

COMMITTEE AMENDMENT ANALYSIS

Bill: Senate Bill 850

Printer's No.: 868

Amendment No.: A01334

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Summary:

Cyberbullying and sexting

The grading of the offense is reduced from a misdemeanor of the second degree to a misdemeanor of the third degree. A third degree misdemeanor is consistent with 18 Pa.C.S. §2709 (relating to harassment). Section 2709 states that “A person commits the crime of harassment when, with intent to harass, annoy or alarm another, the person . . . (4) communicates to or about such other person any lewd, lascivious, threatening or obscene words, language, drawings or caricatures.” This type of harassment is graded as a third degree misdemeanor.

Expungement

In providing for expungement of juvenile records when six months have elapsed since the final discharge of the person from supervision under a diversion program, a reference is added to 42 Pa.C.S. §1520 (relating to adjudication alternative program). Because section 9123 of the Crimes Code will also apply to the expungement of summary offenses committed by a minor, it is necessary to specifically reference diversion programs overseen by magisterial district judges who handle summary offenses involving minors.

Section 9123(a)(4) is amended to delete the language explaining who may petition for expungement because the lead-in language to the subsection already says that “the court upon its own motion or upon the motion of a child or parents or guardian” so there is no need to repeat similar language in (a)(4). The amendment makes clear that the court may handle these expungement cases without a motion or petition from the child or parents.

Juvenile Act

The new purpose clause in section 6301 of the Judicial Code directing juvenile courts to use the least restrictive sanctions consistent with the protection of the community and the needs of the child is amended to make the language more consistent with other provisions in the Juvenile Act. The new purpose clause encouraging the use of evidence-based practices at every stage of the juvenile justice process is amended to say “whenever possible” because there may be situations or stages in the process where evidence-based practices are not available.

Finally, the provision added to section 6337 relating to the presumption of indigency for children is amended to make clear that the court shall not consider the financial resources of the child’s parent, guardian or custodian.