

No. 1986-177

AN ACT

HB 1160

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the disposition of dependent children; providing for damages in civil actions on bad checks; and providing for limited civil immunity for volunteer firefighters.

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

Section 1. Sections 6332(a) and 6351 of Title 42 of the Pennsylvania Consolidated Statutes are amended to read:

§ 6332. Informal hearing.

(a) General rule.—An informal hearing shall be held promptly by the court or master and not later than 72 hours after the child is placed in detention or shelter care to determine whether his detention or shelter care is required under section 6325 (relating to detention of child) 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 right of the child to remain silent with respect to any allegations of delinquency. *If the child is alleged to be a dependent child, the court or master shall also determine whether reasonable efforts were made to prevent such placement or, in the case of an emergency placement where services were not offered and could not have prevented the necessity of placement, whether such lack of efforts was reasonable.*

* * *

§ 6351. Disposition of dependent child.

(a) General rule.—If the child is found to be a dependent 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 resident within or without this Commonwealth 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.

(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 6363 (relating to ordering foreign supervision).

(b) Required preplacement findings.—*Prior to entering any order of disposition under subsection (a) that would remove a dependent child from his home, the court shall enter findings on the record or in the order of court as follows:*

(1) that continuation of the child in his home would be contrary to the welfare of the child; and

(2) whether reasonable efforts were made prior to the placement of the child to prevent or eliminate the need for removal of the child from his home, if the child has remained in his home pending such disposition; or

(3) if preventive services were not offered due to the necessity for an emergency placement, whether such lack of services was reasonable under the circumstances; or

(4) if the court has previously determined pursuant to section 6332 (relating to informal hearing) that reasonable efforts were not made to prevent the initial removal of the child from his home, whether reasonable efforts are under way to make it possible for the child to return home.

[(b)] (c) Limitation on confinement.—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)] (d) County programs.—Every county of this Commonwealth shall develop programs for children under paragraph (5) or (6) of the definition of “dependent child” in section 6302 (relating to definitions).

(e) Disposition review hearings.—*Within six months of the removal of a child from the home of his parents, guardian or custodian for placement pursuant to a transfer of temporary legal custody or other disposition under subsection (a)(2), the court shall conduct a disposition review hearing for the purpose of determining whether placement continues to be best suited to the protection and physical, mental and moral welfare of the child. The court shall conduct a second review hearing not later than six months after the initial hearing, a third hearing not later than six months after the second hearing and subsequent disposition review hearings at least every 12 months until the child is returned home or removed from the jurisdiction of the court.*

(f) Matters to be determined.—*At each disposition review hearing, the court shall:*

(1) determine the continuing necessity for and appropriateness of the placement;

(2) determine the extent of compliance with the service plan developed for the child;

(3) *determine the extent of progress made toward alleviating the circumstances which necessitated the original placement;*

(4) *determine the appropriateness and feasibility of the current placement goal for the child; and*

(5) *project a likely date by which the goal for the child might be achieved.*

(g) *Court order.*—*On the basis of the determinations made under subsection (f) and other relevant evidence, the court, in addition, shall:*

(1) *determine whether the child:*

(i) *should be returned to the parents, guardian or other custodian;*

(ii) *should be continued in placement for a specified period; or*

(iii) *because of the child's special needs or circumstances, should remain in placement on a permanent or long-term basis; and*

(2) *order continuation, modification or termination of placement or other disposition best suited to the protection and physical, mental and moral welfare of the child.*

(h) *Certain hearings discretionary.*—*At the discretion of the court, disposition review hearings need not be conducted:*

(1) *for a child who the court has determined should remain permanently in foster care with a specified foster family; or*

(2) *for a child who has been placed in an adoptive home pending finalization of adoption pursuant to 23 Pa.C.S. Part III (relating to adoption).*

Section 2. Title 42 is amended by adding sections to read:

§ 8304. *Damages in actions on bad checks.*

(a) *General rule.*—*In a civil action to recover damages and costs following a conviction for passing a bad check pursuant to 18 Pa.C.S. § 4105 (relating to bad checks) and failure to make full restitution, the payee shall, upon obtaining judgment, be entitled to recover damages in an amount equal to \$100 or triple the amount for which the check was drawn, whichever is greater.*

(b) *Limitation.*—*Damages recovered under this section may not exceed by more than \$500 the value of the check and shall be awarded only if:*

(1) *the payee made written demand of the issuer for payment of the amount of the check not less than ten days before commencing the action; and*

(2) *the issuer failed to tender to the payee, prior to commencement of the action, an amount of money not less than the amount demanded.*

(c) *Restriction.*—*Notwithstanding subsection (a), if partial restitution has been made, damages recovered under this section may not exceed triple the amount of the unpaid restitution.*

§ 8332.3. *Volunteer firefighter civil immunity.*

Volunteer firefighters shall be treated as public employees as defined in section 8501 (relating to definitions). This section shall not be construed to reduce or eliminate any other immunity provided to volunteer firefighters by law.

Section 3. This act shall take effect in 60 days.

APPROVED—The 15th day of December, A. D. 1986.

DICK THORNBURGH