

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1648 Session of 2009

INTRODUCED BY EACHUS, BOBACK, BOYLE, CARROLL, D. COSTA, DALLY, GOODMAN, JOHNSON, McCALL, MELIO, MUNDY, MURPHY, PASHINSKI, PAYTON, SIPTROTH, WALKO, WANSACZ, YUDICHAK, BRIGGS AND WATERS, JUNE 10, 2009

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 25, 2009

AN ACT

1 Establishing a joint legislative, executive and judicial  
2 commission on juvenile justice.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Interbranch  
7 Commission on Juvenile Justice Act.

8 Section 2. Declaration of policy.

9 The General Assembly finds and declares as follows:

10 (1) Recent events involving the actions of several  
11 ~~judges~~ INDIVIDUALS in Luzerne County with respect to juvenile ←  
12 delinquency proceedings require a noncriminal investigation  
13 and review of the operations of the juvenile justice system  
14 in that county.

15 (2) These events may have violated the principles in the  
16 Pennsylvania Constitution and State law and have eroded the

1 trust and confidence in Luzerne County's juvenile justice  
2 system.

3 (3) Therefore, the legislative, judicial and executive  
4 branches of State government shall undertake a joint  
5 noncriminal investigation and review to:

6 (i) ascertain how the Luzerne County juvenile  
7 justice system failed;

8 (ii) restore public confidence in the administration  
9 of justice; and

10 (iii) prevent similar events from occurring.

11 Section 3. Definitions.

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

15 "Commission." The Interbranch Commission on Juvenile Justice  
16 established in section 4.

17 "PUBLIC EMPLOYEE." THE TERM SHALL HAVE THE SAME MEANING AS ←  
18 GIVEN TO IT IN 65 PA.C.S. § 1102 (RELATING TO DEFINITIONS).

19 "PUBLIC OFFICIAL." THE TERM SHALL HAVE THE SAME MEANING  
20 GIVEN TO IT IN 65 PA.C.S. § 1102 (RELATING TO DEFINITIONS).

21 Section 4. Commission.

22 (a) Establishment.--The Interbranch Commission on Juvenile  
23 Justice is established.

24 (b) Membership.--The commission shall consist of the  
25 following members, appointed within ~~15~~ 25 days of the effective ←  
26 date of this section:

27 (1) Four members appointed by the Chief Justice of the  
28 Supreme Court of Pennsylvania. One of the members must have  
29 served on the Juvenile Court Judges' Commission.

30 (2) Four members knowledgeable and experienced in

1 juvenile law or providing services to juveniles who are not  
2 members of the General Assembly. One member shall be  
3 appointed by each of the following:

4 (i) The President pro tempore of the Senate.

5 (ii) The Minority Leader of the Senate.

6 (iii) The Speaker of the House of Representatives.

7 (iv) The Minority Leader of the House of  
8 Representatives.

9 (3) Three members appointed by the Governor. One member  
10 under this paragraph must be a member of the general public.  
11 One member under this paragraph must be a member of the  
12 Coalition of Pennsylvania Crime Victim Organizations who is  
13 directly involved in providing services to victims associated  
14 with juvenile crime in a county.

15 (c) Chairperson.--The Chief Justice shall select the  
16 chairperson of the commission.

17 (d) Quorum and voting.--

18 (1) The physical presence of six members constitutes a  
19 quorum.

20 (2) Action of the commission must be authorized or  
21 ratified by majority vote of ~~participating members~~ MEMBERS OF  
22 THE COMMISSION. ←

23 (e) Participation.--A member not physically present may  
24 participate by teleconference or video conference.

25 (f) Meetings.--The following shall apply:

26 (1) The commission shall meet at least once a month.  
27 Additional meetings may be called by the chairperson as  
28 necessary. The chairperson shall schedule a meeting upon  
29 written request of four members of the commission.

30 (2) The first meeting shall be convened within 45 days

1 of the effective date of this section.

2 (3) The commission shall hold public hearings as  
3 necessary to obtain the information required to conduct the  
4 investigation and review under section 5.

5 (g) Expenses.--Members shall not receive compensation but  
6 shall be reimbursed for expenses incurred in service of the  
7 commission.

8 (h) Support.--

9 (1) The Administrative Office of Pennsylvania Courts  
10 shall provide administrative services to the commission.

11 (2) Upon request, the Pennsylvania Commission on Crime  
12 and Delinquency and the Joint State Government Commission  
13 shall provide administrative assistance to the commission.

14 (3) The Juvenile Court Judges' Commission may provide  
15 analyses, reports and recommendations to the commission.

16 Section 5. Functions of commission.

17 (a) Powers.--The commission has the following powers:

18 (1) To investigate and analyze the events, practices,  
19 processes, procedures and other authority in Luzerne County  
20 involving judges, attorneys, ~~county officials~~ PUBLIC ←  
21 OFFICIALS, PUBLIC EMPLOYEES, probation and parole officers  
22 and providers of juvenile services.

23 (2) To review the procedures, practices and rules  
24 relating to the appointment of counsel to represent juvenile  
25 offenders and the exercise of the right to counsel in Luzerne  
26 County.

27 (3) To review the exercise of authority and abuse of  
28 power with regard to the disposition and placement of  
29 juveniles in Luzerne County.

30 (4) To review procedures used in responding to judicial

1 and attorney conduct and to make recommendations as necessary  
2 with respect to both disciplinary systems.

3 (5) To review the oversight of juvenile detention  
4 facilities and investigate the utilization of facilities in  
5 Luzerne County.

6 (6) TO HOLD PUBLIC HEARINGS FOR THE TAKING OF TESTIMONY ←  
7 AND THE REQUESTING OF DOCUMENTS. THE COMMISSION SHALL HAVE  
8 THE POWER TO ISSUE SUBPOENAS UNDER THE HAND AND SEAL OF ITS  
9 CHAIR COMMANDING ANY PERSON TO APPEAR BEFORE IT AND ANSWER  
10 QUESTIONS TOUCHING MATTERS PROPERLY BEING INQUIRED INTO BY  
11 THE COMMISSION, AND TO PRODUCE ANY BOOKS, PAPERS, RECORDS,  
12 DOCUMENTS AND DATA AND INFORMATION PRODUCED AND STORED BY ANY  
13 ELECTRONIC DATA PROCESSING SYSTEM AS THE COMMISSION DEEMS  
14 NECESSARY. THE SUBPOENAS MAY BE SERVED UPON ANY PERSON AND  
15 SHALL HAVE THE FORCE AND EFFECT OF SUBPOENAS ISSUED OUT OF  
16 THE COURTS OF THIS COMMONWEALTH. ANY PERSON WHO WILLFULLY  
17 NEGLECTS OR REFUSES TO TESTIFY BEFORE THE COMMISSION OR TO  
18 PRODUCE ANY BOOKS, PAPERS, RECORDS, DOCUMENTS OR DATA AND  
19 INFORMATION PRODUCED AND STORED BY ANY ELECTRONIC DATA  
20 PROCESSING SYSTEM SHALL BE SUBJECT TO THE PENALTIES PROVIDED  
21 BY THE LAWS OF THIS COMMONWEALTH IN SUCH CASE. THE  
22 CHAIRPERSON OF THE COMMISSION SHALL HAVE THE POWER TO  
23 ADMINISTER OATHS AND AFFIRMATIONS TO WITNESSES APPEARING  
24 BEFORE THE COMMISSION. THE COMMISSION MAY ALSO CAUSE THE  
25 DEPOSITION OF WITNESSES EITHER RESIDING WITHIN OR WITHOUT  
26 THIS COMMONWEALTH TO BE TAKEN IN THE MANNER PRESCRIBED BY LAW  
27 FOR TAKING DEPOSITIONS IN CIVIL ACTIONS.

28 (b) Duties.--The commission has the following duties:

29 (1) To accept and review written comments from  
30 individuals and organizations.

1           (2) To make, by May 31, 2010, recommendations to the  
2 Governor, the Supreme Court, the Senate and the House of  
3 Representatives based on the investigation of issues under  
4 subsection (a). This paragraph includes recommendations:

5           (i) To improve the juvenile justice system.

6           (ii) To prevent the reoccurrence of events similar  
7 to those identified in section 2.

8           (iii) To change to State statutes and State and  
9 local practices, rules, policies and procedures.

10          (3) To make reports as follows:

11          (i) The commission may file status reports and  
12 updates with the Governor, the Supreme Court, the Senate  
13 and the House of Representatives as it deems appropriate.

14          (ii) The commission shall issue a final report by  
15 May 31, 2010.

16          (iii) A report under this paragraph must be adopted  
17 at a public meeting.

18          (iv) A report under this paragraph shall be a public  
19 record under the act of February 14, 2008 (P.L.6, No.3),  
20 known as the Right-to-Know Law.

21 Section 19. Expiration.

22          This act shall expire June 30, 2010.

23 Section 20. Effective date.

24          This act shall take effect immediately.