

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 733

Printer's No.: 746

Sponsor: Senator Williams

Prepared by: Gregg Warner

Synopsis: This bill amends the Crimes Code, Title 18 of the Pennsylvania Consolidated Statutes, adding a section with a new offense relating to the responsibility of parents for the acts of their minor children, and amends the Judicial Code, Title 42, providing for a pretrial diversion program.

Summary: A parent or guardian who intentionally and knowingly commits one or more acts or omits the performance of one or more duties, which causes their child or ward under 18 years of age to become subject to provisions of the Juvenile Act or the Child Protective Services Law commits a third degree misdemeanor.

Standard of care

A parent or guardian of any person under 18 years of age shall have the duty to exercise reasonable care, supervision, protection and control over their minor child.

Diversion program

A person who violates this offense may be eligible for a pretrial diversion program. No person may be diverted to a program unless the program has been approved by the district attorney. A person is not eligible for the diversion program if the person was previously diverted under this section.

The district attorney shall conduct an investigation to determine whether the defendant would benefit from education, treatment or rehabilitation. The district attorney shall submit findings and recommendations to the court for approval, which shall include an education, treatment or rehabilitative plan. The recommendation may include referral to a community service program.

Admissibility

No statement with respect to the offense which is made subsequent to the granting of the diversion may be admissible in any proceeding. If the diversion is denied or is subsequently revoked, no statement by the defendant made during the investigation may be used in any subsequent proceeding.

Hearing

The court shall hold a hearing and after consideration of the district attorney's report and any other relevant information shall determine if the defendant consents to the diversion program and waives the right to a speedy trial. The court shall determine whether the defendant is able to pay for the diversion program or is indigent. If the court determines that the defendant would not benefit from the program or if the defendant does not consent, the proceedings shall continue as in any other case.

Disposition

If the defendant has performed satisfactorily during the period of diversion, the criminal charges shall be dismissed. If the court finds after notice to the defendant and a hearing that the defendant is not performing satisfactorily, or that the defendant has been convicted of a misdemeanor in which force or violence was used or is convicted of a felony, the criminal case shall be resumed.

Effective date

This act takes effect in 60 days.

Background: According to the sponsor, the purpose of the legislation is to put "renewed emphasis on parental accountability" and to "institute a formal, voluntary diversionary training program that encourages and teaches parents and guardians how to play a proactive and positive role in the lives of their children."

Legislative history

During the 2009-2010 legislative session this legislation was introduced as Senate Bill 99. On March 15, 2010, the Senate Judiciary Committee held a public hearing on Senate Bill 99 at the Boys Latin Charter School of Philadelphia. In June the Senate Judiciary Committee amended and reported Senate Bill 99 from committee. The Senate tabled the bill.

The Senate Judiciary Committee amendments redefined the criminal offense so that there was a more direct connection between the parent or guardian's acts or omissions and the child becoming subject to the Juvenile Act provisions relating to adjudication or to the Domestic Relations Code provisions relating to protective custody. The pretrial provisions were clarified to be more consistent with criminal procedure and to better reflect the pretrial nature of the program. The Senate Judiciary Committee amendments were carried over to the legislation as introduced this session.