



**NAVIGATING THE JUVENILE JUSTICE SYSTEM  
IN PENNSYLVANIA**

**A Guide for Parents and Guardians**



# **Navigating the Juvenile Justice System in Pennsylvania: A Guide for Parents and Guardians**

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Juvenile Law Center is a national public interest law firm that works to ensure that child welfare, juvenile justice and other public systems provide vulnerable children with the protection and services they need to become healthy and productive adults.

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## ABOUT THIS GUIDE

The juvenile justice process can be confusing for anyone. The purpose of this guide is to help parents and guardians better understand the juvenile justice process. This guide walks parents and guardians through each stage of the process and points out the places where a parent's input is especially important.

This guide provides general information about the juvenile justice system in Pennsylvania. Certain juvenile justice policies may be slightly different from county to county. However, under the law, all children have important rights that should be protected in every courtroom and in every county.

### **IMPORTANT NOTE:**

Using this guide is not the same as getting legal advice. If you have particular questions about your child's situation, you should speak with a lawyer.

### **The Importance of Family Involvement**

When a child comes into contact with the juvenile justice system, the family's involvement with the process can be critical to the child's success. The family is a child's main emotional, social, cultural, and spiritual resource. As a parent, you know your child better than juvenile justice system professionals – from probation officers to lawyers to the judge – and often have valuable insights into your child's behaviors and needs.

Unfortunately, the juvenile justice system often creates barriers that prevent families from effectively participating in their child's juvenile case. A workgroup in Pennsylvania has begun to identify and develop strategies and models that will support family involvement in the juvenile justice system. In 2009, this workgroup released *Family Involvement in Pennsylvania's Juvenile Justice System*, which discusses barriers to family involvement and identifies strategies to promote family involvement. This document is available for download at:

<http://www.modelsforchange.net/publications/238>

## BACKGROUND: THE JUVENILE JUSTICE SYSTEM

The juvenile justice system is different from the adult criminal justice system. Juvenile court is often less formal than adult criminal court. Also, different terms are used in juvenile court.

These differences reflect the fact that the juvenile justice system has different goals than the adult criminal justice system. In Pennsylvania, the juvenile justice system provides for the **supervision, care and rehabilitation** of youth to ensure: (1) **community protection** (keeping the community safe from harm), (2) **accountability** (taking responsibility for actions and repairing harm caused to the victim and community), and (3) **competency development** (teaching skills that allow youth to be productive members of the community).



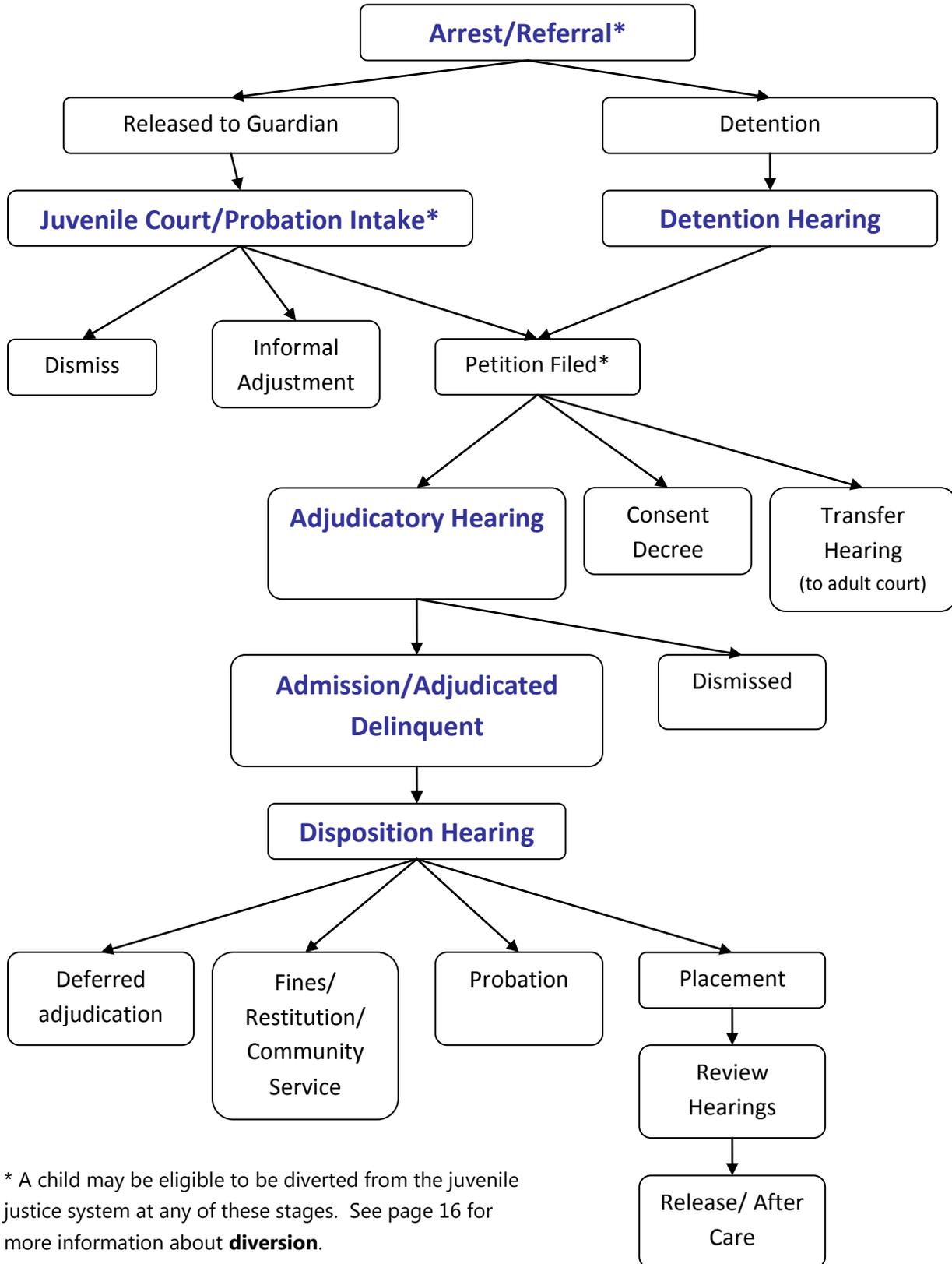
Ideally, the juvenile justice system should focus on your child's needs and rehabilitation. However, you and your child should also understand that the consequences of what happens in the juvenile justice system can be very serious. Your child could be sent to detention or to other facilities away from home. Also, a juvenile record may make it difficult for your child to get a job, go to college, get financial aid, or enter the military.

Generally, children ages 10 to 17 years old accused of crimes enter the juvenile justice system, not the adult criminal system. In cases where a child is accused of committing certain very serious crimes, the child may directly enter the adult criminal justice system or be transferred by a judge to adult criminal court. This manual does not discuss what happens when youth are charged and tried as adults.

## GENERAL TIPS WHEN ADVOCATING FOR YOUR CHILD<sup>1</sup>

- 1. Keep organized.** Put all of the papers that you receive in connection with your child's case in one place (including letters, evaluations, lab results, billing or payment records, and any reports from the police, probation officers, court, lawyers, doctors, and mental health workers).
- 2. Ask to read and request copies of all reports about your child and your child's case.** You may not always be able to get a copy of a report. Ask your child's lawyer if you have questions about whether you are allowed to see a copy of a specific report.
- 3. Write everything down.** Write down information from meetings and telephone conversations with your child's lawyer, probation officer, and other juvenile justice system staff. Include the time and date, who you spoke to (and their title), and future meetings or phone calls.
- 4. Attend all meetings and court hearings and arrive on time.** Because of job and family obligations, attending every meeting can be very difficult. However, it is very important that you attend meetings about your child. If you know you will not be able to attend, call or write a letter in advance to explain why you cannot attend and that you want to be involved in your child's case.
- 5. Help others to understand your child.** Write down information about your child that will help your child's lawyer, probation officer, the judge, and other adults understand your child better. If your child has a disability, be sure to include information about the disability, how your child processes information, how your child reacts in certain situations, and what help or accommodations your child needs. *See Appendix for a checklist of helpful information to include.*
- 6. Speak up** in meetings to share information about your child's needs, even if you feel uncomfortable or intimidated. If juvenile justice system staff (for example, a probation officer) or your child's lawyer will not listen to you, you can contact his or her supervisor. In court, you may have to ask your child's lawyer to tell the judge that you would like to speak.
- 7. Always be respectful.** No matter how strongly you feel about your child's situation or the people working with your child, remain respectful when you speak in court or speak to probation staff or other people who are working with your child.

## JUVENILE JUSTICE PROCESS OVERVIEW



\* A child may be eligible to be diverted from the juvenile justice system at any of these stages. See page 16 for more information about **diversion**.

# 1. SCHOOL-BASED REFERRALS TO THE JUVENILE JUSTICE SYSTEM

Schools often refer children, including children with disabilities, to law enforcement when children misbehave at school. If your child is having behavior problems at school, try to speak with school officials system about whether supports and services can be put in place to address your child’s behaviors *before* the school calls the police or refers your child to the juvenile justice. If the school has already called the police, ask your child’s lawyer whether he or she could argue that the school or mental health system, instead of the juvenile justice system, should be addressing your child’s behavior problems.



## Students with Disabilities: Preventing School-Based Behavior Problems

Often, children with disabilities will have behavior problems at school because they are not receiving needed supports and services. Before your child has any contact with the police, it is important that you are in touch with school officials to ensure that your child is receiving necessary supports and services at school.

## Considerations When Your Child Is In Special Education

If your child is in special education and has an **Individual Education Plan (IEP)**, your child’s IEP team should discuss your child’s behavior problems at school. The IEP Team can suggest changes that may stop your child’s misbehaviors. If you think your child’s behaviors are hurting his or her ability to succeed at school, you should contact the school and request an IEP team meeting.

If the IEP team determines that your child’s behaviors (1) hurt your child’s ability to learn or (2) hurt other children’s ability to learn, you should request that your child receive a **Functional Behavior Assessment**, which is an evaluation of what caused your child’s behaviors and can be used by the team to write a **Positive Behavior Support Plan**, which is a plan that is designed help address your child’s behaviors through positive measures, instead of punishment or discipline. Make sure that the IEP team includes goals that reinforce positive behaviors.

If your child is in special education, attend IEP meetings and advocate for services and interventions that will reduce the likelihood that your child will “act out” in school.

## Dealing with Behavior Problems within the School System

If your child has a disability and gets in trouble at school, the law provides certain protections. If your child has an IEP and a public school suspends or expels your child for more than 10 days in a row (or more than 15 total school days), the school *must* hold a hearing within 10 days to determine whether the behavior was a “manifestation of the child’s disability.” If your child’s behavior was a “manifestation” of his disability, your child cannot be suspended, expelled, or transferred to a new school as a consequence of the behavior. (However, nothing in special education law prevents a school from having your child arrested or referred to juvenile court.)

### Additional Information on the Special Education System

For more information about avoiding behavior problems and school discipline for children with disabilities, please review Education Law Center’s *The Right to Special Education in Pennsylvania: A Guide for Parents and Advocates*, available on the web at: <http://www.elc-pa.org/pubs/downloads%202009/RighttoSpecialEducationinPAGuide2009.pdf>

You can also seek additional programs or services that may be available within the school system, including:

- **School-based diversion programs** that address youth’s behavior problems through peer panels or youth aid panels, instead of formal processing within the juvenile justice system;
- **School-based behavioral health services** help children work on problem-solving skills, develop other positive behaviors, and address mental health issues;
- **Medicaid-funded or privately funded behavioral health services** such as counseling outside of school or Therapeutic Support Services (TSS) for your child in the classroom.

## 2. ARREST

A child typically becomes involved in the juvenile justice system in one of two ways:

- Someone, such as a neighbor or school official complains to the police, or
- The child is arrested in the community



### If your child is arrested:

- **Do not allow the police to talk to your child if you are not present.** Police may ask you if it is okay if they talk to your child without you being there. They may even suggest that your child will be more comfortable if you are not there when your child is talking to the police.
- **Try to see your child immediately.** If the police officers will not let you see your child, ask to speak with their supervisors. Also, if the police have kept you from talking to your child, make sure that you tell this to your child's lawyer (as soon as your child has a lawyer).
- **When you see your child, tell your child not to talk to the police without a lawyer present.** Your child should not tell the police anything unless your child's lawyer says it is okay, even if your child was not involved in any way.
- **If your child has a disability, provide information about your child's disability when you go to the police station:**
  - If your child has an IEP, bring it with you.
  - Explain your child's disability.
  - Explain if the disability affects his or her understanding of the charge.
  - Tell the police if the disability affects your child's ability to understand and answer questions appropriately.

**Be careful before you call law enforcement for help in dealing with your child's behavior problems.** You may be very frustrated with your child. You may be worried about his or her behavior and hopeful that the juvenile justice system can provide the help and services he or she needs to be successful. People may have told you that the only way for you to get your child help is through the juvenile justice system. But be careful before you involve law enforcement. Juvenile records can be lasting. The system can be helpful, but it can also do more harm than good.

### What can I do before my child is arrested to prepare my child for questioning by the police?<sup>1</sup>

Children should know that police are there to protect them and keep them safe. They should be taught that if they are ever in danger or need help, they should go to the police.

At the same time, you should talk to your child about what to do if they get into trouble and the police want to talk to them.

- If your child is arrested or brought in for questioning, teach your child **never** talk to police without a lawyer there.
- Tell your child to **immediately ask to talk to you** (their parent) and **a lawyer**. Even if your child is not involved in any wrongdoing, it is important to make sure that his or her rights are protected. Children and teens are especially likely to give into pressure from peers or the police. They may end up admitting something that they did not do.
- **Practice appropriate responses**. Make sure that your child understands what to say to police, and that he or she should be polite.
- Teach your child not to run away from a police officer, make up a story, or argue with a police officer, even if the officer says something that sounds wrong or unfair.

### 3. THE IMPORTANCE OF YOUR CHILD'S LAWYER

As soon as your child is arrested or detained, he or she has the right to speak to a lawyer. If you cannot afford a lawyer, your child has the right to a public defender free-of-cost for every court hearing. You can call the public defender's office directly. If you have questions about how to contact the public defender, you can ask law enforcement or juvenile probation.



Currently, Pennsylvania's 67 counties determine a child's eligibility for a public defender differently. You should speak to someone in the public defender's office to see if your child is eligible. In December 2010, the Juvenile Court Procedural Rules Committee proposed a new rule that would presume that all juveniles are "indigent." If this rule is adopted, a child would presumptively be entitled to a public defender.

The lawyer is responsible for making sure that your child's rights are protected and, if your child enters the system, that his or her needs are met. Your child's lawyer works for your child, not for you or for the court. It is very important that your child is represented by a lawyer at all court proceedings, even if the police or probation officer tells you that your child will be facing only probation. Legal proceedings in juvenile court are serious. The consequences could follow your child for the rest of his or her life.

#### Information to Share with Your Child's Lawyer:

- **Your child's relevant records** (including IEPs, medical and mental health records, educational records, communications from the schools, any evaluations or assessments)
- **Information about your child's disability if your child is disabled** (including how the disability affects your child's behaviors or reactions, how the disability affects your child's ability to understand and communicate, and what accommodations your child receives/needs in school or at home)
- **Contact information for professionals who work closely with your child** (including any psychologists, therapists, and school counselors)

*See Appendix for a comprehensive checklist.*

## Information Regarding Your Child's Competence to Stand Trial

Under state and federal law, it is unconstitutional for someone to go to trial if (1) the person is unable to understand the nature or purpose of the proceedings against him or her or (2) is unable to participate and assist in his or her defense. Therefore, if your child is unable to understand the juvenile court hearings or process or effectively communicate with and understand his or her lawyer, your child's lawyer may be able to argue that your child is not **competent to stand trial**.

Be sure to tell your child's lawyer if your child might have any problems:

- understanding the proceedings in the courtroom;
- understanding the charges against him or her;
- understanding the lawyer; or
- communicating effectively with the lawyer.

### Possible Consequences if Your Child is Incompetent to Stand Trial

It is important to understand that, if your child is found incompetent, the case against is **not** automatically dismissed.

If your child is found incompetent, there are a number of possible consequences:

- **If your child is in detention**, a finding of incompetence risks lengthening your child's detention. You should discuss the situation with your child's lawyer. The lawyer can ask the judge to discharge your child from detention if it is unlikely that the child will become competent.
- As long as your child is considered incompetent, the case against your child cannot move forward. However, your child could be regularly re-examined and the case could resume if your child becomes competent to stand trial.
- If the court determines that because of the passage of time it would be unfair to resume the case against the child, the court may dismiss the charge.
- The court may order **involuntary treatment** for up to 60 days if your child is not severely mentally disabled, but only if the court is reasonably certain that the involuntary treatment will provide your child with the capacity to stand trial. The court may order outpatient treatment, partial hospitalization or inpatient treatment.

## 4. DETENTION HEARINGS

After a child is arrested, he or she may return home or he or she may be detained at a juvenile detention facility or at another out-of-home placement facility. If your child is detained, there will be a hearing to determine whether your child will stay in detention or will be released. (If your child is not detained after arrest, the next step in the process will be probation intake. See page 15.)



### If your child is placed in detention:

- Within 72 hours of being detained, a judge or master must hold a hearing.
- You, your child, and your child's lawyer must receive notice including the date, time, place and purpose of the hearing. The notice can be in writing, over the phone or in person.
- If you do not get notice of the hearing, you can give **an affidavit** (a written statement that is made under oath or before a notary) to your child's probation officer. In the affidavit, you should write that you were not notified of the detention hearing and that you did not appear or waive appearance at the hearing. The court must then hold another hearing within 72 hours of receiving the affidavit.

### What is the purpose of the detention hearing?

The only purpose of this hearing is to determine whether your child should stay in detention.

- The judge must first decide if there is a **reasonable basis to believe that your child may have committed the crime.**
- Then, the judge must decide whether your child must be in detention to **protect people or property** in the community, or to **ensure that your child returns to court** for the adjudication hearing.
- If there is a **less restrictive alternative** that would work (for example, electronic monitoring), the judge may not order detention.

## What is the role of a parent or guardian at the detention hearing?

The judge is going to look to you to decide if you will be able to keep your child safe and out of trouble. A judge can also release the child to other family members, not just the parents or guardians.

- **Before the hearing, talk to other family members to see if they would be willing and able to take care of your child.** This may be especially important if you think that there are reasons why you may not be able to keep your child safe or out of trouble (for example, your work schedule or a history of conflicts with your child).
- **Make sure that the judge knows about any disabilities your child has** and how they affect your child's behavior, understanding, and communication.
- **Make sure the judge knows if your child receives special education services** and explain to the judge why it is important that the child continue to receive those services.
- **Make sure the judge is aware of any special medical conditions** that may require treatment or monitoring if your child is detained.
- If your child has been **receiving counseling or other mental or medical health services before detention**, ask the judge to order that arrangements be made for these services to continue while the child is in detention.

## What will happen if the judge decides to detain your child pre-adjudication (pre-trial)?

- The **delinquency petition** must be filed **within 24 hours** or by the next business day in court. The **adjudication hearing** (like a trial in adult court) must be held **within 10 days** of the filing of the petition.
- If it is not, your child must be released from detention unless one of the following occurs:
  - If the **prosecution needs more time** to gather evidence, the court may allow for no more than 10 additional days in detention.
  - If the **child requests more time**, the court will continue the case for 10 days at a time, until the youth is ready for a hearing.

**Am I allowed to visit your child in detention?**

**Yes.** Detention can be very difficult for children. Family visits can make a big difference. However, detention facilities usually have specific visiting hours. Be sure to find out those hours and arrive during those times.

**If my child is in special education, does your child have a right to those services in detention?**

**Yes.** Children in detention still have all of their special education rights under federal law. The state must provide children with appropriate special educational services as described in their Individualized Education Programs (IEPs). Parents should insist that their child receives the same special education services that he or she was receiving in his or her home school.

## 5. PROBATION INTAKE

After your child is arrested, he or she will meet with a probation intake officer. Usually, the probation intake officers will schedule a meeting that will include both your child and you. The intake officer makes a recommendation to the court about what he or she thinks should happen next with your child.

The intake officer must base his or her recommendation on interviews with the child, the parents, the complainant (person who filed a formal charge against your child), and the victim.

- Before the intake interview, you and your child must be provided with a copy of the written allegation against your child. The written allegation states the delinquent act (crime) that your child is accused of committing.
- The intake officer must inform your child about his or her constitutional rights, including the right to remain silent.
  - If the probation officer is discussing the possibility of an **informal adjustment** (see p. 16), any information your child discloses about their conduct cannot later be used against the child in court.

**If your child has a disability:** Tell the probation officer how the disability might affect your child's ability to understand/answer questions or to act appropriately in certain situations.

### **Should I talk with my child's lawyer before the interview?**

**Yes.** It is a good idea to consult with your child's lawyer before this interview. You may want ask the lawyer to attend the interview.

## Possible outcomes of the intake interview:

- **Dismissal:** If the intake officer decides to dismiss the case, your child will have no more connection with the juvenile court system for that offense.
  - However, it is important to realize that when your child is arrested, there is a record of the child's arrest, whether charges are filed or not. *See the **expungement** section (p. 26) for more information about erasing your child's records.*
- **Informal adjustment:** Under an informal adjustment, no delinquency petition will be filed as long as your child complies with certain conditions.
  - For example, the informal adjustment plan may require your child to attend school, stay away from friends who cause trouble, and check in with the probation officer.
  - It may also require your child to participate in a community-based programs such as victim-offender mediation, a skill-building program, a dispute resolution program, or a community service program.
  - If the rules are followed, the charges will be dismissed and your child's record will remain clean.
- **Diversion:** Similar to an informal adjustment, your child may be referred to community-based services and programs that address your child's needs while also holding your child accountable. If your child successfully completes the diversion program, no charges will be filed.
  - ***Different counties handle diversion differently. Depending on where you live, there might be opportunities for diversion at the time of arrest, at the school, at probation intake, or even after a petition is filed. Talk to your child's lawyer to find out what opportunities are available in your county.***
  - Diversion programs may be particularly appropriate for **youth with special needs** so long as your child has the ability to comply with any conditions tied to diversion. Be sure to ask probation and your child's attorney about any available diversion programs in your community.
- **Filing a formal delinquency petition:** If the probation officer files a formal petition with the court, your child's case will be heard by a judge. The judge will hold an adjudicatory hearing (similar to a trial in the adult system).

Find out what community-based options are available so that your child can enter a **diversion program** instead of going to court.

## 6. THE DELINQUENCY PETITION

A **delinquency petition** is the legal paper that states what your child has been charged with doing. If probation files a delinquency petition, your child will receive a court date (when he or she must return to court for a hearing).

However, even after a petition is filed, your child is still eligible for a **consent decree**. A consent decree is very similar to an informal adjustment. The district attorney and judge must agree to a consent decree. Though a petition has been filed, the court will delay ruling on whether your child is “guilty” of the alleged offense. If your child successfully complies with the conditions set out in the consent decree, the case will be closed. If your child violates the terms of a consent decree, the case will resume in court.

### Where will my child be while we wait for the court date?

While you wait for the court date, your child may:

- **Return home.**
- Be placed on **home detention** with supervision or electronic monitoring.
- Be placed on **pre-trial supervision** by probation or a private agency. This means that, even though your child will be at home, he or she will be supervised by probation (or another agency) and will have to obey certain conditions.
- Be placed in **shelter care or foster care** if the court is concerned that staying at home may result in further trouble or the child is unlikely to show up in court if she stays at home.
- Be placed in **detention**.

**If the case is handled by informal adjustment or consent decree**, make sure that your child understands all of the rules that he or she must follow.

If your child has disabilities, the plan should take them into account. If you think your child’s disabilities would interfere with his or her ability to comply with the conditions set by probation, tell your child’s lawyer and probation.

## 7. ADJUDICATION HEARING (TRIAL)

An adjudication hearing is similar to a trial in adult court. The government's lawyer (also called the district attorney or prosecutor), your child's lawyer, witnesses, victims, and police officers may all participate. The judge listens to witnesses, receives evidence and determines if the child committed the offense.



### When will the adjudication hearing occur?

- **If your child is in detention**, the hearing will be held within **10 days** of the filing of the petition.
- **If your child is not in detention**, the hearing **must** be held within **90 days** of filing the petition (unless the parties agree, or one of the sides can show that they have a good reason to ask for an extension).
- The judge can order you to attend hearings. You will receive a notice with all the information about the location and time for the hearings.

### What happens at the adjudication hearing?

- **ADMISSIONS:** Your child, with the help and advice of a lawyer, may decide to admit that he or she committed one or all of the offenses with which he or she was charged.
  - ***If your child decides to admit participating in the crime, your child is giving up important rights.*** These rights include a right to a hearing, a right to have the government prove its case beyond a reasonable doubt, and a right to confront his or her accusers. This is an important decision that your child should discuss with his or her lawyer. The judge should also make sure that your child is aware of these important rights before accepting any admission from your child. When the judge is explaining these rights to your child, it is important that the judge know if your child has a disability, since a child's disability may affect how the child understands and responds to the judge.
  - If your child admits to an offense, the court will then determine if your child is in need of treatment, rehabilitation, and supervision. If so, the judge will enter a finding of delinquency. (If your child is adjudicated delinquent for a felony – certain serious offenses – the judge will presume that there is a need

for treatment, rehabilitation, or supervision.) Then the judge will hold a disposition hearing.

- **HEARING:** If your child denies that he or she committed the offense, the judge will hold a hearing (like a trial) to decide if he or she should be adjudicated delinquent.
  - The prosecution will first present its evidence and call its witnesses. Then your child's lawyer will present evidence supporting your child's version of events.
  - Once the hearing is complete, the judge will determine whether or not the prosecution proved that your child committed the offense.
    - If the judge does **not** find that the prosecution proved that your child committed the offense, **your child will return home.**
    - If the judge finds that your child did commit the offense, the judge will next determine if your child is in need of **treatment, rehabilitation, and supervision.** (If your child is adjudicated delinquent for a felony, the judge will presume that there is a need for treatment, rehabilitation, or supervision.) If so, the judge will enter a **finding of delinquency.** The judge will then hold a **disposition hearing,** either immediately or at a later date.

**If your child has a disability, he or she may need special accommodations in order to participate in the hearing:**

- Talk to your child's lawyer about any concerns you may have that your child's disability may interfere with his or her ability to communicate effectively with the lawyer.
- Tell your child's lawyer if your child's disability may cause your child to **behave inappropriately** in the courtroom.
- For your child to make good decisions, he or she may need the judge to present the choices and consequences of what happens in the courtroom in a different way.
- The court should be aware if your child's facial expressions or body language are the result of a disability rather than a negative attitude.
- **If your child is going to testify,** the judge and prosecutor must understand your child's disability so that they can ask questions that your child will be able to understand and answer clearly.

## 8. DISPOSITION HEARING (SENTENCING)

If your child admits to the offense, or the judge determines that your child is delinquent, the judge must then decide what treatment, supervision or rehabilitation your child might need. The judge must also consider **community protection, accountability, and competency development**, as described on page 3. The judge might decide this immediately after the adjudication hearing, or might schedule a second hearing at a different time. This is called the **disposition hearing**. It is like a sentencing hearing in the adult system.

In the disposition hearing, the judge will hear the probation officer's report and recommendations. Many judges rely heavily on this report when deciding the appropriate disposition for your child. This report is based on interviews and reports from you, your child, victims, arresting officers, school officials, or other professionals who have worked with your child. Your child may also undergo drug and alcohol evaluations or mental health evaluations before disposition, and reports from those evaluations may be included in the probation report. At the hearing, the judge will probably want to understand what kind of support you are able to provide at home.

**Ask adults who know your child (teachers, employers, counselors, or coaches) to write letters in support of your child.** Letters can include information about your child's strengths and good qualities. You can give these letters to your child's lawyer, who can share the letters with the probation department and the judge.

### Possible Dispositions

A disposition is like a sentence in the adult system. A judge has the option of entering different types of dispositions. These options include:

- **Probation:** This allows the child to return to the community, but imposes rules and conditions that your child must follow.
  - These conditions could include: curfews, restrictions on where your child may go, or who your child can hang out with, apology letters, victim awareness classes, drug and alcohol testing, attendance at reporting centers, counseling, tutoring, mentoring, or mental health treatment.
  - If your child has a disability, the conditions of probation should take the disability into account. Make sure to tell your child's lawyer if you think your

child's disability would make it hard for your child to comply with any probation conditions.

- **Community Service:** Sometimes the court will require a child to volunteer to help out the community as part of his or her disposition. This may be a condition of probation.
- **Restitution:** The court may order your child to **pay the victim(s)** for his or her losses (for example, if the victim had to pay to repair or replace his or her property).
  - The court may order your child to engage in a community service or another appropriate program to earn the money to pay the victim the cost of damages.
  - **The judge cannot order the child to pay more than the child can reasonably earn.** In some cases, the judge can order you to pay damages for your child's acts. *However, if you cannot pay, the judge cannot use this as a reason to put your child in a facility.*
- **Participation in court-ordered services:** The judge may also order your child or you to participate in a variety of services.
  - These may include family counseling, individual counseling, drug treatment, or parenting classes.
  - The judge may order that you transport your child to all of these community-based services.
  - You must follow the judge's orders or you could be found in contempt of court (for example, you could be ordered to pay a fine or sent to jail until you comply).
- **Placement:** The juvenile court may place your child in a facility outside of your home (such as a residential treatment facility, foster care, or a group home).
  - If a child is placed outside the home, the court must hold a review hearing every 6 months.
  - You may also be ordered to pay **child support** when your child is placed in pre-trial or post-trial placements. The amount you must pay will depend on how much you earn.

### **If Your Child is on Probation:**

#### **Make sure you understand exactly what is expected of your child.**

- If you do not understand all of the conditions, **ask**. Do not leave the court or the probation office if you don't understand exactly what your child must do.

#### **What if it is impossible for me or my child to comply with the court's conditions?**

- If you think that your schedule, your child's schedule, or a disability will make it difficult or impossible to comply with any condition, make sure the lawyer explains those circumstances to the judge.
- If your child does not comply with probation expectations, he or she may end up back in court.

## 9. OUT-OF-HOME PLACEMENTS

The judge may decide to place your child outside of your home. There are a range of possible placements. For example, the judge could place your child in a **group home** in the community or in a **residential school**. If the judge thinks that your child is a serious threat to others, the judge may place your child in a **secure facility**. If your child has serious mental health problems or problems with drug or alcohol use, he or she may be placed in a **residential treatment facility**. When your child is placed outside of your home, your child still has rights.

Usually, **detention** is used only before the adjudication and disposition hearings. Under certain circumstances, a judge may place your child in detention after the disposition hearing as well. Your child may be placed in detention:

- while **waiting for an appropriate placement** (if the court determines that your child may be a threat to public safety or might run away), or
- if he or she is **waiting for transfer to a secure residential placement**, or
- if he or she has been **returned from placement** because he or she wasn't doing well there (called "failure to adjust").

### What rights do children have when they are placed outside the home?

If your child is placed outside of your care, you and your child still have important rights:

- **Your child has the right to an education.** Your child has the right to basic education under Pennsylvania law, even if your child has been detained or adjudicated delinquent (found guilty) in the juvenile justice system.
- **If your child is in special education, your child has the right to special education services.** Children in placement facilities still have all of their special education rights under federal law **through age 21 or high school graduation**. The state must provide children with appropriate special educational services as described in their Individualized Education Programs (IEPs). A placement facility must carry out the child's most recent IEP.

**If your child is in special education and placed outside of the home:** Insist that your child receives the same special education services that he or she was receiving in his or her home school.

- The placement must get the child’s school records and understand what services the child was receiving in his/her last school.
- The placement must develop a complete plan for your child’s care and treatment within 30 days of the child’s arrival.
- The plan must address your child’s educational and health needs.
- **You have a right to participate in the child’s special education planning.** You have the right to attend meetings, such as IEP meetings, either in person or by telephone. You also have the right to agree or disagree with an IEP plan. You may also ask that a surrogate (temporary) parent be appointed to represent your child if you are not available or able to attend.
- **You have a right to receive information about your child’s education.** You have a right to receive all copies of your child’s education records.
- **Your child has the right to medical and behavioral health care.** Your child has a right to a health and safety assessment within one hour of arrival at a placement facility by trained personnel.
  - If this assessment identifies a risk, a **written plan** must be implemented within 24 hours.
  - Your child is also entitled to a **health examination** by medical personnel within 96 hours of arriving at the facility.

#### **Special Issues for Children with Special Needs in Placement:**

If your child has special needs, you should work with your child’s lawyer to make sure that his or her needs are met in placement:

- **When your child enters a placement facility,** your child’s lawyer should contact the center to make sure that it has the services that your child requires to meet his or her special needs. If it does not, you should talk to the child’s lawyer about finding your child a new placement.
- Make sure that the facility gets all necessary information about your child’s **special education needs.**
- Make sure the facility knows about your child’s **prescription medications and other health needs.**
- If your child is not receiving the necessary special education services, medication or counseling, **report this to the head of the facility** in writing, and make sure to tell your child’s lawyer and probation officer right away.

## 9. AFTERCARE SERVICES

### What is aftercare?

Aftercare is the combination of services, planning, support and supervision that begins at disposition (sentencing), continues while your child is in placement, prepares for your child's release from placement, continues when your child is discharged from juvenile court supervision, and extends even after your child is discharged through connections to opportunities, supports or services.

At the time of disposition, the probation officer should begin planning for what will happen when your child returns home. The child, with the support of probation and placement staff, can start working towards goals in the community.

Aftercare planning should include:

- identifying an appropriate school (including appropriate special education services) and/or job for the child;
- making sure that your child has a safe place to stay upon release; and
- making sure that your child has a way to receive needed medical or behavioral health care.

Before release, the child should have a plan in place for all of these aftercare services, and will likely have a schedule of regular meetings with the probation officer.

### What You Can Do:

Before your child is released from placement, help probation and placement staff **identify your child's needs and the possible resources** for him or her.

Make sure that **your child is able to follow all the rules** that the aftercare services put into place.

Once your child is home, make sure that **your child gets to all required appointments**.

## 10. YOUR CHILD'S RECORD: WHAT IS EXPUNGEMENT? WHY IS IT SO IMPORTANT?

**The moment your child enters the juvenile justice system, a record is created.** When your child is arrested, there is a record of your child's arrest, even if no charges are filed. If charges are filed, the record will also include the charges filed against your child, whether your child was adjudicated delinquent, and any records from probation. Your child will also be fingerprinted and photographed.

Some of these records may be accessible to the public or future employers. This record may have consequences when your child is looking for a job, applying for college, seeking financial aid, seeking to serve in the military, getting a drivers' license, or applying for public benefits.

Being a juvenile does not mean these records are automatically sealed or erased. **For your child's records to be expunged (removed/destroyed), your child's lawyer or juvenile probation must file a motion for expungement.**

### More Information about Expungement

For more information, please review Juvenile Law Center's publication *Juvenile Records: A Know Your Rights Guide for Youth in Pennsylvania*. This publication is available for free at Juvenile Law Center's website, [www.jlc.org](http://www.jlc.org).

Printed copies are also available for \$5 each, including postage. To order a copy, contact Juvenile Law Center at 215-625-0551.

## APPENDIX: CHECKLIST FOR PARENTS<sup>2</sup>

Use this checklist to help prepare for meetings with your child's lawyer, your child's probation officer, or others in the juvenile justice system who work with your child.

### Educational history

- last school attended
- last grade completed
- special education/IEP (provide a copy)
- learning disabilities
- school assessments (i.e. any evaluation the school has done of your child)
- report cards (provide a copy)
- prior or ongoing school disciplinary actions?

### Medical/Psychiatric history

- Chronic conditions, i.e., asthma, allergies, diabetes, hepatitis
- Diagnoses, i.e., Bipolar, Attention Deficit Disorder
- Speech/language hearing disorders
- Sexually transmitted diseases (STDS)
- HIV/AIDS
- Hospitalizations, surgeries (include hospital name)
- Doctors and clinics where treated
- Medications and dosages
- Mental health treatment received (psychiatrist, therapist, counselor, clinic)
- Family medical and psychiatric history

### Substance Abuse

- Drugs used
- How often are drugs used, last date used
- Alcohol abuse
- Treatment received- place and type of treatment (outpatient or inpatient)

### Health Insurance Information

- Medicaid
- Private insurance

### Child's Strengths

- Interests, i.e., sports, music, arts, computers, cooking
- Personality, e.g., outgoing, quiet, good sense of humor, cares about people
- Jobs worked
- Favorite subjects in school
- Favorite activities
- Important people in their life- adults, peers

### Child's Special Needs

- how the child's disabilities might result in inappropriate responses in certain situations
- your child's ability to process information
- your child's ability to appropriately answer questions

## RESOURCES IN PENNSYLVANIA

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### Disability Rights Network of Pennsylvania

1414 N. Cameron St., Suite C  
Harrisburg, PA 17103  
800-692-7443

1315 Walnut St., Suite 400  
Philadelphia, PA 19107-4798  
215-238-8070 (Voice)  
215-789-2498 (TDD)

429 Fourth Ave., Suite 701  
Pittsburgh, PA 15219-1505  
412-391-5225 (voice)  
412-467-8940 (TDD)  
<http://drnpa.org>

Aims to protect and advocate for the civil and legal rights of Pennsylvanians with disabilities. You can contact DRN's Intake Team to seek advice about disability rights, access to services, abuse and neglect, and other issues by calling its toll-free number above or by sending an email to [intake@drnpa.org](mailto:intake@drnpa.org). The intake system is staffed by intake workers (who take basic information from callers), full time intake advocates (who address advocacy issues), and full time lawyers (who addresses legal advocacy issues).

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### Education Law Center

The Philadelphia Building  
1315 Walnut Street, 4th Floor  
Philadelphia, PA 19107-4717  
215-238-6970  
[www.elc-pa.org](http://www.elc-pa.org)

Works to improve schools and make sure that all children have access to school and school programs. The Education Law Center's website provides

families with information about education laws and policies. Its "publications and materials" page provides facts sheets on special education.

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### Juvenile Law Center

The Philadelphia Building  
1315 Walnut Street, 4th Floor  
Philadelphia, PA 19107-4717  
215-625-0551  
[www.jlc.org](http://www.jlc.org)

A public interest law firm that uses the law to protect and promote the rights and interests of children in the child welfare and juvenile justice systems. On its website are fact sheets and publications that contain general information about the juvenile justice system, including commonly asked questions, and how to expunge (erase) juvenile records.

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### Mental Health Association in Pennsylvania

1414 N. Cameron Street, 1st Floor  
Harrisburg, PA 17103  
717-346-0549  
[www.mhapa.org](http://www.mhapa.org)

Works on behalf of mental health through advocacy, education, and public policy. Their children's news page provides information on children's mental health issues in Pennsylvania — advocacy efforts, events, and policy. On its website are links to its affiliate organizations, which represent the various regions and counties in Pennsylvania.

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### Mental Health Association of Southeastern Pennsylvania

215-751-1800, ext. 228  
Toll free 1- 800-688-4226  
[www.mhasp.org](http://www.mhasp.org)

An advocacy, service and education organization that works to improve the lives of people with mental illnesses. It provides community-based support programs and services for people with mental illnesses including vocational programs, residential and treatment services, and community and family education.

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### **Parents Involved Network (PIN)**

1211 Chestnut Street, 11th Floor  
Philadelphia, PA 19107  
215-751-1800, ext. 227  
[www.pinofpa.org](http://www.pinofpa.org)

Assists parents and caregivers of youth with emotional and behavioral disorders. PIN provides information, helps parents find services, and advocates on their behalf with the public mental health system, education, and other state and local child-serving agencies.

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### **Parent Education Network (PEN)**

2107 Industrial Highway  
York, PA 17420  
800-641-9406

717-600-0100 V/TTY  
800-522-5827 V/TTY  
800-441-5028- Spanish  
<http://www.parentednet.org>

PEN provides training and assistance to parents whose children have disabilities and parents whose children have learning and behavior problems. PEN helps families better understand their child's disability and educational needs and special education laws. PEN offers referrals, skills, support, and workshops. PEN serves families in 24 counties in eastern Pennsylvania.

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### **Parents Exchange**

102 E. Mermaid Lane  
Philadelphia, PA 19118  
610-962-0337  
<http://pex.tripod.com>

An information, referral, and advocacy service for parents and caregivers of children with disabilities and professionals who work with their families.

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## IMPORTANT TERMS

**Adjudication:** This is like a trial in the adult system. It is the hearing at which a judge hears witnesses, receives evidence and determines whether the youth committed the offense. The judge also determines whether the youth is in need of treatment, rehabilitation, and supervision.

**Admission:** An admission is when the juvenile tells the court that he or she committed the offense. It is like a guilty plea in the adult system.

**Aftercare:** Aftercare is the combination of services, planning, support and supervision that begins at disposition, continues while your child is in placement, anticipates the your child's release from placement, continues when your child is discharged from juvenile court supervision, and extends thereafter through connections to other opportunities, supports or services, such as those provided to dependent children. The child is generally supervised by probation and the court, and may have to meet several requirements. For example: the child may be required to attend school, stay away from gangs, participate in counseling, participate in substance abuse programs, stay away from drugs and alcohol, etc.

**Appeal:** The process of asking a higher court to change the result of the case.

**Arrest:** The moment when the juvenile is taken into custody by law enforcement.

**Charge:** This is the crime or crimes that the child is formally accused of committing.

**Consent Decree:** An agreement between the youth and the prosecutor that is approved by the court. If the youth meets the conditions in the agreement, the case and charges are dismissed. A consent decree usually lasts for six months, but it can be extended.

**Counsel:** Another word for lawyer, attorney, public defender, juvenile defender. All of these terms mean the same thing - a person trained in the law who can provide legal advice and represent people in court.

**Delinquent child:** A child ten years of age or older, and under age eighteen, whom the court has found to have committed a crime and is in need of treatment, supervision or rehabilitation.

**Delinquent act/offense:** An offense that would be a crime if committed by an adult. This does not include crimes like missing school or breaking curfew.

**Defendant:** The person accused of committing the crime. Though youth in juvenile courts are not called defendants (the term defendant is only used in adult criminal court), you may hear people using the term to describe children accused of committing offenses.

**Detention:** A place where a juvenile is held temporarily; a secure, locked facility.

**Disposition:** The court's decision about the type of treatment that a child found to be delinquent must go through. A disposition is similar to the sentence in adult criminal court.

**Diversion:** Process of removing a youth from the juvenile justice system by referring the youth to an alternative program.

**Hearing:** Any time a person goes to court and appears before the judge or master.

**IDEA:** The Individuals with Disabilities Education Act (IDEA) is a law that gives children with disabilities a right to a free and appropriate education. The law gives children and their parents the right to have educational testing and to have the school create a special education plan (IEP) to help the child's learning.

**IEP:** Individualized Education Plan for a child with a disability created by the school with input from the parents. Parents must sign off on the IEP in order for it to be valid. If a parent does not sign the IEP, the parent can challenge the plan in mediation and then in an administrative hearing.

**Master:** A master is an attorney appointed to preside over certain types of hearings in the juvenile justice system. The master must inform the participants that they have a

right to have the matter heard before a judge, and if your child objects to having the master hear the matter, the case must be heard by a judge. If the parties do not object, the master will make findings and recommendations at the end of the hearing, and send a summary to the juvenile court judge. The juvenile court judge may accept or reject the master's recommendations.

***Petition:*** The legal paper that says what the charges are.

***Plea:*** A statement by the juvenile stating whether he or she is guilty or not guilty of the charges filed. This may also be called an "admission" if the child is admitting the conduct.

***Probation:*** The youth is allowed to live in the community but is still supervised by the probation officer and still must follow the probation officer's rules.

***Prosecutor:*** The government lawyer who tries to prove that the juvenile committed the offense. Also called the district attorney (DA).

***Restitution:*** Money paid by a person who committed an offense to the victim to make up for the harm done.

***Stipulation:*** When both sides to a case agree to a fact that will be considered evidence.

***Transfer:*** A case that was originally brought in juvenile court that goes to adult court to be heard. A case cannot be transferred without a transfer hearing. However, some cases (such as murder) go directly to adult court, even when the person charged is a juvenile. Under those circumstances, transfer means sending the case to juvenile court.

***Transcript:*** Written record of a court hearing.

***Residential facility:*** Usually a placement where a child lives and goes to school. Often residential facilities have doctors and therapists on staff as well.

***Waiver:*** The decision to give up a right. Most rights, once waived, will not be given back, so be very careful about what your child agrees to waive.

## ENDNOTES

<sup>1</sup> Maryland Coalition of Families for Children’s Mental Health, “Navigating the Juvenile Justice System: A Handbook for Families,” Spring 2006.

<sup>2</sup> Maryland Coalition of Families for Children’s Mental Health, “Navigating the Juvenile Justice System: A Handbook for Families,” Spring 2006.