

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 815

Printer's No.: 833

Sponsor: Senator Baker

Prepared by: Gregg Warner

Synopsis: This bill amends section 6337 of the Judicial Code, Title 42 of the Pennsylvania Consolidated Statutes, prohibiting the waiver of counsel in a juvenile proceeding.

Summary: Section 6337 currently provides that a child's parent, guardian or custodian may waive the child's right to counsel. Section 6337 is amended to require that counsel be provided for a child who appears at a hearing without counsel. Counsel for the child cannot be waived.

Intake conferences

A child alleged to be delinquent may appear with counsel at the intake conference conducted by a juvenile probation officer following the submission of a written allegation but counsel is not mandatory at this proceeding.

Other parties

If a party other than a child appears at a hearing without counsel the court shall determine whether the party knows of his right to counsel and the party may be provided with counsel by the court if applicable.

Effective date

This act takes effect in 60 days.

Background: Chapter 63 of the Judicial Code is the Juvenile Act and applies to dependent and delinquent children. Section 6337 applies to the right of counsel for proceedings under Chapter 63 including delinquency and dependency proceedings.

Interbranch Commission on Juvenile Justice

In its report investigating Luzerne County's juvenile justice system, the Interbranch Commission found that the right to counsel was routinely waived. About half of the children who appeared before the juvenile court judge in question waived the right to counsel. Many juveniles were placed in detention centers without the benefit of counsel.

The Interbranch Commission stated that "Defense counsel plays an important role in ensuring fairness and equity in the juvenile justice system in Pennsylvania and in protecting children against abuses of judicial power. Defense lawyers occupy the unique position of giving children a voice in the process by representing the child's expressed interest."

The Interbranch Commission recommended that restrictions be placed on the right of a juvenile to waive his right to counsel and if a juvenile does waive his right to counsel that stand-by counsel be provided.

Legislative history

During the 2009-2010 legislative session, the Senate passed very similar legislation, Senate Bill 873, by a vote of 47 to 1.