

## No. 1995-13 (SS1)

## AN ACT

## HB 19

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for disposition of a delinquent child, for effect of adjudication and for collection of restitution, reparation, fees, costs, fines and penalties.

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

Section 1. Sections 6352(a)(5), 6354 and 9728 of Title 42 of the Pennsylvania Consolidated Statutes are amended to read:

§ 6352. Disposition of delinquent child.

(a) General rule.—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:

\* \* \*

(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. *For an order made under this subsection, the court shall retain jurisdiction until there has been full compliance with the order or until the delinquent child attains 21 years of age. Any restitution order which remains unpaid at the time the child attains 21 years of age shall continue to be collectible under section 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties).*

\* \* \*

§ 6354. Effect of adjudication.

(a) General rule.—An order of disposition or other adjudication in a proceeding under this chapter 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.

(b) Effect in subsequent judicial matters.—The disposition of a child under this chapter may [not] *only* be used against him [in any proceeding in any court other than at a subsequent juvenile hearing, whether before or after reaching majority, except]:

(1) in dispositional proceedings after conviction [of a felony] for the purposes of a presentence investigation and report *if the child was adjudicated delinquent*; [or]

(2) *in a subsequent juvenile hearing, whether before or after reaching majority*;

[(2)] (3) if relevant, where he has put his reputation or character in issue in a civil matter[.]; *or*

**(4) in a criminal proceeding, if the child was adjudicated delinquent for an offense, the evidence of which would be admissible if committed by an adult.**

§ 9728. Collection of restitution, reparation, fees, costs, fines and penalties.

(a) General rule.—All restitution, reparation, fees, costs, fines and penalties shall be collectible in any manner provided by law. However, such restitution, reparation, fees, costs, fines and penalties are part of a criminal action or proceeding and shall not be deemed debts. A sentence [or], pretrial disposition order *or order entered under section 6352 (relating to disposition of delinquent child)* for restitution, reparation, fees, costs, fines or penalties shall, together with interest and any additional costs that may accrue, be a judgment in favor of the probation department upon the person or the property of the person sentenced or subject to the [pretrial disposition] order.

(b) Procedure.—The county probation department or other appropriate governmental agency shall, upon sentencing [or], pretrial disposition *or other order*, transmit to the prothonotary of the respective county certified copies of all judgments for restitution, reparation, fees, costs, fines and penalties, and it shall be the duty of each prothonotary to enter and docket the same of record in his office and to index the same as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof. The total amount for which the person is liable pursuant to this section may be entered as a judgment upon the person or the property of the person sentenced *or ordered*, regardless of whether the amount has been ordered to be paid in installments.

(c) Period of time.—Notwithstanding *section 6353 (relating to limitation on and change in place of commitment)* or 18 Pa.C.S. § 1106(c)(2) (relating to restitution for injuries to person or property), the period of time during which such judgments shall have full effect may exceed the maximum term of imprisonment to which the offender could have been sentenced for the crimes of which he was convicted *or the maximum term of confinement to which the offender was committed*.

(d) Priority.—Notwithstanding any other statutory provisions in this or any other title, any lien obtained under this section shall maintain its priority indefinitely and no writ of revival need be filed.

(e) Preservation of assets subject to restitution.—Upon application of the Commonwealth, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond or take any other action to preserve the availability of property which may be necessary to satisfy an anticipated restitution order under this section:

(1) upon the filing of a criminal complaint, information or indictment charging a criminal violation *or a petition alleging delinquency* for which restitution may be ordered and alleging that the property with respect to which the order is sought appears to be necessary to satisfy such restitution order and judgment; and

(2) if, after notice to persons appearing to have an interest in the property and an opportunity for a hearing, the court determines that:

(i) there is a substantial probability that:

(A) the Commonwealth will prevail on the underlying criminal charges *or allegation of delinquency*;

(B) restitution will be ordered exceeding \$10,000 in value;

(C) the property appears to be necessary to satisfy such restitution order; and

(D) failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court or otherwise made unavailable for payment of the anticipated restitution order; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

(f) **Temporary restraining order.**—A temporary restraining order under subsection (e) may be entered upon application of the Commonwealth without notice or opportunity for a hearing, whether or not a complaint, information [or], indictment *or petition alleging delinquency* has been filed with respect to the property, if the Commonwealth demonstrates that there is probable cause to believe that the property with respect to which the order is sought appears to be necessary to satisfy an anticipated restitution order under this section and that provision of notice will jeopardize the availability of the property to satisfy such restitution order and judgment. Such a temporary order shall expire not more than ten days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this subsection shall be held at the earliest possible time and prior to the expiration of the temporary order.

(g) **Costs, etc.**—Any sheriff's costs, filing fees and costs of the county probation department or other appropriate governmental agency shall be borne by the defendant and shall be collected by the county probation department or other appropriate governmental agency along with the total amount of the judgment and remitted to the appropriate agencies at the time of or prior to satisfaction of judgment.

(h) **Effect on contempt proceedings.**—This section shall not affect contempt proceedings mandated by 18 Pa.C.S. § 1106(f).

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

APPROVED—The 12th day of May, A.D. 1995.

THOMAS J. RIDGE