of evidence provided under the Juvenile Act the following shall govern in child abuse proceedings in juvenile or family court:

(1) Whenever any person required to report under this act is unavailable due to death or removal from the court's jurisdiction, the written report of such person shall be admissible in evidence in any proceedings arising out of child abuse other than proceedings under the Crimes Code. Any hearsay contained in the reports shall be given such weight, if any, as the court shall determine to be appropriate under all of the circumstances. However, any hearsay contained in a written report shall not of itself be sufficient to support an adjudication based on abuse.

(2) Except for privileged communications between a lawyer and his client and between a minister and his penitent, any privilege of confidential communication between husband and wife or between any professional person, including but not limited to physicians, psychologists, counselors, employees of hospitals, clinics, day care centers, and schools and their patients or clients, shall not constitute grounds for excluding evidence at any proceeding regarding child abuse or the cause thereof.

(3) Evidence that a child has suffered serious physical injury, sexual abuse or serious physical neglect of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent or other person responsible for the welfare of such child

shall be prima facie evidence of child abuse by the parent or other person responsible for the child's welfare.

Section 23. The Guardian Ad Litem.—(a) The court, when a proceeding has been initiated arising out of child abuse, shall appoint a guardian ad litem for the child. The guardian ad litem shall be an attorney-at-law. The guardian ad litem shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian pursuant to this act. The guardian ad litem shall be charged with the representation of the child's best interests at every stage of the proceeding and shall make such further investigation necessary to ascertain the facts, interview witnesses, examine and cross-examine witnesses, make recommendations to the court and participate further in the proceedings to the degree appropriate for adequately representing the child.

(b) The court shall have the duty, upon consideration of the petition of any attorney for the child, to order a local child protective service or other agency to establish and/or implement, fully and promptly, appropriate services, treatment, and plans for a child found in need of them. Additionally, the court, upon consideration of the petition of any attorney for the child, shall have the duty to terminate or alter the conditions of any placement, temporary or permanent, of a child.

Section 24. Legislative Oversight.—For purposes of (1) providing information that will aid the General Assembly in its oversight responsibilities; (2) enabling the General Assembly to determine whether the programs and services mandated by this act are effectively meeting the goals of this legislation; (3) assisting the General Assembly in measuring the costs and benefits of this program and the effects and/or side-effects of mandated program services; (4) permitting the General Assembly to determine whether the confidentiality of records mandated by this act is being maintained at the State and local level; and (5) providing information that will permit State and local program administrators to be held accountable for the administration of the programs mandated by this act, beginning one year from the effective date of this act, the Senate Committee on Aging and Youth and the House Committee on Health and Welfare, either jointly and/or separately, shall begin a review into the manner in which this act has been administered at the State and local level.

Section 25. Repeals.—The act of August 14, 1967 (P.L. 239, No. 91), entitled "An act relating to gross physical neglect of, or injury to, children under eighteen years of age; requiring reports in such cases by examining physicians or heads of institutions to county public child welfare agencies; imposing powers and duties on county public child welfare agencies based on such reports; and providing penalties," is repealed absolutely; all other acts and parts of acts, general, local and special, are repealed in so far as they are inconsistent herewith; provided, however, that nothing in this act shall in any way repeal the provisions of the act of December 6, 1972 (P.L. 1464, No. 333), known as the "Juvenile Act," nor the provisions of the act of April 14, 1972 (P.L.

221, No. 63), known as the "Pennsylvania Drug and Alcohol Abuse Control Act."

Section 26. Effective Date.—This act shall take effect immediately; provided, however, that no person shall be required to make a report of suspected child abuse until the department promulgates initial regulations implementing this act, and the secretary certifies in the Pennsylvania Bulletin that the Statewide central register and the Statewide toll-free telephone system required by section 14 are in operation. Such regulations shall be issued as proposed rule making within 60 days of enactment of this act and shall be promulgated as final regulations along with the secretary's certification that the Statewide central register and Statewide toll-free telephone system are in operation within 120 days of enactment of this act.

The Bayh Act
Public Law 93-415
93rd Congress, S. 821
September 7, 1974

AN ACT

To provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United State of America in Congress assembled, That this Act may be cited as the "Juvenile Justice and Delinquency Prevention Act of 1974".

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

Findings

Sec. 101. (a) The Congress hereby finds that—

(1) juveniles account for almost half the arrests for serious crimes in the United States today;

(2) understaffed, overcrowded juvenile courts, probation services, and correctional facilities are not able to provide individualized justice or effective help;

(3 present juvenile courts, foster and protective care programs, and shelter facilities are inadequate to meet the needs of the countless, abandoned, and dependent children, who, because of this failure to provide effective services, may become delinquents;

(4) existing programs have not adequately responded to the particular problems of the increasing numbers of young people who are addicted to or who abuse drugs, particularly nonopiate or polydrug abusers;

(5) juvenile delinquency can be prevented through programs designed to keep students in elementary and secondary schools through the preventention of unwarranted and arbitrary suspensions and expulsions;

(6) States and local communities which experience directly the devastating failures of the juvenile justice system do not presently have sufficient technical expertise or adequate resources to deal comprehensively with the problems of juvenile delinquency; and

(7) existing Federal programs have not provided the direction, coordination, resources, and leadership required to meet the crisis of delinquency.

(b) Congress finds further that the high incidence of delinquency in the United States today results in enormous annual cost and immeasurable loss of human life, personal security, and wasted human resources and that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency.

Purpose

Sec. 102. (a) It is the purpose of this Act—

(1) to provide for the thorough and prompt evaluation of all federally assisted juvenile delinquency programs;

(2) to provide technical assistance to public and private agencies, institutions, and individuals in developing and implementing juvenile delinquency programs;

(3) to establish training programs for persons, including professionals, paraprofessionals, and volunteers, who work with delinquents or potential delinquents or whose work or activities relate to juvenile delinquency programs;

(4) to establish a centralized research effort on the problems of juvenile delinquency, including an information clearinghouse to disseminate the findings of such research and all data related to juvenile delinquency;

(5) to develop and encourage the implementation of national standards for the administration of juvenile justice, including recommendations for administrative, budgetary, and legislative action at the Federal, State, and local level to facilitate the adoption of such standards;

(6) to assist States and local communities with resources to develop and implement programs to keep students in elementary and secondary schools and to prevent unwarranted and arbitrary suspensions and expulsions; and

(7) to establish a Federal assistance program to deal with the problems of runaway youth.

(b) It is therefore the further declared policy of Congress to provide the necessary resources, leadership, and coordination (1) to develop and implement effective methods of preventing and reducing juvenile delinquency; (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization; (3) to improve the quality of juvenile justice in the United States; and (4) to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention.

Definitions

Sec. 103. For purposes of this Act—

(1) the term "community based" facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, durg treatment, and other rehabilitative services;

(2) the term "Federal juvenile delinquency program" means any juvenile delinquency program which is conducted, directly, or indirectly, or is assisted by any Federal department or agency, including any program funded under this Act;

(3) the term "juvenile delinquency program" means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug and alcohol abuse programs; the improvement of the juvenile justice system; and any program or activity for neglected, abandoned, or dependent youth and other youth who are in danger of becoming delinquent;

(4) the term "Law Enforcement Assistance Administration" means the agency established by section 101 (a) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

(5) the term "Administrator" means the agency head designated by section 101 (b) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

(6) the term "law enforcement and criminal justice" means any activity pertaining to crime prevention, control, or reducation or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services, activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction;

(7) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States;

(8) the term "unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agency may be used to provide the non-Federal share of the cost of programs or projects funded under this title;

(9) the term "combination" as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement plan;

10) the term "construction" means acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings);

(11) the term "public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing;

(12) the term "correctional institution or facility" means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses; and

(13) the term "treatment" includes but is not limited to medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict or other user by eliminating his dependence on addicting or other drugs or by controlling his dependence, and his susceptibility to addiction or use.

TITLE II—JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Part A—Juvenile Justice and Delinquency Prevention Office

Establishment of Office

Sec. 201. (a) There is hereby created within the Department of Justice, Law Enforcement Assistance Administration, the Office of Juvenile Justice and Delinquency Prevention (referred to in this Act as the "Office").

(b) The programs authorized pursuant to this Act unless otherwise specified in this Act shall be administered by the Office established under this section.

(c) There shall be at the head of the Office an Assistant Administrator who shall be nominated by the President by and with the advice and consent of the Senate.

(d) The Assistant Administrator shall exercise all necessary powers, subject to the direction of the Administrator of the Law Enforcement Assistance Administration.

(e) There shall be in the Office a Deputy Assistant Administrator who shall be appointed by the Administrator of the Law Enforcement Assistance Administration. The Deputy Assistant Administrator shall perform such functions as the Assistant Administrator from time to time assigns or delegates, and shall act as Assistant Administrator during the absence or disability of the Assistant Administrator or in the event of a vacancy in the Office of the Assistant Administrator.

(f) There shall be established in the Office a Deputy Assistant Administrator who shall be appointed by the Administrator whose function shall be to supervise and direct the National Institute for Juvenile Justice and Delinquency Prevention established under section 241 of this Act.

(g) Section 5108 (c) (10) of title 5, United States Code first occurrence, is amended by deleting the word "twenty-two" and inserting in lieu thereof the word "twenty-five".

Personnel, Special Personnel, Experts, and Consultants

Sec. 202. (a) The Administrator is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and to prescribe their functions.

(b) The Administrator is authorized to select, appoint, and employ not to exceed three officers and to fix their compensation at rates not to exceed the rate now or hereafter prescribed for GS-18 of the Genreal Schedule by section 5332 of title 5 of the United States Code.

(c) Upon the request of the Administrator, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Assistant Administrator to assist him in carrying out his functions under this Act.

(d) The Administrator may obtain services as authorized by section 3109 of title 5 of the United States Code, at rates not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title I of the United States Code.

Voluntary Service

Sec. 203. The Administrator is authorized to accept and employ, in carying out the provisions of this Act, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

Concentration of Federal Efforts

Sec. 204. (a) The Administrator shall implement overall policy and develop objectives and priorities for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and improvement of the juvenile justice system in the United States. In carrying out his functions, the Administrator shall consult with the Council and the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

(b) In carrying out the purposes of this Act, the Administrator shall—

(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile delinquency programs and Federal policies regarding juvenile delinquency;

(2) assist operating agencies which have direct responsibilities for the prevention and treatment of juvenile delinquency in the development and promulgation of regulations, guidelines, requirements, criteria, standards, procedures, and budget requests in accordance with the policies, priorities, and objectives he establishes;

(3) conduct and support evaluations and studies of the performance and results achieved by Federal juvenile delinquency programs and activities and of the prospective performance and results that might be achieved by alternative programs and activities supplementary to or in lieu of those currently being administered;

(4) implement Federal juvenile delinquency programs and activities among Federal departments and agencies and between Federal juvenile delinquency programs and activities and other Federal programs and activities which he determines may have an important bearing on the success of the entire Federal juvenile delinquency effort;

(5) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the

legislation is enacted, prior to September 30, an analysis and evaluation of Federal juvenile delinquency programs conducted and assisted by Federal departments and agencies, the expenditures made, the results achieved, the plans developed, and problems in th operations and coordination of such programs. The report shall include recommendations for modifications in organization, management, personnel, standards, budget requests, and implementation plans necessary to increase the effectiveness of these programs;

(6) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to March 1, a comprehensive plan for Federal juvenile delinquency programs, with particular emphasis on the prevention of juvenile delinquency and the development of programs and services which will encourage increased diversion of juveniles from the traditional juvenile justice system; and

(7) provide technical assistance to Federal, State, and local governments, courts, public and private agencies, instiutions, and individuals, in the planning, establishment, funding, operation, or evaluation of juvenile delinquency programs.

(c) The President shall, no later than ninety days after receiving each annual report under subsection (b) (5), submit a report to the Congress and to the Council containing a detailed statement of any action taken or anticipated with respect to recommendations made by each such annual report.

(d) (1) The first annual report submitted to the President and the Congress by the Administrator under subsection (b) (5) shall contain, in addition to information required by subsection (b) (5), a detailed statement of criteria developed by the Administrator for identifying the characteristics of juvenile delinquency, juvenile delinquency prevention, diversion of youths from the juvenile justice system, and the training, treatment, and rehabilitation of juvenile delinquents.

(2) The second such annual report shall contain, in addition to information required by subsection (b) (5), an identification of Federal programs which are related to juvenile delinquency prevention or treatment, together with a statement of the moneys expended for each such program during the most recent complete fiscal year. Such identification shall be made by the Administrator through the use of criteria developed under paragraph (1).

(e) The third such annual report submitted to the President and the Congress by the Administrator under subsection (b) (6) shall contain, in addition to the comprehensive plan required by subsection (b) (6), a detailed statement of procedures to be used with respect to the submission of juvenile delinquency development statements to the Administrator by Federal agencies under subsection ("1"). Such statement submitted by the Administrator shall include a description of information, data, and analyses which shall be contained in each such development statement.

(f) The Administrator may require, through appropriate authority, departments and agencies engaged in any activity involving any Federal juvenile delinquency program to provide him with such information and

reports, and to conduct such studies and surveys, as he may deem to be necessary to carry out the purposes of this part.

(g) The Administrator may delegate any of his functions under this part, except the making of regulations, to any officer or employee of the Administration.

(h) The Administrator is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or instiution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

(i) The Administrator is authorized to transfer funds appropriated under this title to any agency of the Federal Government to develop or demonstrate new methods in juvenile delinquency prevention and rehabilitation and to supplement existing delinquency prevention and rehabilitation programs which the Assistant Administrator finds to be exceptionally effective or for which he finds there exists exceptional need.

(j) The Administrator is authorized to make grants to, or enter into contracts with, any public or private agency, instiution, or individual to carry out the purposes of this part.

(k) All functions of the Administrator under this part shall be coordinated as appropriate with the functions of the Secretary of the Department of Health, Education, and Welfare under the Juvenile Delinquency Prevention Act (42 U.S.C. 3801 et seq.).

(i) (1) The Administrator shall require through appropriate authority each Federal agency which administers a Federal juvenile delinquency program which meets any criterion developed by the Administrator under section 204(d) (1) to submit annually to the Council a juvenile delinquency development statement. Such statement shall be in addition to any information, report, study, or survey which the Administrator may require under section 204(f).

(2) Each juvenile delinquency development statement submitted to the Administrator under subsection ("1") shall be submitted in accordance with procedures established by the Administrator under section 204(e) and shall contain such information, data, adn analyses as the Administrator may require under section 204(e). Such analyses shall include an analysis of the extent to which the juvenile delinquency program of the Federal agency submitting such development statement conforms with and furthers Federal juvenile delinquency prevention and treatment goals and policies.

(3) The Administrator shall review and comment upon each juvenile delinquency development statement transmitted to him under subsection ("1"). Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in every recommendation or request made by such agency for Federal legislation which significantly affects juvenile delinquency prevention and treatment.

Joint Funding

Sec. 205.Notwithstanding any other provision of law, where funds

are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be requested by the Administrator to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Administrator may order any such agency to waive any technical grant or contract requirement (as defined in such regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.

Coordinating Council on Juvenile Justice and Delinquency Prevention

Sec. 206. (a) (1) There is hereby established, as an independent organization in the executive branch of the Federal Government a coordinating Council on Juvenile Justice and Delinquency Prevention (hereinafter referred to as the "Council") composed of the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director of the Special Action Office for Drug Abuse Prevention, the Secretary of Housing and Urban Development, or their respective designess, the Assistant Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Deputy Assistant Administrator of the Institute for Juvenile Justice and Delinquency Prevention, and representatives of such other agencies as the President shall designate.

(2) Any individual designated under this section shall be selected from individuals who exercise significant decisionmaking authority in the Federal agency involved.

(b) The Attorney General shall serve as Chairman of the Council. The Assistant Administrator of the Office of Juvenile Justice and Delinquency Prevention shall serve as Vice Chairman of the Council. The Vice Chairman shall act as Chairman in the absence of the Chairman.

(c) The function of the Council shall be to coordinate all Federal juvenile delinquency programs. The Council shall make recommendations to the Attorney General and the President at least annually with respect to the coordination of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs and activities.

(d) The Council shall meet a minimum of six times per year and a description of the activities of the Council shall be included in the annual report required by section 204 (b) (5) of this title.

(e) (1) The Chairman shall, with the approval of the Council, appoint an Executive Secretary of the Council.

(2) The Executive Secretary shall be responsible for the day-to-day administration of the Council.

(3) The Executive Secretary may, with the approval of the Council, appoint such personnel as he considers necessary to carry out the purposes of this title.

(f) Members of the Council who are employed by the Federal Government full time shall be reimbursed for travel, subsistence, and other

necessary expenses incurred by them in carrying out the duties of the Council.

(g) To carry out the purposes of this section there is authorized to be appropriated such sums as may be necessary.

Advisory Committee

Sec. 207. (a) There is hereby established a National Advisory Committee for Juvenile Justice and Delinquency Prevention (hereinafter referred to as the "Advisory Committee") which shall consist of twenty-one members.

(b) The members of the Coordinating Council or their respective designees shall be ex officio members of the Committee.

(c) The regular members of the Advisory Committee shall be appointed by the President from persons who by virtue of their training or experience have special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, such as juvenile or family court judges; probation, correctional, or law enforcement personnel; and representatives of private voluntary organizations and community-based programs. The President shall designate the Chairman. A majority of the members of the Advisory Committee, including the Chairman, shall not be full-time employees of Federal, State, or local governments. At least seven members shall not have attained twenty-six years of age on the date of their appointment.

(d) Members appointed by the President to the Committee shall serve for terms of four years and shall be eligible for reappointment except that for the first composition of the Advisory Committee, one-third of these members shall be appointed to one-year terms, one-third to two-year terms, and one-third to three-year terms; thereafter each term shall be four years. Such members shall be appointed within ninety days after the date of the enactment of this title. Any members appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term.

Duties of the Advisory Committee

Sec. 208. (a) The Advisory Committee shall meet at the call of the Chairman, but not less than four times a year.

(b) The Advisory Committee shall make recommendations to the Administrator at least annually with respect to planning, policy, priorities, operations, and management of all Federal juvenile delinquency programs.

(c) The Chairman may designate a subcommittee of the members of the Advisory Committee to advise the Administrator on particular functions or aspects of the work of the Administration.

(d) The Chairman shall designate a subcommittee of five members of the Committee to serve, together with the Director of the National Institute of Corrections, as members of an Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention to perform the functions set forth in section 245 of this title.

(e) The Chairman shall designate a subcommittee of five members

of the Committee to serve as an Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice to perform the functions set forth in scetion 247 of this title.

(f) The Chairman, with the approval of the Committee, shall appoint such personnel as are necessary to carry out the duties of the Advisory Committee.

Compensation and Expenses

Sec. 209. (a) Members of the Advisory Committee who are employed by the Federal Government full time shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee.

(b) Members of the Advisory Committee not employed full time by the Federal Government shall receive compensation at a rate not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code, including traveltime for each day they are engaged in the performance of their duties as members of the Advisory Committee. Members shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee.

Part B—Federal Assistance for State and Local Programs

Subpart I—Formula Grants

Sec. 221. The Administrator is authorized to make grants to States and local governments to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

Allocation

Sec. 222. (a) In accordance with regulations promulgated under this part, funds shall be allocated annually among the States on the basis of relative population of people under age eighteen. No such allotment to any State shall be less than $200,000, except that for the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands no allotment shall be less than $50,000.

(b) Except for funds appropriated for fiscal year 1975, if any amount so allotted remains unobligated at the end of the fiscal year, such funds shall be reallocated in a manner equitbale and consistent with the purpose of this part. Funds appropriated for fiscal year 1975 may be obligated in accordance with subsection (a) until June 30, 1976, after which time they may be reallocated. Any amount so reallocated shall be in addition to the amounts already allotted and available to the State, the Virgin Islands, American Samoa, Guam, and the Trust

Territory of the Pacific Islands for the same period.

(c) In accordance with regulations promulgated under this part, a portion of any allotment to any State under this part shall be available to develop a State plan and to pay that portion of the expenditures which are necessary for efficient administration. Not more that 15 per centum of the total annual allotment of such State shall be available for such purposes. The State shall make available needed funds for planning and administration to local governments within the State on an equitable basis.

(d) Financial assistance extended under the provisions of this section shall not exceed 90 per centum of the approved costs of any assisted programs or activities. The non-Federal share shall be made in cash or kind consistent with the maintenance of programs required by section 261.

State Plans

Sec. 223. (a) In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes consistent with the provisions of section 303(a), (1), (3), (5), (6), (8), (10), (11), (12), and (15) of title I of the Omnibus Crime Control and Safe Streets Act of 1968. In accordance with regulations established under this title, such plan must—

(1) designate the State planning agency established by the State under section 203 of such title I as the sole agency for supervising the preparation and administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter referred to in this part as the "State planning agency") has or will have authority, by legislation if necessary, to implement such plan in conformiity with this part;

(3) provide for an advisory group appointed by the chief executive of the State to advise the State planning agency and its supervisory board (A) which shall consist of not less than twenty-one and not more than thirty-three persons who have training, experience, or special knowledge concerning the prevention and treatment of a juvenile delinquency or the administration of juvenile justice, (B) which shall include representation of units of local government, law enforcement and juvenile justice agencies such as law enforcement, correction or probation personnel, and juvenile or family court judges, and public agencies concerned with delinquency prevention or treatment such as welfare, social services, mental health, education, or youth service departments, (C) which shall include representatives of private organizations concerned with delinquency prevention or treatment; concerned with neglected or dependent children; concerned with the quality of juvenile justice, education, or social services for children; which utilize volunteers to work with delinquents or potential delinquents; community-based delinquency prevention or treatment programs; and organizations which represent employees affected by this Act, (D) a majority of whose members (including the chairman) shall not be full-time employees of the Federal State, or local government, and (E) at least one-third of whose members shall be under the age

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of twenty-six at the time of appointment;

(4) provide for the active consultation with and participation of local governments in the development of a State plan which adequately takes into account the needs and requests of local governments;

(5) provide that at least 66⅔ per centum of the funds received by the State under section 222 shall be expended through programs of local government insofar as they are consistent with the State plan, except that this provision may be waived at the discretion of the Administrator for any State if the services for delinquent or potentially delinquent youth are organized primarily on a statewide basis;

(6) provide that the chief executive officer of the local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure (hereinafter in this part referred to as the "local agency") which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

(7) provide for an equitable distribution of the assistance received under section 222 within the State;

(8) set forth a detailed study of the State needs for an effective, comprehensive, coordinated approach to juvenile delinquency prevention and treatment and the improvement of the juvenile justice system. This plan shall include itemized estimated costs for the development and implementation of such programs;

(9) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, health, and welfare within the State;

(10) provide that not less than 75 per centum of the funds available to such State under section 222, whether expended directly by the State or by the local government or through contracts with public or private agencies, shall be used for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, and to provide community-based alternatives to juvenile detention and correctional facilities. That advanced techniques include—

(A) community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster-care and shelter-care homes, group homes, halfway houses, homemaker and home health services, and any other designated community-based diagnostic, treatment, or rehabilitative service;

(B) community- based programs and services to work with parents and other family members to maintain and strengthen the family unit so that the juvenile may be retained in his home;

(C) youth service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel, or provide work and recreational opportunities for delinquents and youth in danger

of becoming delinquent;

(D) comprehensive programs of drug and alcohol abuse education and prevention and programs for the treatment and rehabilitation of drug addicted youth, and "drug dependent" youth (as defined in scetion 2(q) of the Public Health Service Act (42 U.S.C. 201(q);

(E) educational programs or supportive services designed to keep delinquents and to encourage other youth to remain in elementary and secondary schools or in alternative learning situations;

(F) expanded use of probation and recruitment and training of probation officers, other professional and paraprofessional personnel and volunteers to work effectively with youth;

(G) youth initiated programs and outreach programs designed to assist youth who otherwise would not be reached by assistance programs;

(H) provides for a statewide program through the use of probation subsidies, other subsidies, other financial incentives or disincentives to units of local government, or other effective means, that may include but are not limited to programs designed to—

(i) reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the State juvenile population;

(ii) increase the use of nonsecure community-based facilities as a percentage of total commitments to juvenile facilities; and

(iii) discourage the use of secure incarceration and detention;

(11) provides for the development of an adequate research, training, and evaluation capacity within the State;

(12 provide within two years after submission of the plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities;

(13) provide that juveniles alleged to be or found to be delinquent shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;

(14) provide for an adequate system of monitoring jails, detention facilities, and correctional facilities to insure that the requirements of scetion 223 (12) and (13) are met, and for annual reporting of the results of such monitoring to the Administrator;

(15) provide assurance that assistance will be available on an equitable basis to deal with all disadvantaged youth including, but not limited to, females, minority youth, and mentally retarded and emotionally or physically handicapped youth;

(16) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

(17) provide that fair and equitable arrangements are made to protect the interests of employees affected by assistance under this Act. Such protective arrangements shall, to the maximum extent feasible, include, without being limited to, such provisions as may be necessary for—

(A) the preservation or rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements or otherwise;

(B) the continuation of collective-bargaining rights;

(C) the protection of individual employees against worsening of their positions with respect to their employment;

(D) assurances of employment to employees of any State or political subdivision thereof who will be affected by any program funded in whole or in part under provisions of this Act;

(E) training or retraining programs.

The State plan shall provide for the terms and conditions of the protection arrangements established pursuant to this section;

(18) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

(19) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase (but not supplant), to the extent feasible and practical, the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event replace such State, local, and other non-Federal funds;

(20) provide that the State planning agency will from time to time, but not less often then annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary; and

(21) contain such other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of the programs assisted under this title.

Such plan may at the discretion of the Administrator be incorporated into the plan specified in 303a() of the Omnibus Crime Control and Safe Streets Act.

(b) The State planning agency designated pursuant to section 223(a), after consultation with the advisory group referred to in section 223(a), shall approve the State plan and any modification thereof prior to submission to the Administrator.

(c) The Administrator shall approve any State plan and any modification thereof prior to submission to the Administrator.

(c) The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

(d) In the event that any State fails to submit a plan, or submits a plan or any modification thereof, which the Administrator, after reasonable notice and opportunity for hearing, in accordance with sections 509, 510, and 511 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, determines does not meet the requirements of this section, the Administrator shall make that State's allotment under the

provisions of section 222(a) available to public and private agencies for special emphasis prevention and treatment programs as defined in section 224.

(e) In the event the plan does not meet the requirements of this section due to oversight or neglect, rather than explicit and conscious decision, the Administrator shall endeavor to make that State's allotment under the provisions of section 222(a) available to public and private agencies in that State for special emphasis prevention and treatment programs as defined in scetion 224.

Subpart II—Special Emphasis Prevention and Treatment Programs

Sec. 224. (a) The Administrator is authorized to make grants to enter into contracts with public and private agencies, organizations, institutions, or individuals to—

(1) develop and implement new approaches, techniques and methods with respect to juvenile delinquency programs;

(2) develop and mtain community-based alternatives to traditional forms of institutionalization;

(3) develop and implement effective means of diverting juveniles from the traditional juvenile justice and correctional system;

(4) improve the capability of public and private agencies and organizations to provide services for delinquents and youths in danger of becoming delinquent;

(5) facilitate the adoption of the recommendations of the Advisory Committee on Standards for Juvenile Justice and the Institute as set forth pursuant to section 247; and

(6) develop and implement model programs and methods to keep students in elementary and secondary schools and to prevent unwarranted and arbitrary suspensions and expulsions.

(b) Not less than 25 per centum or more than 50 per centum of the funds appropriated for each fiscal year pursuant to this part shall be available only for special emphasis prevention and treatment grants and contracts made pursuant to this section.

(c) At least 20 per centum of the funds available for grants and contracts made pursuant to this section shall be available for grants and contracts to private nonprofit agencies, organizations, or institutions who have had experience in dealing with youth.

Considerations for Approval of Applications

Sec. 225. (a) Any agency, institution, or individual desiring to receive a grant, or enter into any contract under section 224, shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

(b) In accordance with guidelines established by the Administrator, each such application shall—

(1) provide that the program for which assistance is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out one or more of the pur-

poses set forth in section 224;

(3) provide for the proper and efficient administration of such program;

(4) provide for regular evaluation of the program;

(5) indicate that the applicant has requested the review of the application from the State planning agency and local agency designated in section 223, when appropriate, and indicate the response of such agency to the request for review and comment on the application;

(6) provide that regular reports on the program shall be sent to the Administrator and to the State planning agency and local agency, when appropriate;

(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title; and

(8) indicate the response of the State agency or the local agency to the request for review and comment on the application.

(c) In determining whether or not to approve applications for grants under section 224, the Administrator shall consider—

(1) the relative cost and effectiveness of the proposed program in effectuating the purposes of this part;

(2) the extent to which the proposed program will incorporate new or innovative techniques;

(3) the extent to which the proposed program meets the objectives and priorities of the State plan, when a State plan has been approved by the Administrator under section 223(c) and when the location and scope of the program makes such consideration appropriate;

(4) the increase in capacity of the public and private agency, institution, or individual to provide services to delinquents or youths in danger of becoming delinquents;

(5) the extent to which the proposed project serves communities which have high rates of youth unemployment, school dropout, and delinquency; and

(6) the extent to which the proposed program facilitates the implementation of the recommendations of the Advisory Committee on Standards for Juvenile Justice as set forth pursuant to section 247.

General Provisions

Withholding

Sec. 226. Whenever the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds—

(1) That the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this title; or

(2) that in the operation of the program or activity there is failure to comply substantially with any such provision;

the Administrator shall initiate such proceedings as are appropriate.

Use of Funds

Sec 227. (a) Funds paid pursuant to this title to any State, public or private agency, instiution, or individual (whether directly or through a State or local agency) may be used for—

(1) planning, developing, or operating the program designed to carry out the purposes of this part; and

(2) not more than 50 per centum of the cost of the construction of innovative community-based facilities for less than twenty persons which, in the judgment of the Administrator, are necessary for carrying out the purposes of this part.

(b) Except as provided by subsection (a), no funds paid to any public or private agency, institution, or individual under this part (whether directly or through a State agency or local agency) may be used for construction.

Payments

Sec. 228. (a) In accordance with criteria established by the Administrator, it is the policy of Congress that programs funded under this title shall continue to receive financial assistance providing that the yearly evaluation of such programs is satisfactory.

(b) At the discretion of the Administrator, when there is no other way to fund an essential juvenile delinquency program not funded under this part, the State may utilize 25 per centum of the formula grant funds available to it under this part to meet the non-Federal matching share requirement for any other Federal juvenile delinquency program grant.

(c) Whenever the Administrator determines that it will contribute to the purposes of this part, he may require the receipient of any grant or contract to contribute money, facilities, or services.

(d) Payments under this part, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursements, in such installments and on such conditions as the Administrator may determine.

Part C—National Institute for Juenvile Justice and Delinquency Prevention

Sec. 241. (a) There is hereby established within the Juvenile Justice and Delinquency Prevention Office a National Institute for Juvenile Justice and Delinquency Prevention.

(b) The National Institute for Juvenile Justice and Delinquency Prevention shall be under the supervision and direction of the Assistant Administrator, and shall be headed by a Deputy Assistant Administrator of the Office appointed under section 201 (f).

(c) The activities of the National Institute for Juvenile Justice and Delinquency Prevention shall be coordinated with the activities of the National Institute of Law Enforcement and Criminal Justice in accordance with the requirements of section 201 (b).

(d) The Administrator shall have responsibility for the administration of the organization, employees, enrollees, financial affairs, and other operations of the Institute.

(e) The Administrator may delegate his power under the Act to such employees of the Institute as he deems appropriate.

(f) It shall be the purpose of the Institute to provide a coordinating center for the collection, preparation, and dissemination of useful data regarding the treatment and control of juvenile offenders, and it shall also be the purpose of the Institute to provide training for representatives of Federal, State, and local law enforcement officers, teachers, and other educational personnel, juvenile welfare workers, juvenile judges and judicial personnel, probation personnel, correctional personnel and other persons, including lay personnel, connected with the treatment and control of juvenile offenders.

(g) In addition to the other powers, express and implied, the Institute may—

(1) request any Federal agency to supply such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions;

(2) arrange with and reimburse the heads of Federal agencies for the use of personnel or facilities or equipment of such agencies;

(3) confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other public or private local agencies;

(4) enter into contracts with public or private agencies, organizations, or individuals, for the partial performance of any functions of the Institute; and

(5) compensate consultants and members of technical advisory councils who are not in the regular full-time employ of the United States, at a rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code and while away from home, or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code for persons in the Government service employed intermittently.

(b) Any Federal agency which receives a request from the Institute under subsection (g) (1) may cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information and advice to the Institute.

Information Function

Sec. 242. The National Institute for Juvenile Justice and Delinquency Prevention is authorized to—

(1) serve as an information bank by collecting systematically and synthesizing the data and knowledge obtained from studies and research by public and private agencies, institutions, or individuals concerning all aspects of juvenile delinquency, including the prevention and treatment of juvenile delinquency;

(2) serve as a clearinghouse and information center for the prepara-

tion, publication, and dissemination of all information regarding juvenile delinquency, including State and local juvenile delinquency prevention and treatment programs and plans, availability of resources, training and educational programs, statistics, and other pertinent data and information.

Research, Demonstration, and Evaluation Functions

Sec. 243. The National Institute for Juvenile Justice and Delinquency Prevention is authorized to—

(1) conduct, encourage, and coordinate research and evaluation into any aspect of juvenile delinquency, particularly with regard to new programs and methods which show promise of making a contribution toward the prevention and treatment of juvenile delinquency;

(2) encourage the development of demonstration projects in new, innovative techniques and methods to prevent and treat juvenile delinquency;

(3) provide for the evaluation of all juvenile delinquency programs assisted under this title in order to determine the results and the effectiveness of such programs;

(4) provide for the evaluation of any other Federal, State, or local juvenile delinquency program, upon the request of the Administrator;

(5) prepare, in cooperation with educational institutions, Federal, State, and local agencies, and appropriate individuals and private agencies, such studies as it considers to be necessary with respect to the prevention and treatment of juvenile delinquency and related matters, including recommendations designed to promote effective prevention and treatment;

(6) disseminate the results of such evaluations and research and demonstration activities particularly to persons actively working in the field of juvenile delinquency; and

(7) disseminate pertinent data and studies (including a periodic journal) to individuals, agencies, and organizations concerned with the prevention and treatment of juvenile delinquency.

Training Functions

Sec. 244. The National Institute for Juvenile Justice and Delinquency Prevention is authorized to—

(1) develop, conduct, and provide for training programs for the training of professional, paraprofessional, and volunteer personnel, and other persons who are or who are preparing to work with juveniles and juvenile offenders;

(2) develop, conduct, and provide for seminars, workshop, and training programs in the latest proven effective techniques and methods of preventing and treating juvenile delinquency for law enforcement officers, juvenile judges, and other court personnel, probation officers, correctional personnel, and other Federal, State, and local government personnel who are engaged in work relating to juvenile delinquency;

(3) devise and conduct a training program, in accordance with the provisions of section 249, 250, and 251, of short-term instruction in the

latest proven-effective methods of prevention, control, and treatment of juvenile delinquency for correctional and law enforcement personnel, teachers and other educational personnel, juvenile welfare workers, juvenile judges and judicial personnel, probation officers, and other persons (including all personnel) connected with the prevention and treatment of juvenile delinquency; and

(4) develop technical training teams to aid in the development of training programs in the States and to assist State and local agencies which work directly with juveniles and juvenile offenders.

Institute Advisory Committee

Sec. 245. The Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention established in section 208(d) shall advise, consult with, and make recommendations to the Deputy Assistant Administrator for the National Institute for Juvenile Justice and Delinquency Prevention concerning the overall policy and operations of the Institute.

Annual Report

Sec. 246. The Deputy Assistant Administrator for the National Institute for Juvenile Justice and Delinquency Prevention shall develop annually and submit to the Administrator after the first year the legislation is enacted, prior to June 30, a report on research, demonstration, training, and evaluation programs funded under this title, including a review of the results of such programs, an assessment of the application of such results to existing and to new juvenile delinquency programs, and detailed recommendations for future research, demonstration, training, and evaluation programs. The Administrator shall include a summary of these results and recommendations in his report to the President and Congress required by section 204(b)(5).

Development of Standards for Juvenile Justice

Sec. 247. (a) The National Institute for Juvenile Justice and Delinquency Prevention, under the supervision of the Advisory Committee on Standards for Juvenile Justice established in section 208(e), shall review existing reports, data, and standards, relating to the juvenile justice system in the United States.

(b) Not later than one year after the passage of this section, the Advisory Committee shall submit to the President and the Congress a report which, based on recommended standards for the administration of juvenile justice at the Federal, State, and local level—

(1) recommends Federal action, including but not limited to administrative and legislative action, required to facilitate the adoption of these standards throughout the United States; and

(2) recommends State and local action to facilitate the adoption of these standards for juvenile justice at the State and local level.

(c) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized

and directed to furnish to the Advisory Committee such information as the Committee deems necessary to carry out its functions under this section.

Sec. 248. Records containing the identity of individual juveniles gathered for purposes pursuant to this title may under no circumstances be disclosed or transferred to any individual or other agency, public, or private.

Establishment of Training Program

Sec. 249. (a) The Administrator shall establish within the Institute a training program designed to train enrollees iwth respect to methods and techniques for the prevention and treatment of juvenile delinquency. In carrying out this program the Administrator is authorized to make use of available State and local services, equipment, personnel, facilities, and the like.

(b) Enrollees in the training program established under this section shall be drawn from correctional and law enforcement personnel, teachers and other educational personnel, juvenile welfare workers, juvenile judges and judicial personnel, probation officers, and other persons (including lay personnel) connected with the prevention and treatment of juvenile delinquency.

Curriculum for Training Program

Sec. 250. The Administrator shall design and supervise a curriculum for the training program established by section 249 which shall utilize an interdisciplinary approach with respect to the prevention of juvenile delinquency, the treatment of juvenile delinquents, and the diversion of youths from the juvenile justice system. Such curriculum shall be appropriate to the needs of the enrollees of the training program.

Enrollment for Training Program

Sec. 251. (a) Any person seeking to enroll in the training program established under section 249 shall transmit an application to the Administrator, in such form and according to such procedures as the Administrator may prescribe.

(b) The Administrator shall make the final determination with respect to the admittance of any person to the training program. The Administrator, in making such determination, shall seek to assure that persons admitted to the training program are broadly representative of the categories described in section 249(b).

(c) While studying at the Institute and while traveling in connection with his study (including authorized field trips), each person enrolled in the Institute shall be allowed travel expenses and a per diem allowance in the same manner as prescribed for persons employed intermittently in the Government service under section 5703(b) of title 5, United States Code.

Part D—Authorization of Appropriations

Sec. 261. (a) To carry out the purposes of this title there is au-

thorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1975, $125,000,000 for the fiscal year ending June 30, 1976, and $150,000,000 for the fiscal year ending June 30, 1977.

(b) In addition to the funds appropriated under this section, the Administration shall maintain from other Law Enforcement Assistance Administration appropriations other than the appropriations for administration, at least the same level of financial assistance for juvenile delinquency programs assisted by the Law Enforcement Assistance Administration during fiscal year 1972.

Nondiscrimination Provisions

Sec. 262. (a) No financial assistance for any program under this Act shall be provided unless the grant, contract, or agreement with respect to such program specifically provides that no recipient of funds will discriminate as provided in subsection (b) with respect to any such program.

(b) No person in the United States shall on the ground of race, creed, color, sex, or national origin be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this Act. The provisions of the preceding sentence shall be enforced in accordance with section 603 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if such person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this Act.

Effective Clause

Sec. 263. (a) Except as provided by subsection (b), the foregoing provisions of this Act shall take effect on the date of enactment of this Act.

(b) Section 204(b)(5) and 204(b)(6) shall become effective at the close of the thirty-first day of the twelfth calendar month of 1974. Section 204(l) shall become effective at the close of the thirty-first day of the eighth calendar month of 1976.

TITLE III—RUNAWAY YOUTH

Short Title

Sec. 301. This title may be cited as the "Runaway Youth Act".

Findings

Sec. 302. The Congress hereby finds that—

(1) the number of juveniles who leave and remain away from home without parental permission has increased to alarming proportions, creating a substantial law enforcement problem for the communities inundated, and significantly endangering the young people who are without

resources and live on the street;

(2) the exact nature of the problem is not well defined because national statistics on the size and profile of the runaway youth population are not tabulated;

(3) many such young people, because of their age and situation, are urgently in need of temporary shelter and counseling services;

(4) the problem of locating, detaining, and returning runaway children should not be the responsibility of already overburdened police departments and juvenile justice authorities;

(5) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop accurate reporting of the problem nationally and to develop an effective system of temporary care outside the law enforcement structure.

Rules

Sec. 303. The Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") may prescribe such rules as he considers necessary or appropriate to carry out the purposes of this title.

Part A—Grants Program

Purposes of Grant Program

Sec. 311. The Secretary is authorized to make grants and to provide technical assistance to localities and nonprofit private agencies in accordance with the provisions of this part. Grants under this part shall be made for the purpose of developing local facilities to deal primarily with the immediate needs of runaway youth in a manner which is outside the law enforcement structure and juvenile justice system. The size of such grant shall be determined by the number of runaway youth in the community and the existing availability of services. Among applicants priority shall be given to private organizations or institutions which have had past experience in dealing with runaway youth.

Eligibility

Sec. 312. (a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund an existing or proposed runaway house, a locally controlled facility providing temporary shelter, and counseling services to juveniles who have left home without permission of their parents or guardians.

(b) In order to qualify for assistance under this part, an applicant shall submit a plan to the Secretary meeting the following requirements and including the following information. Each house—

(1) shall be located in an area which is demonstrably frequented by or easily reachable by runaway youth;

(2) shall have a maximum capacity of no more than twenty children, with a ratio of staff to children of sufficient portion to assure adequate supervision and treatment;

(3) shall develop adequate plans for contacting the child's parents or relatives (if such action is required by State law) and assuring the safe return of the child according to the best interests of the child, for contacting local government officials pursuant to informal arrangements established with such officials by the runaway house, and for providing for other appropriate alternative living arrangements;

(4) shall develop an adequate plan for assuring proper relations with law enforcement personnel, and the return of runaway youths from correctional institutions;

(5) shall develop an adequate plan for aftercare counseling involving runaway youth and their parents within the State in which the runaway house is located and for assuring, as possible, that aftercase services will be provided to those children who are returned beyond the State in which the rnuaway house is located;

(6) shall keep adequate statistical records profiling the children and parents which it serves, except that records maintained on individual runaway youths shall not be disclosed without parental consent to anyone other than another agency compiling statistical records or a government agency involved in the disposition of criminal charges against an individual runaway youth, and reports or other documents based on such statistical records shall not disclose the identity of individual runaway youths;

(7) shall submit annual reports to the Secretary detailing how the house has been able to meet the goals of its plans and reporting the statistical summaries required by paragraph (6);

(8) shall demonstrate its ability to operate under accounting procedures and fiscal control devices as required by the Secretary;

(9) shall submit a budget estimate with respect to the plan submitted by such house under this subsection; and

(10) shall supply such other information as the Secretary reasonably deems necessary.

Approval by Secretary

Sec. 313. An application by a State, locality, or nonprofit private agency for a grant under this part may be approved by the Secretary only if it is consistent with the applicable provisions of this part and meets the requirements set forth in section 312. Priority shall be given to grants smaller than $75,000. In considering grant applications under this part, priority shall be given to any applicant whose program budget is smaller than $100,000.

Grants to Private Agencies, Staffing

Sec. 314. Nothing in this part shall be construed to deny grants to nonprofit private agencies which are fully controlled by private boards or persons but which in other respects meet the requirements of this part and agree to be legally responsible for the operation of the runaway house. Nothing in this part shall give the Federal Government control over the staffing and personnel decisions of facilities receiving Federal funds.

Reports

Sec. 315. The Secretary shall annually report to the Congress on the status and accomplishments of the runaway houses which are founded under this part, with particular attention to—

(1) their effectiveness in alleviating the problems of runaway youth;

(2) their ability to reunite children with their families and to encourage the resolution of intrafamily problems through counseling and other services;

(3) their effectiveness in strengthening family relationship,. and encouraging stable living conditions for children; and

(4) their effectiveness in helping youth decide upon a future course of action.

Federal Share

Sec. 316. (a) The Federal share for the acquisition and renovation of existing structures, the provision of counseling services, staff training, and the general costs of operations of such facility's budget for any fiscal year shall be 90 per centum. The non-Federal share may be in cash or in kind, fairly evaluated by the Secretary, including plant, equipment, or services.

(b) Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

Part B—Statistical Survey

Survey; Report

Sec. 321. The Secretary shall gather information and carry out a comprehensive statistical survey defining the major characteristic of the runaway youth population and determining the areas of the Nation most affected. Such survey shall include the age, sex, and socioeconomic bacground of runaway youth, the places from which and to which children run, and the relationship between running away and other illegal behavior. The Secretary shall report the results of such information gathering and survey to the Congress not later than June 30, 1975.

Records

Sec. 322. Records containing the identity of individual runaway youth gathered for statistical purposes pursuant to section 321 may under no circumstances be disclosed or transferred to any individual or to any public or private agency.

Part C—Authorization of Appropriations

Sec. 331. (a) To carry out the purposes of part A of this title there is authorized to be appropriated for each of the fiscal years ending June 30, 1975, 1976, and 1977, the sum of $10,000,000.

(b) To carry out the purposes of part B of this title there is authorized to be appropriated the sum of $500,000.

TITLE IV—EXTENSION AND AMENDMENT OF THE JUVENILE DELINQUENCY PREVENTION ACT

Youth Development Demonstrations

Sec. 401. Title I of the Juvenile Delinquency Prevention Act is amended (1) in the caption thereof, by inserting "AND DEMONSTRATION PROGRAMS" after "SERVICES"; (2) following the caption thereof, by inserting "Part A—Community-Based Coordinated Youth Services"; (3) in sections 101, 102(a), 102(b)(1), 102(b)(2), 103(a) (including paragraph (1) thereof), 104(a) (including paragraphs (1), (4), (5), (7), and (10) thereof), and 104(b) by striking out "title" and inserting "part" in lieu thereof; and (4) by inserting at the end of the title following new part:

"Part B—Demonstrations in Youth Development

"Sec. 105. (a) For the purpose of assisting the demonstration of innovative approaches to youth development and the prevention and treatment of delinquent behavior (including payment of all or part of the costs of minor remodeling or alteration), the Secretary may make grants to any State (or political subdivision thereof), any agency thereof, and any nonprofit private agency, institution, or organization that submits to the Secretary, at such time and in such form and manner as the Secretary's regulations shall prescribe, an application containing a description of the purposes for which the grant is sought, and assurances satisfactory to the Secretary that the applicant will use the grant for the purposes for which it is provided, and will comply with such requirements relating to the submission of reports, methods of fiscal accounting, the inspection and audit of records and other materials, and such other rules, regulations, standards, and procedures, as the Secretary may impose to assure the fulfillment of the purposes of this Act.

"(b) No demonstration may be assisted by a grant under this section for more than one year."

Consultation

Sec. 402. (a) Section 408 of such Act is amended by adding at the end of subsection (a) thereof the following new subsection:

"(b) The Secretary shall consult with the Attorney General for the purpose of coordinating the development and implementation of programs and activities funded under this Act with those related programs and activities funded under the Omnibus Crime Control and Safe Streets Act of 1968";

and by deleting subsection (b) thereof.

(b) Section 409 is repealed.

Repeal of Minimum State Allotments

Sec. 403. Section 403(b) of such Act is repealed, and section 403(a) of such Act is redesignated section 403.

Extension of Program

Sec. 404. Section 402 of such Act, as amended by this Act, is further amended in the first sentence by inserting after "fiscal year" the following: "and such sums as may be necessary for fiscal year 1975".

TITLE V—MISCELLANEOUS AND CONFORMING AMENDMENTS

Part A—Amendments to the Federal Juvenile Delinquency Act

Sec. 501. Section 5031 of title 18, United States Code, is amended to read as follows:

"**§ 5031. Definitions**

"For the purposes of this chapter, a 'juvenile' is a person who has not attained his eighteenth birthday, or for the purpose of proceedings and disposition under this chapter for an alleged act of juvenile delinquency, a person who has not attained his twenty-first birthday, and 'juvenile delinquency' is the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult."

Delinquency Proceedings in District Courts

Sec. 502. Section 5032 of title 18, United States Code, is amended to read as follows:

"**§ 5032. Delinquency proceedings in district courts; transfer for criminal prosecution**

"A juvenile alleged to have committed an act of juvenile delinquency shall not be proceeded against in any court of the United States unless the Attorney General, after investigation, certifies to an appropriate district court of the United States that the juvenile court or other appropriate court of a State (1) does not have jurisdiction or refuses to assume jurisdiction over said juvenile with respect to such alleged act of juvenile delinquency, or (2) does not have available programs and services adequate for the needs of juveniles.

"If the Attorney General does not so certify, such juvenile shall be surrendered to the appropriate legal authorities of such State.

"If an alleged juvenile delinquent is not surrendered to the authorities of a State or the District of Columbia pursuant to this section, any proceedings against him shall be in an appropriate district court of the United States. For such purposes, the court may be convened at any time and place within the district, in chambers or otherwise. The Attorney General shall proceed by information, and no criminal prosecution shall be instituted for the alleged act of juvenile delinquency except as provided below.

"A juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless he has requested in writing upon advice of counsel to be proceeded against as an adult, except that, with respect to a juvenile sixteen years and older alleged to have committed an act after his sixteenth birthday which if committed by an adult would be a felony punishable by a maximum penalty of ten years impris-

onment or more, life imprisonment, or death, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, such transfer would be in the interest of justice.

"Evidence of the following factors shall be considered, and findings with regard to each factor shall be made in the record, in assessing whether a transfer would be in the interest of justice; the age and social background of the juvenile; the nature of the alleged offense; the extent and nature of the juvenile's prior delinquency record; the juvenile's present intellectual development and psychological maturity; the nature of past treatment efforts and the juvenile's response to such efforts; the availability of programs designed to treat the juvenile's behavioral problems.

"Reasonable notice of the transfer hearing shall be given to the juvenile, his parents, guardian, or custodian and to his counsel. The juvenile shall be assisted by counsel during the transfer hearing, and at every other critical stage of the proceedings.

"Once a juvenile has entered a plea of guilty or the proceeding has reached the stage that evidence has begun to be taken with respect to a crime or an alleged act of juvenile delinquency subsequent criminal prosecution or juvenile proceedings based upon such alleged act of delinquency shall be barred.

"Statements made by a juvenile prior to or during a transfer hearing under this section shall not be admissibel at subsequent criminal prosecutions."

Custody

Sec. 503. Section 5033 of title 18, United States Code is amended to read as follows:

"**§ 5033. Custody prior to appearance before magistrate**

"Whenever a juvenile is taken into custody for an alleged act of juvenile delinquency, the arresting officer shall immediately advise such juvenile of his legal rights, in language comprehensive to a juvenile, and shall immediately notify the Attorney General and the juvenile's parents, guardian, or custodian of such custody. The arresting officer shall also notify the parents, guardian, or custodian of the rights of the juvenile and of the nature of the alleged offense.

"The juvenile shall be taken before a magistrate forthwith. In no event shall the juvenile be detained for longer than a reasonable period of time before being brought before a magistrate."

Duties of Magistrate

Sec. 504. Section 5034 of title 18, United States Code, is amended to read as follows:

"**§ 5034. Duties of magistrate**

"The magistrate shall insure that the juvenile is represented by counsel before proceeding with critical stages of the proceedings. Counsel shall be assigned to represent a juvenile when the juvenile and his parents, guardian, or custodian are financially unable to obtain adequate repre-

sentation. In cases where the juvenile and his parents, guardian, or custodian are financially able to obtain adequate representation but have not retained counsel, the magistrate may assign counsel and order the payment of reasonable attorney's fees or may direct the juvenile, his parents, guardian, or custodian to retain private counsel within a specified period of time.

"The magistrate may appoint a guardian, ad litem if a parent or guardian of the juvenile is not present, or if the magistrate has reason to believe that the parents or guardian will not cooperate with the juvenile in preparing for trial, or that the interests of the parents or guardian and those of the juvenile are adverse.

"If the juvenile has not been discharged before his initial appearance before the magistrate, the magistrate shall release the juvenile to his parents, guardian, custodian, or other responsible party (including, but not limited to, the director of a shelter-care facility upon their promise to bring such juvenile before the appropriate court when requested by such court unless the magistrate determines, after hearing, at which the juvenile is represented by counsel, that the detention of such juvenile is required to secure his timely appearance before th appropriate court or to insure his safety or that of others."

Detention

Sec. 505. Section 5035 of this title is amended to read as follows:

"§ **5035. Detention prior to disposition**

"A juvenile alleged to be delinquent may be detained only in a juvenile facility or such other suitable place as the Attorney General may designate. Whenever possible, detention shall be in a foster home or community based facility located in or near his home community. The Attorney General shall not cause any juvenile alleged to be delinquent to be detained or confined in any institution in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges. Insofar as possible, alleged delinquents shall be kept separate from adjudicated delinquents. Every juvenile in custody shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, psychological, or other care and treatment".

Speedy Trial

Sec. 506. Section 5036 of this title is amended to read as follows.

"§ **5036. Speedy trial**

"If an alleged delinquent who is in detention pending trial is not brought to trial within thirty days from the date upon which such detention was begun, the information shall be dismissed on motion of the alleged delinquent or at the direction of the court, unless the Attorney General shows that additional delay was caused by the juvenile or his counsel, or consented to by the juvenile and his counsel, or would be in the interest of justice in the particular case. Delays attributable solely to court calendar congestion may not be considered in the interest of justice. Except in extraordinary circumstances, an information dismissed under this section may not be reinstituted."

Disposition

Sec. 507. Section 5037 is amended to read as follows:

"§ 5037. Dispositional hearing

"(a) If a juvenile is adjudicated delinquent, a separate dispositional hearing shall be held no later than twenty court days after trial unless the court has ordered further study in accordance with subsection (c). Copies of the presentence report shall be provided to the attorneys for both the juvenile and the Government a reasonable time in advance of the hearing.

"(b) The court may suspend the adjudication of delinquency or the disposition of the delinquent on such conditions as it deems proper, place him on probation, or commit him to the custody of the Attorney General. Probation, commitment, or commitment in accordance with subsection (c) shall not extend beyond the juvenile's twenty-first birthday or the maximum term which could have been imposed on an adult convicted of the same offense, whichever is sooner, unless the juvenile has attained his nineteenth birthday at the time of disposition, in which case probation, commitment, or commitment in accordance with subsection (c) shall not exceed the lesser of two years or the maximum term which could have been imposed on an adult convicted of the same offense.

"(c) If the court desires more detailed information concerning an alleged or adjudicated delinquent, it may commit him, after notice and hearing at which the juvenile is represented by counsel, to the custody of the Attorney General for observation and study by an appropriate agency. Such observation and study shall be conducted on an outpatient basis, unless the court determines that inpatient observation and study are necessary to obtain the desired information. In the case of an alleged juvenile delinquent, inpatient study may be ordered only with the consent of the juvenile and his attorney. The agency shall make a complete study of the alleged or adjudicated delinquent to ascertain his personal traits, his capabilities, his background, any previous delinquency or criminal experience, any mental or physical defect, and any other relevant factors. The Attorney General shall submit to the court and the attorneys for the juvenile and the Government the results of the study within thirty days after the commitment of the juvenile, unless the court grants additional time."

Juvenile Records

Sec. 508. Section 5038 is added, to read as follows:

"§ 5038. Use of juvenile records

"(a) Throughout the juvenile delinquency proceeding the court shall safeguard the records from disclosure. Upon the completion of any juvenile delinquency proceeding whether or not there is an adjudication the district court shall order the entire file and record of such proceeding sealed. After such sealing, the court shall not release these records except to the extent necessary to meet the following circumstances:

"(1) inquiries received from another court of law;

"(2) inquiries from an agency preparing a presentence report for

another court;

"(3) inquiries from law enforcement agencies where the request for information is related to the investigation of a crime or a position within that agency;

"(4) inquiries, in writing, from the director of a treatment agency or the director of a facility to which the juvenile has been committed by the court; and

"(5) inquiries from an agency considering the person for a position immediately and directly affecting the national security.

Unless otherwise authorized by this section, information about the sealed record may not be released when the request for information is related to an application for employment, license, bonding, or any civil right or privilege. Responses to such inquiries shall not be different from responses made about persons who have never been involved in a delinquency proceeding.

"(b) District courts exercising jurisdiction over any juvenile shall inform the juvenile, and his parent or guardian, in writing in clear and nontechnical language, of rights relating to the sealing of his juvenile record.

"(c) During the course of any juvenile delinquency proceeding, all information and records relating to the proceeding, which are obtained or prepared in the discharge of an official duty by an employee of the court or an employee of any other governmental agency, shall not be disclosed directly or indirectly to anyone other than the judge, counsel for the juvenile and the government, or others entitled under this section to receive sealed records.

"(d) Unless a juvenile who is taken into custody is prosecuted as an adult—

"(1) neither the fingerprints nor a photograph shall be taken without the written consent of the judge; and

"(2) neither the name nor picture of any juvenile shall be made public by any medium of public information in connection with a juvenile delinquency proceeding."

Commitment

Section. 509. Section 5039 is added, to read as follows:

"§ 5039. Commitment

"No juvenile committed to the custody of the Attorney General may be placed or retained in an adult jail or correctional institution in which he has regular contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges.

"Every juvenile who has been committed shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, counseling, education, training, and medical care including necessary psychiatric, psychological, or other care and treatment.

"Whenever possible, the Attorney General shall commit a juvenile to a foster home or community-based facility located in or near his home community."

Support

Sec. 510. Section 5040 is added, to read as follows:

"§ 5040. Support

"The Attorney General may contract with any public or private agency or individual and such community-based facilities as halfway houses and foster homes for the observation and study and the custody and care of juveniles in his custody. For these purposes, the Attorney General may promulgate such regulations as are necessary and may use the appropriation for 'support of United States prisoners' or such other appropriations as he may designate."

Parole

Sec. 511. Section 5041 is added to read as follows:

"§ 5041. Parole

"The Board of Parole shall release from custody, on such conditions as it deems necessary, each juvenile delinquent who has been committed, as soon as the Board is satisfied that he is likely to remain at liberty without violating the law and when such release would be in the interest of justice."

Revocation

Sec. 512. Section 5042 is added to read as follows:

"§ 5042. Revocation of parole or probation

"Any juvenile parolee or probationer shall be accorded notice and a hearing with counsel before his parole or probation can be revoked."

Sec. 513. The table of sections of chapter 403 of this title is amended to read as follows:

"Sec.
"5031. Definitions.
"5032. Delinquency proceedings in district courts; transfer for criminal prosecution.
"5033. Custody prior to appearance before magistrate.
"5034. Duties of magistrate.
"5035. Detention prior to disposition.
"5036. Speedy trial.
"5037. Dispositional hearing.
"5038. Use of juvenile records.
"5039. Commitment.
"5040. Support.
"5041. Parole.
"5042. Revocation of Parole or Probation."

Part B—National Institute of Corrections

Sec. 521. Title 18, United States Code, is amended by adding a new chapter 319 to read as follows:

"CHAPTER 319.—NATIONAL INSTITUTE OF CORRECTIONS

"Sec. 4351. (a) There is hereby established within the Bureau of Prisons a National Institute of Corrections.

"(b) The overall policy and operations of the National Institute of Corrections shall be under the supervision of an Advisory Board. The Board shall consist of sixteen members. The following six individuals shall serve as members of the Commission ex officio: the Director of the Federal Bureau of Prisons or his designee, the Administrator of the Law Enforcement Assistance Administration or his designee, Chairman of the United States Parole Board or his designee, the Director of the Federal Judicial Center or his designee, the Deputy Assistan Administrator for the National Institute for Juvenile Justice and Delinquency Prevention or his designee, and the Assistant Secretary for Human Development of the Department of Health, Education, and Welfare or his designee.

"(c) The remaining ten members of the Board shall be selected as follows:

"(1) Five shall be appointed initially by the Attorney General of the United States for staggered terms; one member shall serve for one year, one member for two years, and three members for three years. Upon the expiration of each member's term, the Attorney General shall appoint successors who will each serve for a term of three years. Each member selected shall be qualified as a practitioner (Federal, State, or local) in the field of corrections, probation, or parole.

"(2) Five shall be appointed initially by the Attorney General of the United States for staggered terms, one member shall serve for one year, three members for two years, and one member for three years." Upon the expiration of each member's term the Attorney General shall appoint successors who will each serve for a term of three years. Each member selected shall be from the private sector, such as business, labor, and education, having demonstrated an active interest in corrections, probation, or parole.

"(d) The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States. Members of the Commission who are full-time officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Board. Other members of the Board shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Commission pursuant to this title, be entitled to receive compensation at the rate not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5, United States Code, including travel-time, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Board shall elect a chairman from among its members who shall serve for a term of one year. The members of the Board shall also elect one or more members as a vice-chairman.

"(f) The Board is authorized to appoint, without regard to the civil service laws, technical, or other advisory committees to advise the institute with respect to the administration of this title as it deems appropriate. Members of these committees not otherwise employed by the United States, while engaged in advising the Institute or attending meetings of the committees, shall be entitled to receive compensation at the rate fixed by the Board but not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5, United States Code, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(g) The Board is authorized to delegate its powers under this title to such persons as it deems appropriate.

"(h) The Institute shall be under the supervision of an officer to be known as the Director, who shall be appointed by the Attorney General after consultation with the Board. The Director shall have authority to supervise the organization, employees, enrollees, financial affairs, and all other operations of the Institute and may employ such staff, faculty, and administrative personnel, subject to the civil service and classification laws, as are necessary to the functioning of the Institute. The Director shall have the power to acquire and hold real and personal property for the Institute and may receive gifts, donations and trusts on behalf of the Institute. The Director shall also have the power to appoint such technical or other advisory councils comprised of consultants to guide and advise the Board. The Director is authorized to delegate his powers under this title to such persons as he deems appropriate.

"Sec. 4352. (a) In addition to the other powers, express and implied, the National Institute of Corrections shall have authority—

"(1) to receive from or make grants to and enter into contracts with Federal, State, and general units of local government, public and private agencies, educational institutions, organizations, and individuals to carry out the purposes of this chapter;

"(2) to serve as a clearinghouse and information center for the collection, preparation, and dissemination of information on corrections, including, but not limited to, programs for prevention of crime and recidivism, training of corrections personnel, and rehabilitation and treatment of criminal and juvenile offenders;

"(3) to assist and serve in a consulting capacity to Federal, State, and local courts, departments, and agencies in the development, maintenance, and coordination of programs, facilities, and services, training, treatment, and rehabilitation with respect to criminal and juvenile offenders;

"(4) to encourage and assist Federal, State, and local government programs and services, and programs and services of other public and private agencies, institutions, and organizations in their efforts to develop and implement improved corrections programs;

"(5) to devise and conduct, in various geographical locations, seminars, workshops, and training programs for law enforcement officers, judges, and judicial personnel, probation and parole personnel, correctional personnel, welfare workers, and other persons, including lay ex-

offenders, and paraprofessional personnel, connected with the treatment and rehabilitation of criminal and juvenile offenders;

"(6) to develop technical training teams to aid in the development of seminars, workshops, and training programs within the several States and with the State and local agencies which work with prisoners, parolees, probationers, and other offenders;

"(7) to conduct, encourage, and coordinate research relating to corrections, including the causes, prevention, diagnosis, and treatment of criminal offenders;

"(8) to formulate and disseminate correctional policy, goals, standards, and recommendations for Federal, State, and local correctional agencies, organizations, institutions, and personnel;

"(9) to conduct evaluation programs which study the effectiveness of new approaches, techniques, systems, programs, and devices employed to improve the corrections system;

"(10) to receive from any Federal department or agency such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions. Each such department or agency is authorized to cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information to the Institute;

"(11) to arrange with and reimburse the heads of Federal departments and agencies for the use of personnel, facilities, or equipment of such departments and agencies;

"(12) to confer with and avail itself of the assistance, services, records, and facilities of State and local governments or other public or private agencies, organizations, or individuals;

"(13) to enter into contracts with public or private agencies, organizations, or individuals, for the performance of any of the functions of the Institute; and

"(14) to procure the services of experts and consultants in accordance with section 3109 of title 5 of the United States Code, at rates of compensation not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5 of the United States Code.

"(b) The Institute shall on or before the 31st day of December of each year submit an annual report for the preceding fiscal year to the President and to the Congress. The report shall include a comprehensive and detailed report of the Institute's operations, activities, financial condition, and accomplishments under this title and may include such recommendations related to corrections as the Institute deems appropriate.

"(c) Each recipient of assistance under this shall keep such records as the Institute shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(d) The Institute, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purposes of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this chapter.

"(e) The provision of this section shall apply to all recipients of assistance under this title, whether by direct grant or contract from the Institute or by subgrant or subcontract from primary grantees or contractors of the Institute.

"Sec. 4353. There is hereby authorized to be appropriated such funds as may be required to carry out the purposes of this chapter."

Part C—Conforming Amendments

Sec. 541. (a) The section titled "Declaration and Purpose" in title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), is amended by inserting immediately after the second paragraph thereof the following new paragraph:

"Congress finds further that the high incidence of delinquency in the United States today results in enormous annual cost and immeasurable loss in human life, personal security, and wasted human resources, and that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency.".

(b) Such section is further amended by adding at the end thereof the following new paragraph:

"It is therefore the further declared policy of Congress to provide the necessary resources, leadership, and coordination to (1) develop and implement effective methods of preventing and reducing juvenile delinquency; (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization; (3) to improve the quality of juvenile justice in the United States; and (4) to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation, and training services in the field of juvenile justice and delinquency prevention.".

Sec. 542. The third sentence of section 203(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as amended (82 Stat. 197; 84 Stat. 1881; 87 Stat. 197), is amended to read as follows: "The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizens, professional, and community organizations including organizations directly related to delinquency prevention.".

Sec. 543. Section 303(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after the first sentence the following: "In order to receive formula grants under the Juvenile Justice and Delinquency Prevention Act of 1974 a State shall submit a plan for carrying out the purposes of that Act in accordance with this section and section 223 of that Act.".

Sec. 544. Section 520 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by (1) inserting "(a)" after "Sec. 520." and (2) by inserting at the end thereof the following:

"(b) In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, the Administration shall expend from other Law Enforcement Assistance Administration appropriations, other than the appropriations for administration, at least the same level of financial assistance for juvenile delinquency programs as was expended by the Administration during fiscal year 1972.".

Sec. 545. Part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new sections:

"Sec. 526. The Administrator is authorized to accept and employ, in carrying out the provisions of this Act, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"Sec. 527. All programs concerned with juvenile delinquency and administered by the Administration shall be administered or subject to the policy direction of the office established by section 201(a) of the Juvenile Justice and Delinquency Prevention Act of 1974.

"Sec. 528. (a) The Administrator is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and to prescribe their functions.

"(b) Notwithstanding the provisions of section 5108 of title 5, United States Code, and without prejudice with respect to the number of positions otherwise placed in the Administration under such section and GS-18 under section 5332 of such title 5.".

Approved September 7, 1974.

PL 95-115

An Act

To amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Short Title

Section 1. This Act may be cited as the "Juvenile Justice Amendments of 1977".

Definition of Juvenile Delinquency Programs

Sec. 2. Section 103(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (hereinafter in this Act referred to as the "Act") is amended by striking out "who are in danger of becoming delinquent" and inserting in lieu thereof "to help prevent delinquency".

Juvenile Justice and Delinquency Prevention Office

Sec. 3. (a) (1) Section 201(a) of the Act is amended by adding at the end thereof the following new sentence: "The Administrator shall administer the provisions of this Act through the Office.".

(2) Section 201(c) of the Act is amended by adding at the end thereof the following new sentence: "The Associate Administrator may be referred to as the Administrator of the Office of Juvenile Justice and Delinquency Prevention in connection with the performance of his functions as the head of the Office, except that any reference in this Act to the 'Administrator' shall not be construed as a reference to the Associate Administrator.".

(3) (A) The Act is amended by striking out "Assistant Administrator" and inserting in lieu thereof "Associate Administrator" in sections 201, 202(c), 204(i), 206(a)(1), 206(b), 241, 246, and any other place it appears therein.

(B) The Act is amended by inserting "Associate" before "Administrator" in sections 208(b), 208(e), 223(a)(14), 223(a)(20), 223(a)(21), 243(4), 246, 248 (as so redesignated by section 5(e)(1)), 249 (as so redesignated by section 5(e)(1)), and 250 (as so redesignated by section 5(e)(1)).

(4) Section 201(d) of the Act is amended by adding at the end thereof the following new sentences: "The Associate Administrator is authorized, subject to the direction of the Administrator, to award, administer, modify, extend, terminate, monitor, evaluate, reject, or deny all grants and contracts from, and applications for, funds made available under part B and part C of this title. The Administrator may delegate such authority to the Associate Administrator for all grants and contracts from, and applications for, funds made available under this part and funds made available for juvenile justice and delinquency prevention programs under the Omnibus Crime Control and Safe Streets Act of 1968, as amended. The Associate Administrator shall report directly to the Administrator.".

(5) The Act is amended by striking out "Deputy Assistant Administrator" and inserting in lieu thereof "Deputy Associate Administrator" in sections 201(e), 206(a)(1), 246, and any other place it appears therein.

(6) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph;

"(141) Associate Administrator, Office of Juvenile Justice and Delinquency Prevention of the Law Enforcement Assistance Administration.".

(b)(1) Section 204(b) of the Act is amended—

(A) by inserting, "with the assistance of the Associate Administrator," after "the Administrator"; and

(B) by redesignating paragraph (7) as paragraph (6), and by striking out paragraph (5) and paragraph (6) and inserting in lieu thereof the following new paragraph:

"(5) develop annually with the assistance of the Advisory Committee and the Coordinating Council and submit to the President and the Congress, after the first year following the date of the enactment of the Juvenile Justice Amendments of 1977, prior to December 31, an analysis and evaluation of Federal juvenile delinquency programs conducted and assisted by Federal departments and agencies, the expenditures made, the results achieved, the plans developed, and problems in the operations and coordination of such programs and a brief but precise comprehensive plan for Federal juvenile delinquency programs, with particular emphasis on the prevention of juvenile delinquency and the development of programs and services which will encourage increased diversion of juveniles from the traditional juvenile justice system, which analysis and evaluation shall include recommendations for modifications in organization, management, personnel, standards, budget requests, and implementation plans necessary to increase the effectiveness of these programs; and".

(2) Section 204(d)(1) of the Act is amended by inserting "Associate" before "Administrator" the second plce it appears therein.

(3) Section 204(e) of the Act is amended by striking out "(6)" each place it appears therein and inserting in lieu thereof "(5)".

(4) Section 204(f) of the Act is amended by inserting "Federal" after "appropriate authority,".

(5) Section 204(g) of the Act is amended by striking out "part, except the making of regulations", and inserting in lieu thereof "title".

(6) Section 204(j) of the Act is amended by inserting "organization," after "agency," and by striking out "part" and inserting in lieu thereof "title".

(7) Section 204(k) of the Act is amended by striking out "part" and inserting in lieu thereof "title" and by striking out "the Juvenile Delinquency Prevention Act (42 U.S.C. 3801 et seq.)" and inserting in lieu thereof "title III of this Act".

(8) Section 204(l)(1) of the Act is amended by inserting "Associate" before "Administrator" the second place it appears therein.

(c) Section 205 of the Act is amended by inserting immediately before the period at the end of the first sentence, the following: "whenever the Associate Administrator finds the program or activity to be

exceptionally effective or for which the Associate Administrator finds exceptional need".

(d) (1) Section 206(a) (1) of the Act is amended by inserting after "the Director of the Office of Drug Abuse Prevention, the following: "the Commissioner of the Office of Education, the Director of the ACTION Agency", (the Secretary of Housing & Urban Development).

(2) Section 206(c) of the Act is amended by inserting at the end thereof the following new sentence: "The Council is authorized to review the programs and practices of Federal agencies and report on the degree to which Federal agency funds are used for purposes which are consistent or inconsistent with the mandates of section 223(a) (12) (A) and (13) of this title.".

(3) Section 206(d) of the Act is amended by striking out "six" and inserting in lieu thereof "four".

(4) Section 206(e) of the Act is amended—

(A) by striking out "(e)" and paragraphs (1) and (2);

(B) by striking out "(3) The Executive Secretary" and inserting in lieu thereof "(e) The Associate Administrator"; and

(C) by inserting "or staff support" after "personnel".

(e) (1) Section 207(c) of the Act is amended by inserting, "including youth workers involved with alternative youth programs and persons with special experience and competence in addressing the problem of school violence and vandalism and the problem of learning disabilities," after "community-based programs", and by inserting immediately before the period at the end thereof the following: "of whom at least three shall have been or shall currently be under the jurisdiction of the juvenile justice system".

(2) Section 207(d) of the Act is amended by adding at the end thereof the following new sentence: "Eleven members of the committee shall constitute a quorum."

(f) (1) Section 208(b) of the Act is amended by inserting, "the President, and the Congress" after "the Administrator".

(2) Section 208(c) of the Act is amended to read as follows:

"(c) The Chairman shall designate a subcommittee of members of the Advisory Committee to advise the Associate Administrator on particular functions or aspects of the work of the Office.".

(3) Section 208(d) of the Act is amended by inserting "not less than" immediately after "subcommittee of".

(A) by inserting "not less than" after "subcommittee of"; and

(B) by striking out "the Administration of".

(5) Section 208(f) of the Act is amended to read as follows:

"(f) The Chairman, with the approval of the Committee, shall request of the Associate Administrator such staff and other support as may be necessary to carry out the duties of the Advisory Committee.".

(6) Section 208 of the Act is amended by adding at the end thereof the following new subsection:

"(g) The Associate Administrator shall provide such staff and other support as may be necessary to perform the duties of the Advisory Committee.".

Sec. 4. (a) Section 221 of the Act is amended by striking out "local governments" and inserting in lieu thereof "units of general local government or combinations thereof", and by inserting "grants and "after "through".

(b) (1) The last sentence of section 222(a) of the Act is amended by striking out $200,000" and inserting in lieu thereof "$225,000", and by striking out "$50,000" and inserting in lieu thereof "$56,250".

(2) (A) The first sentence of section 222(c) of the Act is amended—

(i) by inserting "or for other pre-award activities associated with such State plan," after "State plan"; and

(ii) by inserting immediately before the period at the end thereof the following: "including monitoring and evaluation".

(B) The second sentence of section 222(c) of the Act is amended—

(i) by striking out "15 per centum" and inserting in lieu thereof "7½ per centum"; and

(ii) by inserting immediately before the period at the end thereof the following: "except that any amount expended or obligated by such State, or by units of general local government or any combination thereof, from amounts made available under this subsection shall be matched (in an amount equal to any such amount so expended or obligated) by such State, or by such units or combinations, from State or local funds, as the case may be".

(C) Section 222 of the Act is amended by striking out subsection (d) thereof.

(D) The amendments made by this paragraph shall take effect on October 1, 1978.

(3) The last sentence of section 222(c) of the Act is amended by striking out "local government" and inserting in lieu thereof "units of general local government or combinations thereof".

(4) (A) Section 222 of the Act is amended by adding at the end thereof the following new subsection:

"(e) In accordance with regulations promulgated under this part, 5 per centum of the minimum annual allotment to any State under this part shall be available to assist the advisory group established under section 223(a)(3) of this Act.".

(B) Effective on October 1, 1978, section 222(e) of the Act, as added by subparagraph (A), is redesignated as section 222(d) of the Act.

(c) (1) Section 223(a)(3) of the Act is amended—

(A) by striking out the matter preceding "(A)" and inserting in lieu thereof the following: "provide for an advisory group appointed by the chief executive of the State to carry out the functions specified in subparagraph (F) and to participate in the development and review of the State's juvenile justice plan prior to submission ot the supervisory board for final action and";

(B) in subparagraph (C) thereof, by inserting after "prevention or treatment programs;" the following: "business groups and businesses employing youth, youth workers involved with alternative youth programs, and persons with special experience and competence in addressing the problem of school violence and vandalism and the problem of learning

disabilities;";

(C) in subparagraph (D) thereof, by striking out "and" at the end thereof;

(D) in subparagraph (E) thereof, by striking out the semicolon at the end thereof and inserting in lieu thereof the following: "at least three of whom shall have been or shall currently be under the jurisdiction of the juvenile justice system; and "; and

(E) by inserting after subparagraph (E) the following new subparagraph: "(F) which (i) shall, consistent with this title, advise the State planning agency and its supervisory board; (ii) may advise the Governor and the legislature on matters related to its functions, as requested; (iii) shall have an opportunity for review and comment on all juvenile justice and delinquency prevention grant applications submitted to the State planning agency other than those subject to review by the State's judicial planning committee established pursuant to section 203 (c) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, except that any such review and comment shall be made no later than 30 days after the submission of any such application to the advisory group; and (iv) may be given a role in monitoring State compliance with the requirements of paragraph (12) (A) and paragraph (13), in advising on State planning agency and regional planning unit supervisory board composition, in advising on the State's maintenance of effort under section 261 (b) and section 520 (b) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and in review of the progress and accomplishments of juvenile justice and delinquency prevention projects funded under the comprehensive State plan;".

(2) Section 223 (a) (4) of the Act is amended—

(A) by striking out "local governments" the first place it appears therein and inserting in lieu thereof "units of general local government or combinations thereof"; and

(B) by inserting immediately before the semicolon at the end thereof the following: ",except that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies or the advisory group".

(3) (A) Section 223 (a) (5) of the Act is amended to read as follows:

"(5) unless the provisions of this paragraph are waived at the discretion of the Administrator for any State in which the services for delinquent or other youth are organized primarily on a statewide basis, provide that at least 66⅔ per centum of funds received by the State under section 222, other than funds made available to the State advisory group under section 222 (e), shall be expended through—

"(A) programs of units of general local government or combinations thereof, to the extent such programs are consistent with the State plan; and

"(B) programs of local private agencies, to the extent such programs are consistent with the State plan, except that direct funding of any local private agency by a State shall be permitted only if such agency requests such funding after it has applied for and been denied funding by any unit of general local government or combination thereof;".

(B) Effective October 1, 1978, section 223 (a) (5) of the Act, as

amended by subparagraph (A), is amended by striking out "section 222(e)" and inserting in lieu thereof "section 222(d)".

(4) Section 223(a)(6) of the Act is amended by striking out "local government" and inserting in lieu thereof "unit of general local government", and by inserting "or to a regional planning agency" after "local government's structure".

(5) Section 223(a)(8) of the Act is amended by inserting before the semicolon at the end thereof a period and the following: "Programs and projects developed from the study may be funded under paragraph (10) provided that they meet the criteria for advanced technique programs as specified therein".

(6)(A) Section 223(a)(10) of the Act is amended—

(i) by striking out the matter preceding subparagraph (A) and inserting in lieu thereof the following: " provide that not less than 75 per centum of the funds available to such State under section 222, other than funds made available to the State advisory group under section 222(e), whether expended directly by the State, by the unit of general local government or combination thereof, or through grants and contracts with public or private agencies, shall be used for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, to provide community-based alternatives to juvenile detention and correctional facilities, to encourage a diversity of alternatives within the juvenile justice system, and to establish and adopt juvenile justice standards. These advanced techniques include—";

(ii) in subparagraph (A) thereof, by inserting after "health services," the following: "twenty-four hour intake screening, volunteer and crisis home programs, day treatment, and home probation,";

(iii) in subparagraph (C) thereof, by striking out "youth in danger of becoming delinquent" and inserting in lieu thereof "other youth to help prevent delinquency";

(iv) by amending subparagraph (D) to read as follows:

"(D) projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth impacted by the juvenile justice system;";

(v) in subparagraph (G) thereof, by inserting "traditional youth" immediately after "reached by";

(vi) in subparagraph (H) thereof, by striking out "that may include but are not limited to programs designed to" and inserting in lieu thereof "are designed to"; and

(vii) by adding at the end thereof the following new subparagraph:

"(I) programs and activities to establish and adopt, based on the recommendations of the Advisory Committee, standards for the improvement of juvenile justice within the State;".

(B) Effective October 1, 1978, section 223(a)(10) of the Act, as amended by subparagraph (A), is amended by striking out "section 222(e)" and inserting in lieu thereof "section 222(d)".

(7) Section 223(a)(12) of the Act is amended to read as follows:

"(12)(A) provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such nonoffenders

as dependent or neglected children, shall not be placed in juvenile detention or correctional facilities; and

"(B) provide that the State shall submit annual reports to the Associate Administrator containing a review of the progress made by the State to achieve the deinstitutionalization of juveniles described in subparagraph (A) and a review of the progress made by the State to provide that such juveniles, if placed in facilities, are placed in facilities which (i) are the least restrictive alternatives appropriate to the needs of the child and the community; (ii) are in reasonable proximity to the family and the home communities of such juveniles; and (iii) provide the services described in section 103(1);".

(8) Section 223(a)(13) of the Act is amended by inserting "and youths within the purview of paragraph (12)" immediately after "delinquent".

(9) Section 223(a)(14) of the Act is amended by striking out "and" the first place it appears therein, by inserting ", and non-secure facilities" after "facilities" the second place it appears therein, and by striking out "section 223(12) and (13)" and inserting in lieu thereof "paragraph (12)(A) and paragraph (13)".

(10) Section 223(a)(15) of the Act is amended by striking out "all".

(11) Section 223(a)(19) of the Act is amended by striking out ", to the extent feasible and practical,".

(12) Section 223(b) of the Act is amended by striking out "consultation with" and inserting in lieu thereof "receiving and considering the advice and recommendations of".

(13 Section 223(c) of the Act is amended by adding at the end thereof the following new sentence: "Failure to achieve compliance with the subsection (a)(12)(A) requirement within the three-year time limitation shall terminate any State's eligibility for funding under this subpart unless the Administrator, with the concurrence of the Associate Administrator, determines that the State is in substantial compliance with the requirement, through achievement of deinstitutionalization of not less than 75 per centum of such juveniles, and has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time not exceeding two additional years.".

(14) Section 223(d) of the Act is amended by inserting "chooses not to submit a plan," after "State" the first place it appears therein, and by adding at the end thereof the following new sentence: "The Administrator shall endeavor to make such reallocated funds available on a preferential basis to programs in nonparticipating States under section 224(a)(2) and to those States that have achieved substantial or full compliance with the subsection (a)(12)(A) requirement within the initial three years of participation or have achieved full compliance within a reasonable time thereafter as provided by subsection (c).".

(15) Section 223 of the Act is amended by striking out subsection (e) thereof.

(d)(1) Section 224(a)(3) of the Act is amended by inserting after "system" the following: ", including restitution projects which test and validate selected arbitration models, such as neighborhood courts or

panels, and increase victim satisfaction while providing alternatives to incarceration for detained or adjudicated delinquents".

(2) Section 224(a)(4) of the Act is amended by striking out all after "for delinquents" and inserting in lieu thereof "and other youth to help prevent delinquency;".

(3) Section 224(a)(5) of the Act is amended by striking out "on Standards for Juvenile Justice" and by striking out "and" at the end thereof.

(4) Section 224(a)(6) of the Act is amended by inserting after "develop and implement" the following: ", in coordination with the Commissioner of Education,", and by striking out the period at the end thereof and inserting in lieu thereof the following: "and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;".

(5) Section 224(a) of the Act is amended by adding at the end thereof the following new paragraphs:

"(7) develop and support programs stressing advocacy activities aimed at improving services to youth impacted by the juvenile justice system;

"(8) develop, implement, and support, in conjunction with the Secretary of Labor, other public and private agencies and organizations and business and industry programs for youth employment;

"(9) improve the juvenile justice system to conform to standards of due process;

"(10) develop and support programs designed to encourage and enable State legislatures to consider and further the purposes of this Act, both by amending State laws where necessary, and devoting greater resources to those purposes; and

"(11) develop and implement programs relating to juvenile delinquency and learning disabilities.".

(6) Section 224(b) of the Act is amended to read as follows:

"(b) Twenty-five per centum of the funds appropriated for each fiscal year pursuant to this part shall be available only for special emphasis prevention and treatment grants and contracts made pursuant to this section.".

(7) Section 224(c) of the Act is amended by striking out "20" and inserting in lieu thereof "30".

(e)(1) Section 225(c)(4) of the Act is amended by striking out all after "to delinquents" and inserting in lieu thereof "and other youth to help prevent delinquency;".

(2) Section 225(c)(5) of the Act is amended by striking out "and" at the end thereof.

(3) Section 225(c)(6) of the Act is amended by striking out "on Standards for Juvenile Justice", and by striking out the period at the end thereof and inserting in lieu thereof "; and".

(f)(1) Section 227(a) of the Act is amended by striking out "State, public or private agency, institution, or individual (whether directly or through a State or local agency)" and inserting in lieu thereof "public or private agency, organization, institution, or individual (whether directly or through a State planning agency)".

(2) Section 227(b) of the Act is amended by striking out "institu-

tion, or individual under this part (whether directly or through a State agency or local agency)" and inserting in lieu thereof "organization, institution, or individual under this title (whether directly or through a State planning agency)".

(g) (1) Section 228(b) of the Act is amended by striking out "under this part" and inserting in lieu thereof "by the Law Enforcement Assistance Administration".

(2) Section 228(c) of the Act is amended to read as follows:

"(c) Whenever the Administrator determines that it will contribute to the purposes of part A or part C, he may require the recipient of any grant or contract to contribute money, facilities, or services.".

(3) (A) Section 228 of the Act is amended by adding at the end thereof the following new subsections:

"(e) Except as provided in the second sentence of section 222(c), financial assistance extended under the provisions of this title shall be 100 per centum of the approved costs of any program or activity.

"(f) In the case of a grant under this part to an Indian tribe or other aboriginal group, if the Administrator determines that the tribe or group does not have sufficient funds available to meet the local share the Administrator may increase the Federal share of the cost thereof to the extent he deems necessary. Where a State does not have an adequate forum to enforce grant provisions imposing any liability on Indian tribes, the Administrator is authorized to waive State liability and may pursue such legal remedies as are necessary.

"(g) If the Administrator determines, on the basis of information available to him during any fiscal year, that a portion of the funds granted to an applicant under this part for that fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 509 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, that portion shall be available for reallocation under section 224 of this title.".

(B) Section 228(e) of the Act, as added by subparagraph (A), shall take effect October 1, 1978.

(h) Part B of title II of the Act is amended by adding at the end thereof the following new section:

"Confidentiality of Program Records

"Sec. 229. Except as authorized by law, program records containing the identity of individual juveniles gathered for purposes pursuant to this title may not be disclosed except with the consent of the service recipient or legally authorized representative, or as may be necessary to perform the functions required by this title. Under no circumstances may project reports or findings available for public dissemination contain the actual names of individual service recipients.".

National Institute for Juvenile Justice and Delinquency Prevention

Sec. 5 (a) (1) Section 241 of the Act is amended by striking out subsection (d) and subsection (e), and by redesignating subsection (f) and subsection (g) as subsection (d) and subsection (e), respectively.

(2) Section 241(e)(4) of the Act, as so redesignated by paragraph

(1), is amended by inserting "make grants and" after "(4)", and by striking out "and" at the end thereof.

(3) Section 241(e) of the Act, as so redesignated by paragraph (1), is amended by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(6) assist, through training, the advisory groups established pursuant to section 223(a)(3) or comparable public or private citizen groups in nonparticipating States in the accomplishment of their objectives consistent with this Act.".

(4) The subsection designated as subsection (b) immediately following section 241(e) of the Act, as so redesignated by paragraph (1), is redesignated as subsection (f).

(5) Section 241(f) of the Act, as so redesignated by paragraph (4), is amended by striking out "subsection (g)(1)" and inserting in lieu thereof "subsection (e)(1)".

(b) Section 243(5) of the Act is amended by inserting after "effective prevention and treatment" the following: ", such as assessments regarding the role of family violence, sexual abuse or exploitation and media violence in delinquency, the improper handling of youth placed in one State by another State, the possible ameliorating roles of recreation and the arts, and the extent to which youth in the juvenile system are treated differently on the basis of sex and the ramifications of such practices".

(c) Section 245 of the Act is amended to read as follows:

"Institute Advisory Committee

"Sec. 245. The Advisory Committee shall advise, consult with, and make recommendations to the Associate Administrator concerning the overall policy and operations of the Institute.".

(d)(1) Section 247(a) of the Act is amended by striking out "on Standards for Juvenile Justice established in section 208(e)".

(2) Section 247 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Following the submission of its report under subsection (b) the Advisory Committee shall direct its efforts toward refinement of the recommended standards and may assist State and local governments and private agencies and organizations in the adoption of appropriate standards at State and local levels. The National Institute for Juvenile Justice and Delinquency Prevention is authorized to develop and support model State legislation consistent with the mandates of this Act and the standards developed by Advisory Committee.".

(e)(1) Part C of title II of the Act is amended by striking out section 248 and by redesignating section 249, section 250, and section 251, as section 248, section 249, and section 250, respectively.

(2)(A) Section 249 of the Act, as so redesignated by paragraph (1), is amended by striking out "section 249" and inserting in lieu thereof "section 248".

(B) Section 250 of the Act, as so redesignated by paragraph (1), is amended by striking out "section 249" each place it appears therein

and inserting in lieu thereof "section 248".

(f) Section 241(d) of the Act, as so redesignated by subsection (a)(1), section 244(3) of the Act, and section 248(b) of the Act, as so redesignated by subsection (e), are amended by inserting after "lay personnel" the following: ", including persons associated with law-related education programs, youth workers, and representatives of private youth agencies and organizations".

Administrative Provisions

Sec. 6. (a) The heading for part D of title II of the Act is amended to read as follows:

"Part D—Administrative Provisions".

(b) Section 261(a) of the Act is amended to read as follows:

"Sec. 261. (a) To carry out the purposes of this title there is authorized to be appropriated $150,000,000 for the fiscal year ending September 30, 1978, $175,000,000 for the fiscal year ending September 30, 1979, and $200,000,000 for the fiscal year ending September 30, 1980. Funds appropriated for any fiscal year may remain available for obligation until expended.".

(c) Section 262 of the Act is amended to read as follows:

"Applicability of Other Administrative Provisions

"Sec. 262. The administrative provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968, designated as sections 501, 504, 507, 509, 510, 511, 516, 518(c), 521 and 524 (a) and (c) of such Act, are incorporated herein as administrative provisions applicable to this Act.".

(d)(1) Section 263(a) of the Act is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)".

(2) Section 263 of the Act is amended by adding at the end thereof the following new subsection:

"(c) Except as otherwise provided by the Juvenile Justice Amendments of 1977, the amendments made by the Juvenile Justice Amendments of 1977 shall take effect on October 1, 1977.".

Runaway Youth

Sec. 7. (a)(1) Section 311 of the Act is amended—

(A) by inserting in the first sentence "and short-term training" after "technical assistance" and by inserting "and coordinated networks of such agencies" after "agencies";

(B) by inserting "or otherwise homeless youth" immediately after "runaway youth" where it first appears and by striking out "runaway youth" in the third and fourth sentences and inserting in lieu thereof "such youth"; and

(C) by inserting "States," before "localities".

(2) Section 312(b)(5) of the Act is amended by striking out "aftercase" and inserting in lieu thereof "aftercare".

(3) Section 312(b)(6) of the Act is amended by striking out "pa-

rental consent" and inserting in lieu thereof "the consent of the individual youth and parent or legal guardian".

(4) Section 313 of the Act is amended by striking out $"75,000" and "$100,000" and inserting in lieu thereof "$100,000" and "$150,000", respectively.

(b) Part B of title III of the Act is amended to read as follows:

"Part B—Records

"Records

"Sec. 321. Records containing the identity of individual youths pursuant to this Act may under no circumstances be disclosed or transferred to any individual or to any public or private agency.".

(c) Title III of the Act is amended by redesigning part C as part D, by redesignating section 331 as section 341, and by inserting after part B the following new part:

"Part C—Reorganization

"Reorganization Plan

plan is not disapproved by a resolution of either House of the Congress,

"Sec. 331. (a) After April 30, 1978, the President may submit to the Congress a reorganization plan which, subject to the provisions of subsection (b) of this section, shall take effect, if such reorganization in accordance with the provisions of, and the procedures established by chapter 9 of title 5, United States Code, except to the extent provided in this part.

"(b) A reorganization plan submitted in accordance with the provisions of subsection (a) shall provide—

"(1) for the establishment of an Office of Youth Assistance which shall be the principal agency for purposes of carrying out this title and which shall be established—

"(A) within the Office of Juvenile Justice and Delinquency Prevention in the Department of Justice; or

"(B) within the ACTION Agency;

"(2) that the transfer authorized by paragraph (1) shall be effective 30 days after the last date on which such transfer could be disapproved under chapter 9 of title 5, United States Code;

"(3) that property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions of the Office of Youth Development within the Department of Health, Education, and Welfare in the operation of functions pursuant to this title, shall be transferred to the Office of Youth Assistance within the Office of Juvenile Justice and Delinquency Prevention or within the ACTION Agency, as the case may be, and that all grants, applications for grants, contracts, and other agreements awarded or entered into by the Office of Youth Development shall continue in effect until modified, superseded, or revoked;

"(4) that all official actions taken by the Secretary of Health, Edu-

cation, and Welfare, his designee, or any other person under the authority of this title which are in force on the effective date of such plan, and for which there is continuing authority under the provisions of this title, shall continue in full force and effect until modified, susperseded, or revoked by the Associate Administrator for the office of Juvenile Justice and Delinquency Prevention or by the Director of the ACTION Agency, as the case may be, as appropriate; and

"(5) that references to the Office of Youth Development within the Department of Health, Education, and Welfare in any statue, reorganization plan. Executive order, regulation, or other official document or proceeding shall, on and after such date, be deemed to refer to the Office of Youth Assistance within the Office of Juvenile Justice and Delinquency Prevention or within the ACTION Agency, as the case may be, as appropriate.".

(d) (1) Section 341(a) of the Act, as so redesignated by subsection (c), is amended by inserting immediately before the period at the end thereof the following: ", and for each of the fiscal years ending September 30, 1978, 1979, and 1980, the sum of $25,000,000".

(2) Section 341(b) of the Act, as so redesignated by subsection (c), is amended to read as follows:

"(b) The Secretary (through the Office of Youth Development which shall administer this title) shall consult with the Attorney General (through the Associate Administrator of the Office of Juvenile Justice and Delinquency Prevention) for the purpose of coordinating the development and implementation of programs and activities funded under this title with those related programs and activities funded under title II of this Act and under the Omnibus Crime Control and Safe Streets Act of 1968, as amended.".

Amendments to Title 18, United States Code, is amended by striking out "Deputy Assistant Administrator for the National Institute for" and inserting in lieu thereof "Associate Administrator for the Office of".

(b) Section 5038(a) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding immediately after paragraph (5) the following:

"(6) inquiries from any victim of such juvenile delinquency, or if the victim is deceased from the immediate family of such victim, related to the final disposition of such juvenile by the court in accordance with section 5037.".

Amendments to Omnibus Crime Control and Safe Streets Act of 1968

Sec. 9. (a) Section 519 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by inserting ", and to the Committee on Education and Labor of the House of Representatives," immediately after "House of Representatives"; and

(2) by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", by adding at the end thereof the following new paragraph:

"(12) a summary of State compliance with sections 223(a) (12)-(14) of the Juvenile Justice and Delinquency Prevention Act of 1974, as

amended, the maintenance of effort requirement under section 261(b) of such Act and section 520(b) of this Act, State planning agency and regional planning unit representation requirements as set forth in section 203 of this Act, and other areas of state activity in carrying out juvenile justice and delinquency prevention programs under the comprehensive State plan.".

(b) Section 203(a)(1) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new sentences: "The Chairman and at least two additional citizen members of any advisory group established pursuant to section 223(a)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 shall be appointed to the State planning agency as members thereof. These individuals may be considered in meeting the general representation requirements of this section. Any executive committee of a State planning agency shall include in its membership the same proportion of advisory group members as the total number of such members bears to the total membership of the State planning agency.".

Technical Amendment

Sec. 10. The Act is amended by striking out title IV thereof.

Approved October 3, 1977.

Directories

JUDGES OF THE COURT OF COMMON PLEAS

County	County Seat	Judicial District	Judges
Adams	Gettysburg	51st	*Oscar F. Spicer, P. J.
Allegheny	Pittsburgh	5th	John G. Brosky, Adm. Judge *Livingstone Johnson *Patrick R. Tamilia *R. Stanton Wettick
Armstrong	Kittanning	33rd	*R. A. House. Jr., P. J.
Beaver	Beaver	36th	John N. Sawyer, P. J. James Rowley *Robert C. Reed Joseph S. Walko
Bedford	Bedford	57th	*E. W. VanHorn, P. J.
Berks	Reading	23rd	*W. Richard Eshelman, P. J. Fredrick Edenharter *Forest G. Schaefer, Jr. *Grant E. Wesner Thomas J. Eshelman
Blair	Hollidaysburg	24th	*Robert B. Campbell, P. J.
Bradford	Towanda	42nd	*Evan S. Williams, P. J.
Bucks	Doylestown	7th	*Paul R. Beckert, P. J. *Oscar S. Bortner *John J. Bodley *Isaac H. Garb *George T. Kelton *Harriet M. Mims *William H. Rufe, III *Arthur B. Walsh, Jr.
Butler	Butler	50th	*George P. Kiester, P. J. *John C. Dillon
Cambria	Ebersburg	47th	*Eugene A. Creany *Caram J. Abood H. Clifton McWilliams, P. J. Joseph O'Kicki
Cameron	Emporium	59th	*Paul B. Greiner, P. J.

*Designates Juvenile Court Judge

County	County Seat	Judicial District	Judges
Carbon	Jim Thorpe	56th	*John P. Lavelle, P. J.
Centre	Bellefonte	49th	*Richard M. Sharp, P. J.
Chester	West Chester	15th	*Dominic T. Marrone, P. J. *Robert S. Gawthrop, III *Thomas A. Pitt *John Stively *Leonard Sugerman *John Wajert
Clarion	Clarion	18th	*Robert B. Filson, P. J.
Clearfield	Clearfield	46th	*John K. Reilly, P. J.
Clinton	Lock Haven	25th	*Carson V. Brown, P. J.
Columbia	Bloomsburg	26th	*Jay W. Myers, P. J.
Crawford	Meadville	30th	*P. Richard Thomas, P. J. F. Joseph Thomas
Cumberland	Carlisle	9th	*Dale F. Shughart, P. J. Harold Sheeley
Dauphin	Harrisburg	12th	*Richard B. Wickersham Lee F. Swope, P. J. William W. Lipsitt John O. Dowling Warren G. Morgan William Caldwell
Delaware	Media	32nd	*Joseph deFuria, Adm. Judge *Francis Catania, P. J. *Dominic D. Jerome *Robert Kelly *Joseph T. Labrum, Jr. *Melvin G. Levy *Clement J. McGovern *Rita E. Prescott *Howard F. Reed, Jr. *Barclay Surrick *William R. Toal, Jr. *Robert A. Wright

County	County Seat	Judicial District	Judges
Elk	Ridgway	59th	*Paul B. Greiner, P. J.
Erie	Erie	6th	*Fred P. Anthony, Adm. Judge Edward H. Carney, P. J. Lindley R. McClelland James B. Dwyer William E. Pfadt
Fayette	Uniontown	14th	*Conrad Capuzzi William J. Franks Richard Cicchetti, P. J.
Forest	Tionesta	35th	*Robert L. Wolfe, P. J.
Franklin	Chambersburg	39th	*George C. Eppinger, P. J. *John W. Keller
Fulton	McConnellsburg	39th	*George C. Eppinger, P. J. *John W. Keller
Greene	Waynesburg	13th	*Glenn Toothman, P. J.
Huntingdon	Huntingdon	20th	*Morris M. Terrizzi
Indiana	Indiana	40th	*Earl Handler, P. J. *Robert C. Earley
Jefferson	Brookville	54th	*Edwin L. Snyder, P. J.
Juniata	Mifflintown	41st	*Keith B. Quigley. P. J.
Lackawanna	Scranton	45th	Richard P. Conaboy, P. J. Edwin M. Kosik James J. Walsh Daniel Penetar *James M. Munley
Lancaster	Lancaster	2nd	*Anthony Appel, P. J. *D. Richard Eckman *Wilson Bucher *Paul A. Mueller, Jr. *W. Henson Brown
Lawrence	New Castle	53rd	*John F. Henderson, P. J. Howard F. Lyon
Lebanon	Lebanon	52nd	*G. Thomas Gates, P. J. *John A. Walter
Lehigh	Allentown	31st	*Maxwell E. Davison

County	County Seat	Judicial District	Judges
			Martin J. Coyne, P. J. John F. Backenstoe David E. Mellenberg Donald E. Wieand
Luzerne	Wilkes Barre	11th	Bernard C. Brominski P. J. *Richard L. Bigelow Arthur D. Dalessandro Robert J. Hourigan Peter P. Olszewski Bernard J. Podcasy
Lycoming	Williamsport	29th	*Charles F. Greevy *Thomas A. Raup
McKean	Smethport	46th	*William F. Potter, P. J.
Mercer	Mercer	35th	*John J. Stranahan, P. J. *Albert Acker
Mifflin	Lewistown	58th	*R. Lee Ziegler, P. J.
Monroe	Stroudsburg	43rd	*Harold A. Thomson, Jr. *James J. March
Montgomery	Norristown	38th	*Richard S. Lowe, P. J. *Joseph H. Stanziani Liaison Judge *Mason Avrigian *Lawrence A. Brown *Vincent A. Cirillo *Horace A. Davenport *Milton O. Moss *Frederick B. Smillie. Sr. Judge *Luis D. Stefan *Robert Tredinnick *William Vogel
Montour	Danville	26th	*Jay W. Myers, P. J.
Northampton	Easton	3rd	Clinton Budd Palmer, P. J. Richard D. Grifo *Michael V. Franciosa *Alfred T. Williams, Jr.

County	County Seat	Judicial District	Judges
Northumberland	Sunbury	8th	*Peter Krehel, P. J. Samuel Ranck
Perry	New Bloomfield	41st	*Keith B. Quigley. P. J.
Philadelphia	Philadelphia	1st	*Frank J. Montemuro, Adm Judge *Alex Bonavitacola *Herbert R. Cain *Vito F. Canuso *Nicholas A. Cipriani *Paul A. Dandridge *William D. Dwyer, Jr. *Doris M. Harris *Gregory G. Lagakos *John R. Meade *Abraham Gafni *William J. Lederer *Jerome A. O'Neill *Edward B. Rosenberg *Samuel H. Rosenberg *Harvey N. Schmidt *James L. Stern *Paul Al Tranchitella *Jerome A. Zaleski
Pike	Milford	43rd	*Harold A. Thomson, Jr., P. J. *James R. Marsh
Potter	Coudersport	55th	*Harold P. Fink, P. J.
Schuylkill	Pottsville	21st	*Guy A. Bowe, P. J. *George W. Heffner *John A. Lavelle *Joseph F. McCloskey *Donald D. Dolbin
Snyder	Middleburg	17th	*A. Thomas Wilson, P. J.
Somerset	Somerset	16th	*Charles H. Coffroth, P. J. *Norman A. Shaulis

County	County Seat	Judicial District	Judge
Sullivan	LaPorte	44th	*Roy A. Gardner, P. J.
Susquehanna	Montrose	34th	*Donald O'Malley, P. J.
Tioga	Wellsboro	4th	*Robert M. Kemp, P. J.
Union	Lewisburg	17th	*A. Thomas Wilson, P. J.
Venango	Franklin	28th	*William E. Breene, P. J.
Warren	Warren	37th	*Robert L. Wolfe, P. J.
Washington	Washington	27th	*Paul A. Simmons Charles G. Sweet, P. J. Thomas D. Gladden John F. Bell
Wayne	Honesdale	10th	*James Rutherford, P. J.
Westmoreland	Greensburg	22nd	Earl S. Keim, P. J. Richard McCormick *Charles E. Loughran Gilbert Mihalich Joseph A. Hudock Robert H. Rial
Wyoming	Tunkhannock	44th	*Roy A. Gardner, P. J.
York	York	19th	*Robert I. Shadle, P. J. *Albert G. Blakey, III James E. Buckingham Emanuel A. Cassimatis Joseph E. Erb

PENNSYLVANIA SECTION OF JUVENILE COURT JUDGES

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Judge Robert L. Wolfe Warren County	Vice-Chairman 814-723-7550
Judge James Rutherford Wayne County	2nd Vice-Chairman 717-253-0101
Judge Joseph H. Stanziani Montgomery County	Secretary-Treasurer 215-275-5000

Council Members:

Judge Jerome A. O'Neill Philadelphia	One Year Term 215-686-2604
Judge George P. Kiester Butler County	Two Year Term 412-285-4731
Judge Alfred T. Williams Northampton County	Three Year Term 215-866-3218

NATIONAL COUNCIL OF JUVENILE COURT & FAMILY COURT JUDGES

Officers for 1977-1978

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Judge Margaret C. Driscoll Bridgeport, Connecticut	Immediate Past-President
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Judge Aaron Cohn Columbus, Georgia	Secretary
Judge Jean T. Lewis Portland, Maine	Treasurer
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County	County Seat	Chief Juvenile Probation Officer
Adams	Gettysburg	Linda Hammer
Allegheny	Pittsburgh	Lawson Veney, Director Probation Services
Armstrong	Kittanning	Samuel E. Goldstrohm
Beaver	Beaver	Joseph Cabraja, Director
Bedford	Bedford	William Kauffman
Berks	Reading	Bruce Grim
Blair	Hollidaysburg	Harvey Hyle, Jr.
Bradford	Towanda	David Vanderlyke
Bucks	Doylestown	William A. Ford
Butler	Butler	M. A. Waggett, Director Probation Services
Cambria	Ebensburg	Wallace R. Croup
Cameron	Emporium	Bernard G. Meyer
Carbon	Jim Thorpe	Terry Novatnack
Centre	Bellefonte	George W. Sim
Chester	West Chester	John Humanick
Clarion	Clarion	H. Charles Maul
Clearfield	Clearfield	Horace B. Thomas
Clinton	Lock Haven	Gerald Rosamilia
Columbia	Bloomsburg	Clay Yeager
Crawford	Meadville	Earl Brown
Cumberland	Carlisle	Irvin L. Groninger
Dauphin	Harrisburg	Willis E. Hoover
Delaware	Media	Paul E. Gesregan

County	County Seat	Chief Juvenile Probation Officer
Elk	Ridgway	Bernard G. Meyer
Erie	Erie	David Christensen
Fayette	Uniontown	Rulolph Zayak
Forest	Tionesta	Thomas Greenlee
Franklin	Chambersburg	Ronald Sugden
Fulton	McConnellsburg	Gregory Garland
Greene	Waynesburg	John Graham
Huntingdon	Huntingdon	Thomas Guisler
Indiana	Indiana	Michael Kuhar
Jefferson	Brookville	Allen Mohney
Juniata	Mifflintown	Richard K. Lyter
Lackawanna	Scranton	Austin McCormick
Lancaster	Lancaster	Earl Stoudt
Lawrence	New Castle	Robert J. Stillwagon
Lebanon	Lebanon	Charles Witman
Lehigh	Allentown	William Candia
Luzerne	Wilkes Barre	Charles Adonizio
Lycoming	Williamsport	Harry E. Jones
McKean	Smethport	Harry Lehman
Mercer	Mercer	Willis Brinker
Mifflin	Lewistown	Robert O'Hora
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Montour	Danville	John McLaughlin

County	County Seat	Chief Juvenile Probation Officer
Northampton	Easton	John McBride
Northumberland	Sunbury	Michael Breslin
Perry	New Bloomfield	Luther Seibert
Philadelphia	Philadelphia	Stanley T. Hopson
Pike	Milford	Edward Joyce
Potter	Coudersport	Gary A. Buchanan
Schuylkill	Pottsville	Thomas R. Terry
Snyder	Middleburg	Eugene A. Curtis
Somerset	Somerset	John R. Betters, Jr.
Sullivan	LaPorte	Helen Rinker
Susquehanna	Montrose	Rodney Davis
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NATIONAL COUNCIL ON CRIME AND DELINQUENCY

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JUVENILE JUSTICE & DELINQUENCY PREVENTION

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Statistics

STATISTICAL REPORT

INTRODUCTION

PURPOSE OF STATISTICAL CARD

The Juvenile Court Statistical Card, Form OCJS-100 is designed to maintain data that will show the major activities of the court in relation to the handling of childrens' cases, including traffic offenses, dependency cases and delinquency cases. It will enable individual courts to maintain data for local, state and national use.

DESIGN OF THE CARD

Each field in the card is prefixed by an Alpha Code, ranging from A thru U. The card is divided into two copies. The first copy is the probation office copy to be retained for internal use, the second copy is to be forwarded to the Juvenile Court Judges' Commission.

The statistical card has been designed so that a minimum of clerical work is involved in filling it out, most of the information being entered by placing the appropriate code number in the box corresponding to the Alpha Prefix.

HOW TO OBTAIN THE CARDS

Supplies of this card and instructions for its use will be furnished by the Juvenile Court Judges' Commission.

TRANSMITTAL OF CARDS

Completed cards should be forwarded at the end of each month for tabulating and processing.

To: JUVENILE COURT JUDGES' COMMISSION
660 Boas Street
Towne House Apts.
Harrisburg, PA 17102

GENERAL INSTRUCTIONS

CASES TO BE EXCLUDED

- Cases in which a court is asked to obtain information for another court handling the case.
- Cases which are not handled by the County Probation Office, but may be disposed of by the Juvenile Court, such as cases that originate from the County Child Welfare Office.
- Special proceedings such as, adoptions, consent to marry, etc.
- Rehearings - Any rehearing of a case for which a final disposition has been reported.

METHODS OF HANDLING SPECIFIC SITUATIONS

(1) **One complaint/petition containing multiple charges.**
If the charges are related, that is ancillary to a major charge, then it is only necessary to enter the main charge. For example, a charge of rape may have several ancillary assault charges accompanying the rape charge; it is not necessary to code the ancillary charges. However, if on a single petition/complaint there are multiple unrelated charges, enter (up to 4) the most serious charges on the charge code boxes.

(2) **Multiple complaints/petitions containing the same charge or/charges.**
It is only necessary to code the charge or charges on the earliest complaint/petition filed. Do not send in duplicate cards for each complaint/petition in this situation.

(3) **Multiple complaints/petitions, each containing different charges.**
In this case fill out a card for the earliest complaint/petition filed. If more

than (4) charges are contained on any one camplaint/petition, enter the (4) most serious charges in the appropriate boxes. It is not necessary to code ancillary charges.

(4) **Charges containing multiple counts.** Currently, the statistical card has no provision for entering the number of counts asscciated with a charge. This aspect will be incorporated into the card on its next revision. If multiple counts occur on a particular charge, please indicate (up to 9 counts) the number of counts by writing the number adjacent to the right-hand side of the associated charge. For example, a charge of burglary 12 counts, would be coded as follows:

3	5	0	2	9

INSTRUCTIONS FOR SPECIFIC SECTIONS OF THE CARD

A. COUNTY OF JURISDICTION

The name of the county can be typed or written on the blank space provided. This is for the use of the Juvenile Court Judges' Commission in sorting cards so that they will not be mixed with cards from other courts. The boxes at the right of this line are provided to permit a code number to be assigned by the Juvenile Court Judges' Commission to each Juvenile Court. These boxes are not to be filled in by the Juvenile Court.

B. CHILD'S NAME OR NUMBER

Enter the child's family name first, followed by the given name and then the middle initial; for example, "Smith, John J."

Some courts may wish to designate the child by a number instead of by name. Under such an arrangement the number given to the child must remain the same throughout the child's contact with the court. In assigning a number to the case use the following system:

Examples:

15982 Enter in code box as

1	5	9	8	2

429 Enter in code box as

4	2	9		

C. CHILD'S RESIDENCE

Show as complete an address as possible. In cases where a child's residence is part of a township indicate the township name along with the Borough/City name in the space provided.

Example:

A child's residence (mailing address)

is Harrisburg, PA, however, the child actually lives within the boundary of Lower Paxton Township. In this case enter Harrisburg in the City/Borough section of the card and enter Lower Paxton Township in the Township section.

Month and day are to be written in this manner. D. DAY OF BIRTH

Example:

| 0 | 3 | 0 | 2 | 6 | 8 | = March 2, 1968

All months and days are to be zero filled as necessary.

Enter either "1" or "2" in the code box indicating the sex of the child. E. SEX

Enter the appropriate code in the box provided. A "Mexican" or "Spanish American" should be coded as "3" Spanish Speaking. An Oriental should be coded as "4" Other. F. RACE

Enter in the box provided for age of the child at the time of referral. G. AGE AT REFERRAL

Enter the month, day and year on which the case was referred. This is the date of the first report of the "Case Under Consideration" to the Probation Office or intake department. In cases of Delinquency Allegations, it will be the date of Complaint/Petition. In Probation Offices, where the petition follows the complaint, use the date of complaint as the Date of Referral, **do not use date of petition in these cases.** For Dependency Allegations, use the date the allegation was filed as the Date of Referral. If multiple allegations are filed for H. DATE OF REFERRAL

the same incident, use the date of the earlier Allegation Form as the Date of Referral.

Enter the appropriate number in the code box provided to indicate the person or agency first bringing the case to the attention of the probation office. If several referrals have been received from different sourcer regarding the same incident. indicate the first one received.

I. REFERRED BY

If there were no prior referrals to Juvenile Court, enter a "0" in the box provided. If there were one or more prior referrals to Juvenile Court enter the appropriate number. In cases where there are more than nine referrals, enter "9".

J. PRIOR REFERRALS (TO JUVENILE COURT)

If the child had a prior referral to Juvenile Court or to Child Welfare, indicate by entering the appropliate code for the agency that had jurisdiction over the referral. Indicate the reason for the last prior referral in the corresponding boxes. Instructions for coding reasons are in the next paragraph.

K. LAST PRIOR REFERRAL AND REASON

Space is provided for coding up to (4) reasons for referral. If the child is referred on a Delinquency Allegation use the 4 digit Pennsylvania Crimes Code Section Numbers, or the listed traffic offense codes. Should the child be referred on a drug violation, the following coding structure is to be used:

L. CURRENT REASON(S) FOR REFERRAL

- The first block should always contain the number 9. This will indicate a drug violation.

	1st	2nd	3rd	4th
Eg.	9			

– The second block will be used for identifying the type violation. They are grouped as follows:

Code 1 = Possession/Use
2 = Selling
3 = Distribution
4 = Other (Manufacturing, Mislabeling, etc.)

	1st	2nd	3rd	4th
Eg.	9	2		

– The third block will be used to identify the type of drug involved. The codes for type of drug are as follows:

Code 1 = Marijuana, Hashish
2 = Heroin, Methadone
3 = Cocaine
4 = Amphetamines
5 = Barbituates (Seconal, Tuinol, Meprobamate, Phenobarbitol)
6 = Other Hallucinogens (LSD, Mescaline, Psyllocybin, Peyote)
7 = All other Prohibitive Drugs

	1st	2nd	3rd	4th
Eg.	9	2	3	

–The fourth block will be used to identify the seriousness of the charge. Seriousness is to be determined by whether the offense for which the child was referred would be classified as a felony or misdemeanor had the offense been committed by an adult. The codes are as follows:

Code 1 = Misdemeanor
2 = Felony

	1st	2nd	3rd	4th
Eg.	9	2	3	2

The above case would represent a child who was referred for selling cocaine, hence the coding structure.

For probation violation cases, it is important that you indicate the new charge code along with the code 0062. On a technical probation violation you need only the code 0061, for this type of referral.

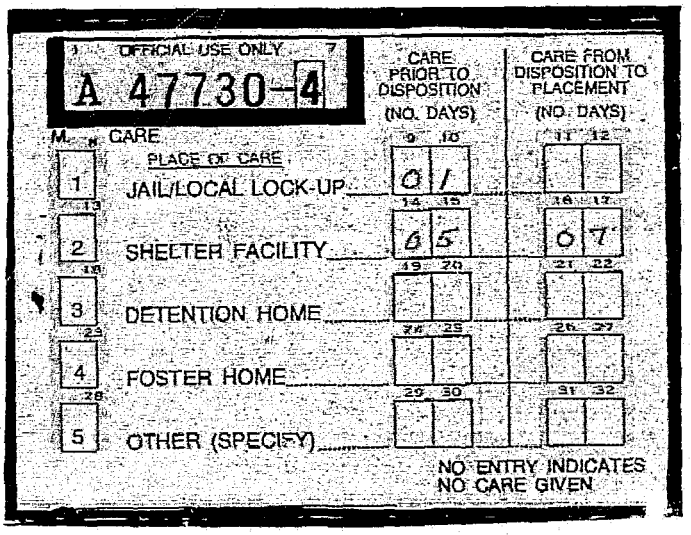
M. CARE

The purpose of this item is to indicate the provision **made by the court** for the care of the child pending disposition of his case. There are instances in which a child is placed in detention or shelter by a police officer or other persons not connected with the court. Do not consider this as detention or shelter care unless, when the case is referred to the court, the court continued such care, thereby assuming responsibility for it.

In cases where it is **unnecessary** for the court to provide detention or shelter care for the child, make no entries in this section.

In cases where it is **necessary** for the court to provide detention care, either prior to or after disposition, enter the number of days in the blocks provided in the appropriate **place of care.** If the child received care in one or more places, show the number of days spent in each place.

An example is given below of a case where the court provided care (detention) in more than one facility:



NOTE: IF A CHILD IS DETAINED AT LEAST SIX (6) CONSECUTIVE HOURS DURING ANY 24 HOUR PERIOD, COUNT THIS AS ONE (1) DAY OF CARE.

N. MANNER OF HANDLING

1. **Informal Adjustment** – Include those cases that were not placed on the official court calendar, but were handled and disposed of by the probation officer at intake or at an **informal** type hearing in the probation office.

2. **Consent Decree** – Include here all cases where a consent decree is entered and becomes the official order of the court.

3. **Adjudication Hearing** – Include all cases that are placed on the official court calendar for adjudication. Cases where the petition was withdrawn

prior to or at the adjudication hearings are also to be coded under this category.

O. HEARING CONDUCTED BY

Complete this section for those cases where an adjudicatory hearing is held. Show who actually conducted the hearing. Check both only in those cases where the adjudicatory hearing is held by a "Master" and the Dispositional Hearing is heard by the "Judge".

P. DIAGNOSTIC EVALUATION COMPLETED

Enter a "1" for any diagnostic evaluations that were completed.

Enter a "2" for those evaluations that were not completed.

Q. ATTORNEY REPRESENTATION

Enter the appropriate code in the box provided, indicating the type of attorney representing the child, regardless of the type of proceeding or manner of handling. In instances where the right to attorney representation was waived, a code "4" must be designated.

R. OFFENSES SUBSTANTIATED AT ADJUDICATION

Complete this section only if the manner of handling was by adjudication hearing (Code 3 in Section N.) If the offense substantiated at adjudication is the same for which the child was referred, repeat the four digit offense code here. If it is different, regardless of the original charge(s) in Section "L" enter the four digit code(s) for the substantiated offense(s). Leave this section blank for (01) "Waived to Criminal Court," (02) "Dismissed: not proved or found not involved" and (03) "Withdrawn" Dispositions.

S. DATE OF ADJUDICATION

As in Section R above, enter this date only if the manner of handling was by adjudicatory hearing. Enter the actual date of adjudication.

T. DATE OF DISPOSITION

Enter the date a case was disposed (Final disposition.) This date must be entered for **all** cases. Do not consider those cases disposed of where a child is temporarily placed in an agency for treatment and observation pending a final disposition by the Judge. Hold the card until the Judge makes a final disposition of the case.

U. DISPOSITION

This item refers to what was actually done to the child rather than to the formal wording of the court order and must always be completed. For instance, in a case in which the child was committed to a public institution for delinquents but commitment was suspended with the intent that he be supervised by a probation officer, do not include the case under "Public Institutions for Delinquents," but include it instead under the item "Probation Officer to Supervise," which shows the nature of the care to be given the child.

The disposition relating to any case should be reported in only one item. In cases where more than one disposition appears applicable, the case should be reported in the item which is **most** significant from the point of view of treatment and continued relationship to the court.

The categories "Public Institutions For Delinquents," and "Private Institutions for Delinquents" are very dynamic and subject to change. We have tried to incorporate the

most widely used institutions on the card. If new institutions are built in the near future, they will not appear on the card. Please be sure that you enter the names of these institutions under Code 32 – "Other Public Institutions for Delinquents (specify)" or Code 49 – "Other Private Institutions For Delinquents (specify)." Whichever is applicable.

A detailed list of child care institutions and group homes, is available in the section on "Residential Program For Youth" in this handbook. This type of court ordered care should be categorized under the "Other Committment or Court Ordered care" section of the card – Codes 60 through 71.

The following guidelines apply to any disposition that falls under the "No Transfer Of Legal Custody" section:

Disposition Code	
01 Waived to Criminal Court	Include all cases which are waived (certified) to Criminal Court. If after the first waiver to criminal court occurs, there is another petition filed which requires a separate hearing, please fill out another Juvenile Court Card. It is important that field (R) "Offenses Substantiated At Adjudication" be left blank for all cases waived to criminal court.
02 Dismissed, not proved, found not involved	This code can be used only on "Formal" type cases where an adjudicatory hearing was held. It means that the allegations of delinquency, dependency, or neglect have not been proved and as a result the juvenile

	court adjudges that the child is not within the jurisdiction of the court and dismisses the case.
03 Withdrawn	Use this disposition for cases where the complaint or the petition is withdrawn at any stage of the proceedings, whether formal or informal.
04 Transfer to other juvenile court	Include all cases that are transferred to another juvenile court.
05 Dismissed, warned, adjusted, counseled	Use this disposition for those cases that were dismissed, warned, counseled or given some other type of minor adjustment by the court, whether formally or informally. In these cases the welfare of the child or the protection of the community requires **no further action by the court.**
06 Held open w/o further action; continued	Include cases which were held open for fulfillment of certain conditions and no further disposition is anticipated. This procedure is described in various ways by different courts; for instance, "reserved generally," "continued generally," "continued indefinitely." Under these circumstances the case should be considered disposed of when **the original order of continuance is made.**
07 Probation Officer to supervise	Use this disposition for both informal probation cases as a result of an informal adjustment and formal probation cases resulting from an adjudicatory hearing.
08 Intensive Probation	This disposition is applicable to those courts that have a recognized intensive probation program.
09 Referred to another agency or individual	Include in this disposition those instances where a child is referred to another agency such as a public welfare department, a

	child guidance clinic, a family service agency, or a child placing agency, whether under private or public auspices. Include a referral to an individual.
10 Fines and Costs paid	This disposition is to be used for referral from a district magistrate where the child has failed to pay fines and costs for a summary offense violation.
11 Runaway returned to	Include a case under this item if a child is returned to an agency, institution, his own home, another county or state, after running away. Please specify to whom the child is returned.
12 Other (Specify)	This disposition is to be used if the dispositions 01 – 11 do not apply. Please specify the applicable disposition in this item.

END