

**STANDARDS GOVERNING THE USE OF SECURE
DETENTION
UNDER THE JUVENILE ACT
42 Pa.C.S. §6301 et seq.**

Preamble

The purpose of Pennsylvania's juvenile justice system is to provide programs of supervision, care and rehabilitation which are consistent with the protection of the public interest and which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community.

Secure detention services must be understood within the context of the services available within the juvenile justice system, and within the broader context of the purpose of the system, and of the juvenile justice process. A child admitted to a juvenile detention center is provided access to a wide range of services, custody, supervision, and assessments.

The "Standards Governing Secure Detention Under The Juvenile Act" adopted by the Juvenile Court Judges' Commission were developed with an understanding that overcrowding in juvenile detention centers presents danger to both residents and staff and can severely disrupt programs and services. Consequently, juvenile court judges and chief juvenile probation officers should take a leadership role in advocating for adequate juvenile detention services and alternatives, in monitoring detention center populations at the local level, and in developing strategies to be undertaken as facilities approach capacity.

These Standards were also developed on the premise that decisions regarding admissions to secure detention facilities must be based on a commitment to utilize the most appropriate level of care consistent with the circumstances of the individual case. When the admission of a child to a secure detention facility is being considered by a judge, master, or juvenile probation officer, preference should be given to non-secure alternatives which could reduce the risk of flight or danger to the child or community.

Scope of Standards

These Standards are to be applied in determining whether a child who is alleged to be or has been found to be a delinquent child may be detained. A child who is alleged to be or has been found to be a dependent child may not be detained in a secure detention facility unless the child is also alleged to be or has been found to be a delinquent child.

Even though eligibility criteria may indicate that a particular child may be detained, such detention is not mandatory. When the admission of a child to a secure detention facility is being considered by a judge, master, or juvenile probation officer, preference should be given to non-secure alternatives which could reduce the risk of flight or danger to the child or community. Pre-adjudication detention may never be imposed as a sanction or as a means of punishment.

Secure detention is not to be used when a child alleged to be delinquent cannot be released solely because there is no parent, guardian or custodian able to assume responsibility or adequately supervise the child.

Statement of Facts and Reasons

- (a) At any time secure detention is ordered or authorized, except as provided in subsections (b) and (c) whether at intake or at a detention or other hearing before a Juvenile Court Judge or Juvenile Court Master, a contemporaneous written statement of facts and reasons must accompany the detention decision specifying:**
 - (i) there is reasonable basis to believe that the child has committed the act for which he is being detained (in the case of judicial authorities, that probable cause exists) and that he is not excluded from the jurisdiction of Juvenile Court by age or any other reason;**
 - (ii) that the child's detention is permitted under these Standards;**
 - (iii) the alternatives to secure detention which were considered and rejected; and**
 - (iv) the reason or reasons why secure detention is required and alternatives are not appropriate. (separate reasons need not be given for each alternative considered)**

- (b) If secure detention is ordered after the child is found to have committed a delinquent act, but prior to the Court's determination that residential placement will be ordered at disposition, the Court shall indicate on the record or in a court order why secure detention is required and alternatives are not appropriate. (separate reasons need not be given for each alternative considered)
 - (c) Once the Court has determined that residential placement will be ordered or continued, if previously ordered, no statement is required regarding the use of secure detention pending such placement.
- A. Circumstances under which secure detention may be authorized on the basis of an alleged offense or on the basis of an alleged offense and the child's current status with the Court or prior record.
- 1. A child may not be detained in secure detention pursuant to 42 Pa.C.S. §§6325, 6326 and 6331 for the purpose of protecting the person or property of others or of the child unless:
 - (a) The child is alleged to be a delinquent child on the basis of acts which would constitute the commission of, conspiracy, solicitation, or an attempt to commit any of the following crimes:
 - (i) criminal homicide (18 Pa.C.S. §§2502, 2503 or 2504);
 - (ii) rape (18 Pa. C.S §3121);
 - (iii) robbery (18 Pa.C.S. §3701);
 - (iv) robbery of motor vehicle (18 Pa.C.S. §3702);
 - (v) aggravated assault (18 Pa.C.S. §2702);
 - (vi) involuntary deviate sexual intercourse (18 Pa.C.S. §3123);
 - (vii) aggravated indecent assault (18 Pa.C.S. §3125);
 - (viii) kidnapping (18 Pa.C.S. §2901);
 - (ix) arson (18 Pa.C.S. §3301);
 - (x) burglary (18 Pa.C.S. §3502) involving a structure occupied by a person at the time of the offense or a structure adapted for overnight accommodation;

- (xi) **terroristic threats (18 Pa.C.S. §2706);**
 - (xii) **(xii) stalking {18 Pa.C.S. §2709 (b)(1)(2)};**
 - (xiii) **causing or risking catastrophe (18 Pa.C.S. §3302);**
 - (xiv) **riot (18 Pa.C.S. §5501);**
 - (xv) **felonious violations of “The Controlled Substance, Drug, Deceit and Cosmetic Act” (35 P.S. §780-101 et seq.);**
 - (xvi) **(xvi) felonious intimidation of witnesses or victims (18 Pa.C.S. §4952);**
 - (xvii) **(xvii) felonious retaliation against witness or victim (18 Pa.C.S. §4953).**
- (b) **The child is alleged to be a delinquent child on the basis of an offense which involved the use or possession of a firearm or explosives, or an offense (other than mere possession) which involved the use or possession of a deadly weapon (other than a firearm or explosives) as defined at 18 Pa.C.S. §2301; or**
- (c) **The child is alleged to be a delinquent child on the basis of an offense which is classified as a felony and:**
- (i) **the child is currently on probation, being supervised under a consent decree, or is otherwise under the supervision of the Court following an adjudication of delinquency; or**
 - (ii) **(ii) the child has been found to be a delinquent child within the preceding 18 (eighteen) months; or**
- (d) **The child is alleged to be a delinquent child and is in violation of conditions of house arrest, in-home detention, electronic monitoring, shelter care or other non-secure placement, ordered or authorized as an alternative to secure detention; or**
- (e) **The child is on probation or is otherwise under the supervision of the Court following an adjudication of delinquency, based on a felony, and is alleged to have committed a delinquent act or to have twice violated technical conditions of probation or other post-adjudication supervision; or**

- (f) The child or child's attorney has voluntarily and in writing requested placement in secure detention for the protection of said child, in which case immediate release shall occur upon the request of the child or attorney.**

B. Circumstances under which secure detention may be authorized on the basis of a child's status as an absconder or fugitive; on the basis of a child's record of failing to appear at previous juvenile hearings; or because of extraordinary circumstances which require secure detention to prevent a child from absconding.

1. A child may not be detained in secure detention pursuant to 42 Pa.C.S. §§6325, 6326 and 6331 because the child may abscond or be removed from the jurisdiction of the Court unless:

- (a) The child is an absconder from an institution or other placement to which he/she was committed as a result of a previous adjudication of delinquency; or**
- (b) The child has willfully failed to appear at the hearing on the petition (adjudication hearing) or other hearing after having been served with a court order or summons to appear; or**
- (c) The child has a recent demonstrable record of willful failure to appear at previous juvenile court hearings; or**
- (d) The child has been verified to be a fugitive from another jurisdiction, an official from which has requested that said child be detained; or**
- (e) The child absconded from secure detention, shelter care in-home detention, house arrest, or other non-secure placement, or while subject to electronic monitoring, ordered or authorized pending a court hearing or placement; or**
- (f) The child presents extraordinary circumstances requiring secure detention to prevent him/her from absconding. Such circumstances may include, but are not limited to, the child's age, character, mental condition, ties to the community, the nature of the child's family relationships, drug or alcohol addiction or substance abuse.**

C. Circumstances under which secure detention may be ordered pending disposition, subsequent to a finding that a child committed a delinquent act or is a delinquent child.

1. A child whom the Court has found to have committed the act(s) by reason of which he or she was alleged to be delinquent or whom the Court has found to be a delinquent child may not be held in secure detention pending disposition unless:

- (a) such adjudication or finding was based on an offense for which detention was or could have been authorized or ordered under Section A; or**
- (b) the child was initially detained, was eligible for detention, or based on more recent information would now be eligible for detention under Section B and the Court determines detention to be required; or**
- (c) the court has determined that placement of the child at disposition is probable and continued detention is required to disposition based upon consideration of the following factors:**
 - (i) (i) the nature of the substantiated offense;**
 - (ii) (ii) the child's employment and student status;**
 - (iii) (iii) the nature of the child's family relationships;**
 - (iv) (iv) the child's past and present residences;**
 - (v) (v) the child's age, character, mental condition, previous juvenile record, and drug or alcohol addiction or substance abuse;**
 - (vi) (vi) if the child has previously been released pending a court proceeding, whether the child appeared as required;**
 - (vii) (vii) any other facts relevant to whether the child has strong ties with the community or is likely to flee the jurisdiction.**

D. Circumstances under which secure detention may be ordered following disposition pending transfer to placement.

1. A delinquent child whom the Court has committed to an institution or other placement, or who was otherwise ordered removed from his or her home at disposition, may not be held in secure detention pending transfer to such placement unless:

- (a) the child was found to be a delinquent child on the basis of an offense for which secure detention would be permitted under Section A; or**
- (b) the child was initially detained, was eligible for detention, or based on more recent information would now be eligible for detention under Section B; or**
- (c) the child is awaiting placement in a Youth Development Center Secure Unit or other secure residential treatment program; or**
- (d) the child is awaiting placement and the Court has determined that secure detention is required pending transfer to such placement based upon consideration of the factors delineated in Section C(1)(c).**

E. Circumstances under which secure detention may be authorized on the basis of a child's status pending or subsequent to a disposition review proceeding.

1. A child may not be detained in secure detention pending or subsequent to a disposition review hearing unless:

- (a) the child is in placement in, or is awaiting transfer to, a Youth Development Center Secure Unit or other secure residential treatment program; or**
- (b) the child was returned from placement for failure to adjust; or**
- (c) secure detention is otherwise required based upon consideration of the factors delineated in Section C(1)(c).**

F. Circumstances under which secure detention may be authorized on the basis of extraordinary and exceptional circumstances.

1. A child may be detained in secure detention even if these Standards do not otherwise authorize such detention provided:

- (a) the facts present extraordinary and exceptional circumstances which require the use of secure detention; and**
 - (b) the statement of reasons accompanying any detention under this Section must include an explanation of why an exception was warranted and why non-secure options were rejected.**
- 2. Detention under this Section may not be authorized routinely or because non-secure alternatives do not exist in adequate numbers, but only in the exceptional and extraordinary case.**
- 3. Secure detention is not to be used when a child alleged to be delinquent cannot be released solely because there is no parent, guardian or custodian able to assume responsibility or adequately supervise the child.**