

No. 2014-138

AN ACT

SB 1197

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in obstructing governmental operations, further providing for escape; in criminal history record information, further providing for juvenile records; in juvenile matters, further providing for scope of chapter, for inspection of court files and records, for juvenile history record information and for conduct of hearings; and, in registration of sexual offenders, further providing for definitions and for court notification and classification requirements.

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

Section 1. Sections 5121(d)(1)(i) and 9123(a)(2.1) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 5121. Escape.

* * *

(d) Grading.—

(1) An offense under this section is a felony of the third degree where:

(i) the actor was:

(A) under arrest for or detained on a charge of felony [or following conviction of crime];

(B) convicted of a crime; or

(C) found to be delinquent of an offense which, if committed by an adult, would be classified as a felony and the actor is at least 18 years of age at the time of the violation of this section;

* * *

§ 9123. Juvenile records.

(a) Expungement of juvenile records.—Notwithstanding the provisions of section 9105 (relating to other criminal justice information) and except as provided under subsection (a.1), expungement of records of juvenile delinquency cases and cases involving summary offenses committed while the individual was under 18 years of age, wherever kept or retained, shall occur after 30 days' notice to the district attorney whenever the court upon its own motion or upon the motion of a child or the parents or guardian finds:

* * *

(2.1) the individual is 18 years of age or older and six months have elapsed since the individual has satisfied all terms and conditions of the sentence imposed following a conviction for a summary offense, with the exception of a violation of section 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages), committed while the individual was under 18 years of age and, *since satisfying all terms and conditions of the sentence*, the

individual has not been convicted of a felony, misdemeanor or adjudicated delinquent and no proceeding is pending to seek such conviction and adjudication;

* * *

Section 2. Sections 6303(c), 6307(c), 6309(d) and (e) and 6336(g) of Title 42 are amended to read:

§ 6303. Scope of chapter.

* * *

(c) Summary offenses generally.—In addition to the provisions of subsection (a)(5) and notwithstanding the exclusion of summary offenses generally from the definition of "delinquent act" under section 6302, the provisions of sections 6307 (relating to inspection of court files and records) and 6336(d) (relating to conduct of hearings), insofar as section 6336(d) relates to the exclusion of the general public from the proceedings, shall apply to proceedings involving a child charged with a summary offense when the proceedings are before a judge of the minor judiciary, *the Philadelphia Municipal Court or a court of common pleas*.

§ 6307. Inspection of court files and records.

* * *

(c) Summary offenses.—The provisions of this section shall apply to proceedings involving a child charged with a summary offense when the proceedings are before a judge of the minor judiciary, *the Philadelphia Municipal Court or a court of common pleas*.

§ 6309. Juvenile history record information.

* * *

(d) Disposition reporting.—The division or judge of the court assigned to conduct juvenile hearings shall, within seven days after disposition of a case where the child has been alleged to be delinquent, notify the arresting authority of the disposition of the case. **[In addition, it shall collect and submit to the Juvenile Court Judges' Commission the]** *The* disposition of cases where a child has been alleged to be delinquent, including the disposition of cases resulting in *an* adjudication of delinquency **[which]**, shall be **[submitted]** *provided to the Pennsylvania State Police* for inclusion in the central repository **[within 90 days of an adjudication of delinquency as required by]** *as determined by the Administrative Office of Pennsylvania Courts in consultation with the Juvenile Court Judges' Commission. In addition, the Juvenile Court Judges' Commission shall be provided with information pertaining to the cases of children who have been alleged to be delinquent as the commission determines necessary to fulfill its responsibilities under section 6373 (relating to powers and duties).*

(e) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Criminal history record information." In addition to the meaning in 18 Pa.C.S. § 9102 (relating to definitions), the term includes the meaning of juvenile history record information as defined in this subsection.

¹"delinquency [which] shall be" in enrolled bill.

"Juvenile history record information." Information collected pursuant to this section concerning alleged delinquents and adjudicated delinquents whose fingerprints and photographs are taken pursuant to section 6308(c) and arising from **[the filing of a petition] an allegation** of delinquency, consisting of identifiable descriptions, dates and notations of arrests or other delinquency charges and any adjudication of delinquency or preadjudication disposition other than dismissal arising therefrom. This information shall also include the last known location and the juvenile court jurisdiction status of each adjudicated delinquent. Juvenile history record information shall not include intelligence information, investigative information, treatment information, including medical and psychiatric information, caution indicator information, modus operandi information, wanted persons information, stolen property information, missing persons information, employment history information, personal history information or presentence investigation information.

§ 6336. Conduct of hearings.

* * *

(g) Summary offenses.—The provisions of subsection (d), insofar as subsection (d) relates to the exclusion of the general public from the proceedings, shall apply to proceedings involving a child charged with a summary offense when the proceedings are before a judge of the minor judiciary, *the Philadelphia Municipal Court or a court of common pleas*.

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Section 3. The definitions of "juvenile offender" and "sexually violent predator" in section 9799.12 of Title 42, amended March 14, 2014 (P.L.41, No.19), are amended to read:

§ 9799.12. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Juvenile offender." One of the following:

(1) An individual who was 14 years of age or older at the time the individual committed an offense which, if committed by an adult, would be classified as an offense under 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse) or 3125 (relating to aggravated indecent assault) or an attempt, solicitation or conspiracy to commit an offense under 18 Pa.C.S. § 3121, 3123 or 3125 and either:

(i) is adjudicated delinquent for such offense on or after the effective date of this section; or

(ii) has been adjudicated delinquent for such offense and on the effective date of this section is subject to the jurisdiction of the court on the basis of that adjudication of delinquency, including commitment to an institution or facility set forth in section 6352(a)(3) (relating to **[a]** disposition of delinquent child).

(2) An individual who, *on or after the effective date of this paragraph*, was 14 years of age or older at the time the individual committed an offense similar to an offense under 18 Pa.C.S. § 3121, 3123 or 3125 or an attempt, solicitation or conspiracy to commit an offense

similar to an offense under 18 Pa.C.S. § 3121, 3123 or 3125 under the laws of the United States, another jurisdiction or a foreign country and was adjudicated delinquent for such an offense[.]; ***or who was previously adjudicated delinquent for such an offense and, on the effective date of this paragraph, is subject to the jurisdiction of the court on the basis of that adjudication of delinquency.***

(3) An individual who, on or after the effective date of this paragraph, was required to register in a sexual offender registry in another jurisdiction or foreign country based upon an adjudication of delinquency. The term does not include a sexually violent delinquent child.

* * *

"Sexually violent predator." An individual determined to be a sexually violent predator under section 9795.4 (relating to assessments) prior to the effective date of this subchapter or an individual convicted of an offense specified in:

(1) section 9799.14(b)(1), (2), (3), (4), (5), (6), (8), (9) or (10) (relating to sexual offenses and tier system) or an attempt, conspiracy or solicitation to commit any offense under section 9799.14(b)(1), (2), (3), (4), (5), (6), (8), (9) or (10);

(2) section 9799.14(c)(1), (1.1), (1.2), ***(1.3)***, (2), (3), (4), (5) or (6) or an attempt, conspiracy or solicitation to commit an offense under section 9799.14(c)(1), (1.1), (1.2), ***(1.3)***, (2), (3), (4), (5) or (6); or

(3) section 9799.14(d)(1), (2), (3), (4), (5), (6), (7), (8) or (9) or an attempt, conspiracy or solicitation to commit an offense under section 9799.14(d)(1), (2), (3), (4), (5), (6), (7), (8) or (9)

who, on or after the effective date of this subchapter, is determined to be a sexually violent predator under section 9799.24 (relating to assessments) due to a mental abnormality or personality disorder that makes the individual likely to engage in predatory sexually violent offenses. The term includes an individual determined to be a sexually violent predator or similar designation where the determination occurred in another jurisdiction, a foreign country or by court martial following a judicial or administrative determination pursuant to a process similar to that under section 9799.24. In addition, the term shall include any person convicted between January 23, 2005, and December 19, 2012, of any offense set forth in section 9799.13(3.1) (relating to applicability) determined by a court to be a sexually violent predator due to a mental abnormality or personality disorder that made the person likely to engage in predatory sexually violent offenses, which person shall be deemed a sexually violent predator under this subchapter.

* * *

Section 4. Section 9799.23(a) of Title 42 is amended to read:
§ 9799.23. Court notification and classification requirements.

(a) Notice to sexual offenders.—At the time of sentencing, of disposition ***under section 6352 (relating to disposition of delinquent child)*** in the case of a juvenile offender, ***of adjudication of delinquency under section 6341 (relating to adjudication) in the case of a juvenile offender if the individual was adjudicated delinquent in any county other than the individual's county of residence and section 9799.19(h)(1)(i)(B) (relating to initial registration) applies,*** or of commitment ***under section 6403 (relating to***

court-ordered involuntary treatment) in the case of a sexually violent delinquent child, the court shall inform the sexual offender of the provisions of this subchapter. The court shall:

- (1) Specifically inform the sexual offender of the duty to register under this subchapter.
- (2) Specifically inform the sexual offender of:
 - (i) the duty to register in accordance with sections 9799.15 (relating to period of registration), 9799.16(b) (relating to registry), 9799.19 [(relating to initial registration)] and 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police); and
 - (ii) the duty to attend counseling in accordance with:
 - (A) section 9799.36 (relating to counseling of sexually violent predators) if applicable; or
 - (B) section 6404.2(g) (relating to duration of outpatient commitment and review) if applicable.
- (3) Specifically inform the sexual offender of the duty to register with authorities in another jurisdiction within three business days of:
 - (i) Commencement of residence, change of residence, termination of residence or failure to maintain a residence, thus making the sexual offender a transient.
 - (ii) Commencement of employment, a change in the location or entity in which the sexual offender is employed or termination of employment.
 - (iii) Commencement of enrollment as a student, a change in enrollment as a student or termination of enrollment as a student.
- (4) In accordance with section 9799.16(c), order that the fingerprints, palm prints, DNA sample and photograph of the sexual offender be provided to the Pennsylvania State Police upon sentencing.
- (5) Require the sexual offender to read and sign a form stating that the duty to register under this subchapter has been explained. If the sexual offender is incapable of speaking, reading or writing the English language, the court shall certify the duty to register was explained to the sexual offender, and the sexual offender indicated an understanding of the duty.
- (6) Specifically classify the individual as one of the following:
 - (i) An individual convicted of a Tier I offense.
 - (ii) An individual convicted of a Tier II offense.
 - (iii) An individual convicted of a Tier III offense.
 - (iv) A sexually violent predator.
 - (v) A juvenile offender.
 - (vi) A sexually violent delinquent child.

Section 5. The amendment of the definition of "sexually violent predator" in 42 Pa.C.S. § 9799.12 shall be retroactive to September 2, 2014.

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

APPROVED—The 27th day of September, A.D. 2014

TOM CORBETT