

**PROPOSED
JUVENILE ACT**

General Assembly of the Commonwealth of Pennsylvania

JOINT STATE GOVERNMENT COMMISSION

Harrisburg, Pennsylvania

1970

The Joint State Government Commission was created by Act of 1937, July 1, P. L. 2460, as amended, as a continuing agency for the development of facts and recommendations on all phases of government for the use of the General Assembly.

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1969-1971

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U.S. SUPREME COURT DECISION RE JUVENILES

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*Resigned from the Task Force, January 8, 1970.

FOREWORD

This proposed codification and revision of the law applicable to juvenile proceedings arose out of 1967 Senate Concurrent Resolution No. 132, adopted September 13, 1967 and concurred in by the House of Representatives October 10, 1967, which stated in part:

“On May 15th of this year [1967], the United States Supreme Court handed down an opinion [Application of *Gault*, 387 U.S. 1, 87 S. Ct. 1428] which, for the first time, imposed constitutional due process standards on the nation’s six thousand juvenile courts which processed six hundred thousand youths last year.

* * *

“Because of this decision the juvenile court system presently being used in Pennsylvania will have to be altered. The procedure will have to be changed to conform with the court’s ruling. A study should be made in order to establish the new procedure; therefore be it

“RESOLVED (the House of Representatives concurring) That the Joint State Government Commission be directed to study the recent Supreme Court decision concerning juvenile courts and to study our system so that the procedure which will be applied in Pennsylvania will be in conformity with the court’s ruling.”

The task force of the Joint State Government Commission, appointed to undertake the study called for by Senate Concurrent Resolution No. 132, conducted public hearings to which were invited judges responsible for administering the existing juvenile court laws, specialists in juvenile law, representatives of social and child welfare agencies, including the Pennsylvania Department of Public Welfare, citizens and spokesmen for citizens’ groups, each of whom were most helpful to the task force.

The task force has now completed a revised juvenile proceedings act. The task force generally followed the structure of the recently promulgated Uniform Juvenile Court Act, adopted by the National Conference of Commissioners on Uniform State Laws in response to the *Gault* decision, incorporating therein in most instances existing law and practices as reflected in the 1933 juvenile court acts and the standards promulgated by the Pennsylvania Juvenile Court Judges’ Commission.

The principal legislative issues which the task force considered at length are set forth in testimony summarized in Paulsen, *Procedural Justice for Juveniles, New Horizons for Juvenile Court Legislation*, XL Pa. Bar Assoc. Q. 26 (1968).

There is submitted herewith the proposed "Juvenile Act," together with the Joint State Government Commission's explanatory Comments where appropriate. This proposal demonstrates the most recent legislative concern first exhibited by the Pennsylvania General Assembly in the Act of 1893, June 12, P. L. 459, wherein it was provided that

" . . . no child under restraint or conviction, under sixteen years of age, shall be placed in any apartment or cell of any prison or place of confinement, or in any court room during the trial of adults, or in any vehicle of transportation in company with adults charged with or convicted of crime. . . .

"All cases involving the commitment or trial of children for any crime or misdemeanor, before any magistrate or justice of the peace, or in any court, may be heard and determined by such court at suitable times to be designated therefor by it, separate and apart from the trial of other criminal cases, of which session a separate docket and record shall be kept."

Suggested criticisms and recommendations regarding the proposed "Juvenile Act" should be addressed to Wm. H. Nast, Jr., Counsel, Joint State Government Commission, Post Office Box 1361, Harrisburg, Pennsylvania 17120.

Respectfully submitted,
Fred J. Shupnik, *Chairman*

Joint State Government Commission
Harrisburg, Pennsylvania
1970

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.—This act shall be known as the “Juvenile Act.”

Comment: The above designation was adopted rather than the more usual “Juvenile Court Act” in view of the recent consolidation of original jurisdiction solely in the several courts of common pleas by Section 5 of Article V of the Pennsylvania Constitution, as amended 1968. See Comment to Section 2(8), *infra*.

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

(1) “Child” means an individual who is: (i) under the age of 18 years; or (ii) under the age of 21 years who committed an act of delinquency before reaching the age of 18 years; or (iii) under 21 years of age who committed an act of delinquency after becoming 18 years of age and becomes subject to this act by order of the court having jurisdiction over him.

Comment: This definition, derived from Section 2(1) continues existing jurisdiction of the juvenile law over minors under the age of 18 years, with two exceptions designed to promote greater flexibility in its application: Clause (ii) is intended to overcome the tendency to delay bringing children into court when the act committed was near age 18 in order to require criminal prosecution after reaching that age, and clause (iii) is designed to supply discretionary jurisdiction to the court over a child under the age of 21 in those cases where such authority is necessary to prevent substantial injustice. For procedures for transferring a child from criminal prosecution to juvenile proceedings, see Section 7, *infra*.

(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, excepting only summary offenses arising under the act of April 29, 1959 (P. L. 58), known as "The Vehicle Code," and the crime of murder; 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.

Comment: This definition restricts jurisdiction to acts constituting crimes (continuing the present exceptions of summary vehicle code offenses and the crime of murder) and acts of disobedience committed by a child found by the court to be ungovernable. Children who are wayward, habitually truant or deport themselves so as to injure or endanger the morals or health of themselves or others, though excluded from delinquency jurisdiction, have been included under "deprived." See Section 2(4), *infra*. The Uniform Act classification of "unruly" has been omitted.

(3) "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation.

Comment: The definition of "delinquent child" derives from Section 2(3) of the Uniform Act where it is stated, in part, that:

"The conjunctive 'and' should be noted. Before the child can be characterized as a 'delinquent child' he must be found (1) to have committed a 'delinquent act' and (2) to be in need of treatment or rehabilitation. The first finding is made in the adjudicative hearing on the merits of the allegations of delinquent acts ascribed to the child and involves all of the due process of law safeguards prescribed by *Gault* [387 U.S. 1, 87 S. Ct. 1428 (1967)]. The second finding is made in the dispositional hearing and involves the 'good will and compassion' of the 'kindly juvenile judge,' taking into account the 'emotional and psychological attitude' of the child and having greater latitude in the information he may consider in making a disposition of the case. *Gault and Williams v. People*, 337 U.S. 241, 69 S. Ct. 1079, . . ."

(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, and the deprivation is not due

primarily to the lack of financial means of his parents, guardian, or other custodian; 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.

Comment: The definition of “deprived child” derives in part from the Uniform Act definitions of “deprived” and “unruly,” and in part from the existing definition of a “neglected” child. The term “deprived child” is an attempt to avoid stigmatization of both the child and his parent, and focus rather upon the need of the child for supervision under the jurisdiction of the court.

(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.

Comment: The jurisdiction of the courts of common pleas is vested in Section 5 of Article V of the Constitution of Pennsylvania as amended in 1968, which provides that: “There shall be one court of common pleas for each judicial district (a) having such divisions . . . and (b) having unlimited original jurisdiction in all cases . . .” Except in the First and Fifth Judicial Districts, the court of common pleas will exercise its jurisdiction through a division designated “Juvenile Court Division.” See Order of Supreme Court dated February 8, 1969, docketed to No. 503 Misc. Dkt. No. 16, particularly clause (d) thereof. In the First Judicial District (Philadelphia), and the Fifth Judicial District (Allegheny County), the jurisdiction will be exercised by Family Court Divisions. See Pennsylvania Constitution, Art. V, Sch. §§ 16(q) (ii), 17(b) (ii); see also Act of 1968, December 2, Act No. 357; Act of 1969, March 27, Act No. 5.

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 of the 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 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 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. Except as provided by this act, a probation officer does not have the powers of a law enforcement officer. He may not conduct accusatory proceedings under this act against a child who is or may be under his care or supervision.
- (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.

Comment: This section is derived from Section 6 of the Uniform Act where it is stated that:

“This section brings together the various functions of the probation officer under this Act. Specific powers also appear in other sections in the Act.

“The primary role of the probation officer is the care and protection of the child, and in delinquency cases, his treatment and rehabilitation as well. Incompatible roles such as the power of arrest, conducting the accusatory proceeding in juvenile court, representing the child in court, have been excluded.

“The several powers stated are subject to limitations imposed by the court.

“The second sentence of paragraph (6) complements the provisions of [Section 35].”

The probation officers as employees of the court, are appointed by it and compensated as provided by existing law. See, for example, the Act of 1911, June 19, P. L. 1055, § 3, as amended, 19 P.S. 1053; the Act of 1913, July 12, P. L. 711, § 9, as amended, 17 P.S. 691; the Act of 1915, March 19, P. L. 5, § 3, as amended, 17 P.S. 655.

SECTION 5. Masters.—(a) The Supreme Court may promulgate rules for the selection and appointment of masters in the First and Fifth Judicial Districts, 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.

Comment: This section is derived from Section 7 of the Uniform Act, which makes available to the overburdened urban courts a technique to enable them to meet the demands of their juvenile caseload. It is believed that the utilization of masters will reduce court congestion while maintaining the quality of the juvenile proceedings.

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.

Comment: For docketing and filing, see order of Supreme Court, *supra*, Comment to Section 2(8).

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. 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.

Comment: This section, derived from Section 9 of the Uniform Act, authorizes transfers where the defendant is a

“child,” see Section 2; transfers are mandatory where the child was under the age of 18, and permissive where the child was under 21 but over 18 at the time of the alleged delinquent act. The latter authority should be exercised by the court only in those cases where to continue the criminal prosecution would be manifestly unjust; the former authority requiring the exclusive application of this act, is subject to retransfer proceedings initiated by the district attorney pursuant to Section 28. Of course, this section does not apply to a criminal prosecution initiated by the transfer proceedings under Section 28.

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, and may, in the case of a delinquent child 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 three 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.

Comment: This section is derived from Section 10 of the Uniform Act. Subsection (a) contemplates that in most cases a child alleged to be delinquent will be referred to a public or private social agency for evaluation and assistance prior to the institution of formal proceedings under this act. It does, however, authorize a probation officer to file a petition immediately in delinquency cases such as those of extreme seriousness, or where repeated misbehavior would require immediate detention and hearing.

Subsections (b) and (c) describe and limit the “informal adjustment” procedures, attempting to avoid possible abuses resulting from participation by the child in an informal adjustment as a product of implicit compulsion.

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.

Comment: This section, derived from Section 11 of the Uniform Act, reflects the concept that the county where the child resides is the community primarily concerned with his welfare.

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 prior to final disposition, may transfer the proceeding 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 shall 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.

Comment: This section is derived from Section 13 of the Uniform Act; subsection (b) of Section 13 of the Uniform Act, which specifically provides that the taking of a child into custody is not an arrest except for purposes of determining its constitutional validity, was omitted as unnecessary under existing law.

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.

Comment: This section and Sections 13, 14 and 15, derived from Sections 14, 15, 16 and 17 of the Uniform Act, prescribe the conditions for prehearing detention. The restrictions imposed upon custodial detention reflect the absence of a “sworn complaint” and the absence of a right to immediate bail, constitutional safeguards not applicable in proceedings under 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 its warrant directing that the child be taken into custody and brought before the court.

Comment: This section requires that the parent be notified of a child's apprehension and whereabouts prior to taking him anywhere other than before the court, except in the case where the child is suffering from a physical illness which requires prompt treatment. As noted in the Comment to the Uniform Act, this section ". . . does not authorize police detention for questioning except for the purpose stated in subsection (a)."

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;

(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.

(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 18 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.

(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.

Comment: The limitations imposed upon the place of detention reflect that this is custodial detention prior to adjudication of delinquency and, as stated in the Comment to the Uniform Act, "These provisions are designed to avoid the harm resulting from exposing children to adult criminals and the degrading effect of jails, lockups, and the like."

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 72 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 appear 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.

Comment: This section provides the procedures for ensuring the release of the child from detention or shelter care at the earliest possible time where the hearing on the merits of the petition of alleged delinquency cannot be held immediately.

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.

Comment: This section is derived from Section 18 of the Uniform 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. If brought by anyone other than the probation officer, the probation officer shall endorse upon the petition that its filing is in the best interests of the public and the child. 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 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.

Comment: This section is derived from Sections 19, 20, and 21 of the Uniform Act. As stated in the Comment to the latter:

“The allegation that the child is in need of treatment or rehabilitation is a necessary one and, in the light of the *Gault* case, must be established if the proceedings are to retain their non-criminal character. . . .

“Juvenile court acts rarely have provisions for a formal answer to the petition. The parties simply appear at the hearing and state whether they admit or deny allegations. If admitted, the hearing proceeds to the disposition stage. If denied, the hearing continues to determine the facts. There is likewise no provision for default for non-appearance. If the child is before the court, the appropriate disposition is made without the non-appearing party. If the appearance of a party such as a parent, is deemed essential, he can be brought in by subpoena under [Section 16] or by order on the summons under [Section 18].”

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 10 days after the filing of the petition. 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 14 or more years of age or is alleged to be a delinquent. A copy of the

petition shall accompany the summons unless the summons is served by publication in which case the published summons shall indicate the general nature of the allegations and where a copy of the petition can be obtained.

(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.

Comment: Section 18 derives from Section 22 of the Uniform Act; subsection (c) incorporates Pennsylvania procedures authorizing the court to issue warrants of arrest under certain conditions.

Subsection (d) provides that summons and warrants of arrest shall be in such form and shall be served as prescribed by the Rules of Criminal Procedure: See, e.g., Pa. R. Crim. P., Nos. 110, 111 and 112.

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.

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(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 proceeding 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.

Comment: This section is derived from Section 24 of the Uniform Act. Subsection (a) continues existing law which does not authorize a jury trial: *Commonwealth v. Johnson*, 211 Pa. Superior Ct. 62, 234 A.2d 9 (1969). In *Debacker v. Brainard*, 90 S. Ct. 163, 164 (1969), the United States Supreme Court dismissed the appeal as an inappropriate case to decide the issue of a juvenile's constitutional right to a jury trial.

In subsection (b) the duty is placed upon the district attorney upon the request of the court to present the evidence in support of the petition to ensure that the probation officer who must in most cases subsequently supervise the treatment of the adjudged delinquent is not also his prosecutor. Since under this act in delinquency cases the Commonwealth has a burden of proof and must go forward with the evidence, except in the simplest cases participation by a "Commonwealth" attorney is necessary.

Subsection (c) requires the recording of the proceedings or the keeping of minutes without specifying the method by which the record is made. In *Gault* the need for an adequate record as a basis for review was noted. The final orders of the court would, of course, be subject to appeal as provided in the Act of 1895, June 24, P. L. 212, § 7, as amended, 17 P.S. 181, 182, 184, 184.1 and 190.

In connection with subsection (d), the Comment to Section 24 of the Uniform Act notes:

"There has been some recent tendency to permit publicity [of] juvenile court proceedings on the theory that this will act as a curb to juvenile delinquency. There is little evidence to support this theory and considerable indication that it affords the hard-core delinquent the kind of recog-

dition he wants. On the other hand, the harm it causes may be great in the case of the repentant offender.

“The section as drawn permits the court in its discretion to admit news reporters. This is frequently done with the understanding that the identity of the cases observed will not be published, a procedure generally satisfactory to the news media.

“The exception in contempt cases is probably required in *In re Oliver*, 333 U.S. 257, 68 S. Ct. 499, . . .”

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 is in conflict with the interest or interests of the child. If the interests of two or more parties conflict, separate counsel shall be provided for each of them.

Comment: This section is derived from subsection (a) of Section 26 of the Uniform Act. As noted in the Comment to that section:

“Due process requires the appointment of counsel for a needy child charged with delinquency. See *Kent* [383 U.S. 541, 86 S. Ct. 1045 (1966)] and *Gault*, [*supra*].”

SECTION 21. Other Basic Rights.—(a) A party is entitled to the 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 18

years of age shall be insufficient to support an adjudication of delinquency unless it is corroborated by other evidence.

Comment: Derived from Section 27 of the Uniform Act. The provisions against self-incrimination and the right to cross-examine adverse witnesses are required by *Gault, supra*. Subsection (b) ensures to a child at least the same constitutional test of admissibility as that used in a criminal proceeding with the further limitation that even a confession *validly* made by a child out of court when he is under 18 years of age shall be insufficient of itself to support an adjudication of delinquency.

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.

Comment: This section derives from Section 28 of the Uniform Act, where it was stated that: "These reports are for the purposes of disposition. Their use during the hearing on the petition would violate the hearsay rule and the due process clause, since cross-examination of the sources of the information contained in the report would not be available.

This section protects the privacy of a party denying the petition until adjudication or notice of hearing to transfer for criminal prosecution is given. . . . ”

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 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 or rehabilitation. If the court finds that the child is not in need of treatment 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 or re-

habilitation. 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.

Comment: This section is derived from Section 29 of the Uniform Act, where it is noted that, “. . . when delinquency . . . is alleged, the court must find further that the child is in need of treatment or rehabilitation before the dispositions authorized by the Act can be resorted to . . .” As to the extent of a right to treatment, see *Rouse v. Cameron*, 373 F.2d 451 (D.D.C., 1966).

The requirement in subsection (b) that the delinquent acts be found by the court “on proof beyond a reasonable doubt” modifies existing law, which previously required “sufficient competent evidence.” *In re Holmes*, 379 Pa. 599, 606, 109 A.2d 523 (1954); *Jackson Appeal*, 214 Pa. Superior Ct. 156, 159, 251 A.2d 711 (1969).

The question of the standard of proof in juvenile proceedings is currently pending before the United States Supreme Court in *In the Matter of Samuel Winship*, which decision should not affect the “reasonable doubt” standard set forth above, which may be required by that court in any event.

Subsections (d) and (e) continue existing practice of using “social reports” by the court in determining the disposition of a delinquent or deprived child. Subsection (d) specifically grants the child or his counsel access to the reports, which appears to be required by *Kent, supra*.

Findings of delinquency or deprivation, as well as the orders of disposition, are orders of the common pleas court and as such are appealable to the Superior Court as a matter of right under Article V, Section 9 of the Pennsylvania Constitution and Section 7 of the Act of 1895, June 24, P. L. 212, as amended.

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

Comment: This section is derived from Section 30 of the Uniform Act.

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, 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.

Comment: This section is derived from Section 31 of the Uniform Act.

Among the probationary limitations that the court may require would be suspension or modification of motor vehicle operating privileges: see The Vehicle Code, 1959, April 29, P. L. 58, §§ 618(f), 619(7), as amended, 75 P.S. 618(f), 619(7), and reimbursement of financial losses by the child or his parents; see the Act of 1967, July 27, Act No. 58, 11 P.S. 2001, *et seq.*

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.

Comment: This section is derived from Section 36 of the Uniform Act. Its purposes are to ensure that a child not be committed for a period longer than that for which he could have been committed if convicted of the same offense in a criminal prosecution, and to require review of its disposition by the court at least every three years. It is contemplated that the court will review its orders and where circumstances require modify them much more often. The authority contained in Section 12 of The Juvenile Court Law, Act of 1933, June 2, P. L. 1433, for the court to amend, change or extend its orders to meet changes in circumstances is hereby continued.

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 disposition 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 pre-sentence investigation and report or (ii) if relevant, where he has put his reputation or character in issue in a civil proceeding.

Comment: This section is derived from Section 33 of the Uniform Act. Subsection (a) continues existing policy, the heart of the differentiation of juvenile proceedings from criminal proceedings, first established in Pennsylvania in 1893, and continued under Section 19 of The Juvenile Court Law. The first exception of subsection (b) codifies the holding of *Commonwealth ex rel. Hendrickson v. Myers*, 393 Pa. 224, 144 A.2d 367 (1958), while the second exception is intended to remove the shield from a plaintiff in a civil proceeding where he places his reputation or character in issue, e.g., libel actions.

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 14 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 3 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 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 3 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) No child, either before or after reaching 18 years of age, shall be prosecuted for an offense previously committed unless the case has been transferred as provided in this section.

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

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

(f) 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.

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

Comment: This section is derived from Section 34 of the Uniform Act with the following significant differences: (1) the minimum age of a child who may be transferred for criminal prosecution is lowered from 16 to 14 years of age; (2) a prima facie case must be made out that the child committed a delinquent act identical to that required before a committing magistrate; (3) the finding that the interests of the community require that the child be placed under legal restraint or discipline has been supplemented to provide that in the alternative the offense is one which would, upon conviction, carry a sentence of more than three years.

Subsection (d) is added to allow the child after consultation with counsel to choose a criminal proceeding with the corresponding constitutional safeguards, e.g., jury trial.

Subsection (f) modifies the holding of the Supreme Court in *Gaskins Case*, 430 Pa. 298, 244 A.2d 662 (1968) that, “. . . when a juvenile has been charged with murder, and a prima facie case has been made out by the Commonwealth in Juvenile Court Proceedings, such juvenile must be held for further criminal proceedings. If a Court of proper jurisdiction should thereafter determine that it is in the best interest of both the child and Society that the criminal prosecution should not be pursued, that Court shall thereafter have the right to transfer jurisdiction to the Juvenile Court. See *Mont Appeal*, 175 Pa. Superior Ct. 150, 103 A.2d 460.”

Subsection (g) codifies *Commonwealth v. McIntyre*, 435 Pa. 96, 254 A.2d 639 (1969).

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 a hearing to determine the applicability of this act, 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 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 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.

Comment: This section and Sections 32, 33, 34 and 35 are derived from Sections 39 through 43, respectively, of the Uniform Act, and deal with the difficulties arising out of interstate relations. These sections supplement the Interstate Compact on Juveniles, adopted by Pennsylvania in 1967 and are not in conflict with it.

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 14 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 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.—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 and this section 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 therefore.

(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 re-

vealing 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 pre-sentence 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.

Comment: This section is derived from Section 54 of the Uniform Act.

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 pre-sentence 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 person 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 insofar as they are inconsistent herewith.

SECTION 41. Effective Date.—This act shall take effect January 1, 1971.