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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1511 Session of  
2007

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INTRODUCED BY SHIMKUS, DERMODY, BELFANTI, BISHOP, BRENNAN,  
CURRY, CUTLER, HICKERNELL, JAMES, LENTZ, MAHONEY, MUNDY,  
SIPTROTH, MOUL, FABRIZIO AND CALTAGIRONE, JUNE 7, 2007

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AS AMENDED ON SECOND CONSIDERATION, IN SENATE,  
SEPTEMBER 24, 2008

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, IN JUVENILE MATTERS, <—  
3 ADDING DEFINITIONS; further providing for notice and hearing  
4 ~~in juvenile matters.~~, FOR OTHER BASIC RIGHTS AND FOR <—  
5 ADJUDICATIONS OF JUVENILES.

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

8 ~~Section 1. Sections 6336.1 and 6351(e)(1) of Title 42 of the <—~~  
9 ~~Pennsylvania Consolidated Statutes are amended to read:~~

10 ~~SECTION 1. SECTION 6336.1 OF TITLE 42 OF THE PENNSYLVANIA <—~~  
11 ~~CONSOLIDATED STATUTES, AMENDED DECEMBER 18, 2007 (P.L.484,~~  
12 ~~NO.76), IS AMENDED TO READ:~~

13 SECTION 1. SECTION 6302 OF TITLE 42 OF THE PENNSYLVANIA <—  
14 CONSOLIDATED STATUTES IS AMENDED BY ADDING DEFINITIONS TO READ:  
15 § 6302. DEFINITIONS.

16 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
17 SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE

1 MEANINGS GIVEN TO THEM IN THIS SECTION:

2 \* \* \*

3 "ASSESSMENT." AN INDIVIDUALIZED EXAMINATION OF A CHILD TO  
4 DETERMINE THE CHILD'S PSYCHOSOCIAL NEEDS AND PROBLEMS, INCLUDING  
5 THE TYPE AND EXTENT OF ANY MENTAL HEALTH, SUBSTANCE ABUSE OR CO-  
6 OCCURRING MENTAL HEALTH AND SUBSTANCE ABUSE DISORDERS AND  
7 RECOMMENDATIONS FOR TREATMENT. THE TERM INCLUDES, BUT IS NOT  
8 LIMITED TO, A DRUG AND ALCOHOL, PSYCHOLOGICAL AND PSYCHIATRIC  
9 EVALUATION, RECORDS REVIEW, CLINICAL INTERVIEW AND THE  
10 ADMINISTRATION OF A FORMAL TEST AND INSTRUMENT.

11 \* \* \*

12 "SCREENING." A PROCESS, REGARDLESS OF WHETHER IT INCLUDES  
13 THE ADMINISTRATION OF A FORMAL INSTRUMENT, THAT IS DESIGNED TO  
14 IDENTIFY A CHILD WHO IS AT INCREASED RISK OF HAVING MENTAL  
15 HEALTH, SUBSTANCE ABUSE OR CO-OCCURRING MENTAL HEALTH AND  
16 SUBSTANCE ABUSE DISORDERS THAT WARRANT IMMEDIATE ATTENTION,  
17 INTERVENTION OR MORE COMPREHENSIVE ASSESSMENT.

18 \* \* \*

19 SECTION 2. SECTION 6336.1 OF TITLE 42 IS AMENDED TO READ:

20 § 6336.1. Notice and hearing.

21 (a) General rule.--The court shall direct the county agency  
22 or juvenile probation department to provide the child's foster  
23 parent, preadoptive parent or relative providing care for the  
24 child with timely notice of the hearing. The court shall provide  
25 the child's foster parent, preadoptive parent or relative  
26 providing care for the child the ~~for opportunity} right~~ RIGHT to be ←  
27 heard at any hearing under this chapter. Unless a foster parent,  
28 preadoptive parent or relative providing care for a child has  
29 been awarded legal custody pursuant to section 6357 (relating to  
30 rights and duties of legal custodian), nothing in this section

1 shall give the foster parent, preadoptive parent or relative  
2 providing care for the child legal standing in the matter being  
3 heard by the court.

4 (b) Permanency hearings.--

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

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

19 (3) The Department of Public Welfare shall develop a  
20 form for use by a foster parent or parents, preadoptive  
21 parent or relative providing care for the child, including, <—  
22 BUT NOT LIMITED TO, the following information:

23 (i) Date of completion.

24 (ii) Name and address of child.

25 (iii) Name and address of foster parent or parents,  
26 preadoptive parent or relative providing care for the  
27 child. THE INFORMATION UNDER THIS SUBPARAGRAPH SHALL BE <—  
28 CONSIDERED CONFIDENTIAL EXCEPT AT THE DISCRETION OF THE  
29 COURT.

30 (iv) Name of primary caseworker and agency.

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

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

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

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

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

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

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

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

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

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

28           (xv) Other concerns ~~or comments~~, COMMENTS OR  
29 RECOMMENDATIONS.

30           (4) The report shall be reviewed by the court, ~~the~~

<—

<—

~~county agency, the child's guardian ad litem and court  
appointed special advocate, if appointed pursuant to section  
6342 (relating to court appointed special advocates). The  
court may release the report to the Department of Public  
Welfare or another individual or agency if the court  
determines it is in the child's best interests to do so. AND  
IS SUBJECT TO REVIEW BY OTHER PERSONS AND AGENCIES UNDER  
SECTIONS 6307 (RELATING TO INSPECTION OF COURT FILES AND  
RECORDS) AND 6342(D)(1) (RELATING TO COURT-APPOINTED SPECIAL  
ADVOCATES).~~

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

~~§ 6351. Disposition of dependent child.~~

~~\* \* \*~~

~~(c) Permanency hearings.—~~

~~(1) The court shall conduct a permanency hearing for the  
purpose of determining or reviewing the permanency plan of  
the child, the date by which the goal of permanency for the  
child might be achieved and whether placement continues to be  
best suited to the safety, protection and physical, mental  
and moral welfare of the child. In any permanency hearing  
held with respect to the child, the court shall do one of the~~

1 following:

2 ~~(i) Consult with the child regarding the child's~~  
3 ~~permanency plan in a manner appropriate to the child's~~  
4 ~~age and maturity.~~

5 ~~(ii) Ensure that the views of the child regarding~~  
6 ~~the permanency plan are ascertained and communicated to~~  
7 ~~the court by:~~

8 ~~(A) the guardian ad litem of the child;~~

9 ~~(B) the child's counsel, as appropriate to the~~  
10 ~~circumstances of the case;~~

11 ~~(C) the court appointed special advocate for the~~  
12 ~~child; or~~

13 ~~(D) another individual designated by the court.~~

14 \* \* \*

15 SECTION 3. SECTION 6338 OF TITLE 42 IS AMENDED BY ADDING A <—  
16 SUBSECTION TO READ:

17 § 6338. OTHER BASIC RIGHTS.

18 \* \* \*

19 (C) STATEMENTS AND INFORMATION OBTAINED DURING SCREENING OR  
20 ASSESSMENT.--

21 (1) NO STATEMENTS, ADMISSIONS OR CONFESSIONS MADE BY OR  
22 INCRIMINATING INFORMATION OBTAINED FROM A CHILD IN THE COURSE  
23 OF A SCREENING OR ASSESSMENT THAT IS UNDERTAKEN IN  
24 CONJUNCTION WITH ANY PROCEEDINGS UNDER THIS CHAPTER,  
25 INCLUDING, BUT NOT LIMITED TO, THAT WHICH IS COURT-ORDERED,  
26 SHALL BE ADMITTED INTO EVIDENCE AGAINST THE CHILD ON THE  
27 ISSUE OF WHETHER THE CHILD COMMITTED A DELINQUENT ACT UNDER  
28 THIS CHAPTER OR ON THE ISSUE OF GUILT IN ANY CRIMINAL  
29 PROCEEDING.

30 (2) THE PROVISIONS OF PARAGRAPH (1) ARE IN ADDITION TO

1 AND DO NOT OVERRIDE ANY EXISTING STATUTORY AND CONSTITUTIONAL  
2 PROHIBITION ON THE ADMISSION INTO EVIDENCE IN DELINQUENCY AND  
3 CRIMINAL PROCEEDINGS OF INFORMATION OBTAINED DURING  
4 SCREENING, ASSESSMENT OR TREATMENT.

5 SECTION 4. SECTION 6341(D) OF TITLE 42 IS AMENDED AND THE  
6 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

7 § 6341. ADJUDICATION.

8 \* \* \*

9 (B.2) EVIDENCE ON THE FINDING OF DELINQUENCY.--

10 (1) NO STATEMENTS, ADMISSIONS OR CONFESSIONS MADE BY OR  
11 INCRIMINATING INFORMATION OBTAINED FROM A CHILD IN THE COURSE  
12 OF A SCREENING OR ASSESSMENT THAT IS UNDERTAKEN IN  
13 CONJUNCTION WITH ANY PROCEEDINGS UNDER THIS CHAPTER,  
14 INCLUDING, BUT NOT LIMITED TO, THAT WHICH IS COURT-ORDERED,  
15 SHALL BE ADMITTED INTO EVIDENCE AGAINST THE CHILD ON THE  
16 ISSUE OF WHETHER THE CHILD COMMITTED A DELINQUENT ACT UNDER  
17 THIS CHAPTER OR ON THE ISSUE OF GUILT IN ANY CRIMINAL  
18 PROCEEDING.

19 (2) THE PROVISIONS OF PARAGRAPH (1) ARE IN ADDITION TO  
20 AND DO NOT OVERRIDE ANY EXISTING STATUTORY AND CONSTITUTIONAL  
21 PROHIBITION ON THE ADMISSION INTO EVIDENCE IN DELINQUENCY AND  
22 CRIMINAL PROCEEDINGS OF INFORMATION OBTAINED DURING  
23 SCREENING, ASSESSMENT OR TREATMENT.

24 \* \* \*

25 (D) EVIDENCE ON ISSUE OF DISPOSITION.--

26 (1) (I) IN DISPOSITION HEARINGS UNDER SUBSECTIONS (B)  
27 AND (C) ALL EVIDENCE HELPFUL IN DETERMINING THE QUESTIONS  
28 PRESENTED, INCLUDING ORAL AND WRITTEN REPORTS, MAY BE  
29 RECEIVED BY THE COURT AND RELIED UPON TO THE EXTENT OF  
30 ITS PROBATIVE VALUE EVEN THOUGH NOT OTHERWISE COMPETENT

1 IN THE HEARING ON THE PETITION.

2 (II) SUBPARAGRAPH (I) INCLUDES ANY SCREENING AND  
3 ASSESSMENT EXAMINATIONS ORDERED BY THE COURT TO AID IN  
4 DISPOSITION, EVEN THOUGH NO STATEMENTS OR ADMISSIONS MADE  
5 DURING THE COURSE THEREOF MAY BE ADMITTED INTO EVIDENCE  
6 AGAINST THE CHILD ON THE ISSUE OF WHETHER THE CHILD  
7 COMMITTED A DELINQUENT ACT.

8 (2) THE PARTIES OR THEIR COUNSEL SHALL BE AFFORDED AN  
9 OPPORTUNITY TO EXAMINE AND CONTROVERT WRITTEN REPORTS SO  
10 RECEIVED AND TO CROSS-EXAMINE INDIVIDUALS MAKING THE REPORTS.  
11 SOURCES OF INFORMATION GIVEN IN CONFIDENCE NEED NOT BE  
12 DISCLOSED.

13 \* \* \*

14 Section 2 5. This act shall take effect in 60 days.

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