

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
JUVENILE DIVISION

IN THE INTEREST of :  
J.J.H., A MINOR : No. 031 JV 2015

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IN THE INTEREST of :  
C.R.S., A MINOR : No. 032 JV 2015

Criminal Law - Juvenile Act - Delinquency Proceedings - Statute  
of Limitations - Separate and Distinct Limitation  
Periods Applicable to Juvenile and Adult Criminal  
Proceedings - Constitutionality - Substantive Due  
Process - Equal Protection

1. Juvenile adjudications and criminal proceedings serve different functions and have different goals: whereas the policies underlying the juvenile system emphasize the supervision, care and rehabilitation of juvenile offenders, criminal proceedings, whose subject is adult offenders, have as their goal to forbid and prevent conduct that unjustifiably inflicts or threatens substantial harm to the public or its citizens, and to punish.
2. Because, in general, juvenile offenders are less mature, more vulnerable to negative influences, and more amenable to rehabilitation than adult offenders, the purposes and procedures of the juvenile system are different from those in criminal prosecutions, with these differences manifested in the need to treat juveniles as juveniles and to accomplish this, the absence of a statute of limitations applicable to juvenile delinquency proceedings.
3. Juvenile proceedings are intended to be and are in fact different from criminal proceedings: in contrast to the treatment of adults in criminal proceedings, juveniles are not charged with crimes, they are charged with committing delinquent acts; they do not have a trial, they have an adjudicatory hearing; and if charges are substantiated, they are not convicted, they are adjudicated delinquent. In keeping with these differences, the statute of limitations applicable to prosecutions for criminal conduct under the Crimes Code does not apply to juvenile delinquency proceedings.
4. The separate and different treatment of juveniles in juvenile proceedings from adults in criminal prosecutions, including the lack of a statute of limitations in juvenile

proceedings, does not violate the constitutional rights of due process and equal protection to which juveniles are entitled under the United States and Pennsylvania Constitutions.

5. The fundamental liberty interests protected by the due process provisions of Article I, Section 9 of the Pennsylvania Constitution and the Fourteenth Amendment of the United States Constitution are the same. Further, Article I, Section 1 of the Pennsylvania Constitution, like the due process clause in the Fourteenth Amendment of the United States Constitution, guarantees persons in this Commonwealth certain inalienable rights.
6. In assessing whether a law will withstand constitutional analysis, substantive due process and equal protection require the court to identify a legitimate governmental interest or purpose to be served by the law and to examine the means employed by the law to achieve that interest or purpose against the private rights and interests of individual members of the public which will be burdened thereby. This assessment is conducted pursuant to one of three standards of review: strict, intermediate and rational basis.
7. Strict scrutiny analysis requires the government to demonstrate that the law is narrowly tailored to further compelling state interests.
8. Intermediate or heightened scrutiny requires that the object to be attained by the law be substantially related to important governmental objective.
9. Rational basis analysis requires that the law be rationally related to a legitimate state interest.
10. Federal substantive due process refers to those substantive rights and guarantees encompassed within and memorialized by the language of the Fourteenth Amendment's Due Process Clause which have been recognized as substantive limitations on governmental actions by the United States Supreme Court. Only those fundamental rights and liberty interests which are "deeply rooted in our history and traditions, or fundamental to our concept of constitutionally ordered liberty" meet this standard.
11. Laws which burden or restrict freedom of action of all persons in the same way and to the same extent are examined under principles of substantive due process. Those which classify or distinguish between persons so as to create

non-uniform benefits or burdens are examined under equal protection.

12. For substantive due process rights to attach there must first be the deprivation of a property right or other interest that is constitutionally protected. Substantive due process seeks to ensure that all non-discriminatory laws are fundamentally fair and effect substantial justice.
13. Substantive due process analysis requires the court to weigh the rights infringed upon by the law against the interest sought to be achieved by it, and to scrutinize the relationship between the law (the means) and that interest (the end).
14. Under substantive due process strict scrutiny analysis, fundamental rights and liberty interests may not be infringed upon unless the infringement is narrowly tailored to serve a compelling state interest. Laws which do not affect fundamental rights or liberty interests must be rationally related to a legitimate state interest to satisfy substantive due process.
15. Under the Fourteenth Amendment's Due Process Clause, a state statute must bear a rational relationship to the protection of the public health, morals or safety in order to constitute a valid exercise of the state's police power.
16. Under the Pennsylvania Constitution, the rational basis test requires that "a law which purports to be an exercise of the police power must not be unreasonable, unduly oppressive or patently beyond the necessities of the case, and the means which it employs must have a real and substantial relation to the object sought to be attained."
17. Laws which do not substantially impair a fundamental constitutional right enjoy a presumption of constitutionality under state substantive due process review and may only be found to be unconstitutional if the party challenging the law can prove that it "clearly, palpably, and plainly" violates the Constitution.
18. The absence of a statute of limitations in the Juvenile Act does not infringe upon a fundamental right or liberty interest. No substantive due process right exists to require the state to impose a statute of limitations beyond which no action can be taken by the government for violation of its criminal laws.
19. The absence of a statute of limitations in the Juvenile Act is rationally related to its purposes - the treatment, supervision and rehabilitation of minors who have committed

delinquent acts - because of the relatively short timeframe within which a delinquent act subject to the juvenile court's jurisdiction can occur and because of the need to address the unique concerns of children within the juvenile justice system before the child reaches twenty-one years of age.

20. The Equal Protection Clause of the Fourteenth Amendment and the equal protection guarantee of Article I, Section 26 of the Pennsylvania Constitution protect the same interests and are analyzed under the same standards.
21. Equal protection requires the like treatment of similarly situated persons; it does not require the same treatment of all persons under all circumstances.
22. Laws which affect fundamental constitutional rights or which create distinctions premised on some suspect basis or trait must promote a compelling governmental interest for the law to be upheld. Under the rational basis standard of review, legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest.
23. There is nothing inherently suspect or unreasonable in classifying and treating minors separate from adults because of their age.
24. Because age is not a constitutionally suspect trait, such as race, national origin, or alienage, or one deemed "quasi-suspect," such as gender and illegitimacy, the legality of such statutes on equal protection grounds rests on whether the statutory classification is rationally related to any legitimate governmental interest.
25. Under the rational basis standard of review, legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest. Such a law will not be overturned unless the varying treatment of different groups or persons is so unrelated to the achievement of any combination of legitimate purposes that the law makes no rational sense.
26. Juvenile offenders are legitimately singled out in the Juvenile Act for special treatment precisely because of their age, and the different needs, concerns and goals this entails, which are rationally addressed in the Juvenile Act.

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Joseph D. Perilli, Esquire Counsel for Commonwealth  
Assistant District Attorney

Matthew G. Schnell, Esquire Counsel for J.J.H.  
Adam R. Weaver, Esquire Counsel for C.R.S.

Nanovic, P.J., January 15, 2016

MEMORANDUM OPINION

Almost forty years ago, the Franklin County Court of Common Pleas determined that the statutory periods within which criminal prosecutions must be commenced against adult offenders do not apply to juvenile proceedings. To our knowledge, no appellate court of this Commonwealth has addressed the issue, nor has the question been ruled upon by any other court of common pleas. Until now.

FACTUAL AND PROCEDURAL BACKGROUND

On March 2, 2013, two flare guns were fired from a motor vehicle driven by C.R.S., in which J.J.H. and two others were passengers, at a home in Penn Forest Township, Carbon County, Pennsylvania, setting the home on fire and causing substantial,

irreparable fire damage. The Commonwealth claims that the two minors involved in these proceedings, C.R.S. and J.J.H. (collectively "the Minors"), in one form or another, collaborated or participated in the shooting of the flare guns. On May 6, 2015, a petition alleging delinquency was filed against C.R.S. and, on May 28, 2015, a petition alleging delinquency was filed against J.J.H. In each petition it is alleged that the delinquent act committed was that defined by 18 Pa.C.S.A. § 3303 (Failure to Prevent a Catastrophe) of the Crimes Code.<sup>1</sup>

At the time of the conduct charged, C.R.S. (DOB 11/23/95) was seventeen years old; she is now twenty. J.J.H. (DOB 10/26/95) was also seventeen years old when the fire began and is now twenty. Because the statute of limitations for commencing a criminal prosecution under the Crimes Code for a misdemeanor of the second degree - the assigned grade of the offense for failure to prevent a catastrophe - is two years,<sup>2</sup> and the juvenile proceedings filed against C.R.S. and J.J.H. were commenced more than two years after the delinquent conduct allegedly occurred, each of the minors have filed motions to dismiss on the basis that the applicable statute of limitations bars these delinquency proceedings.

Because fundamental differences exist between juvenile adjudications and criminal proceedings - they impact different age groups and serve different goals - the time limits on commencing criminal prosecutions are not binding on juvenile proceedings. Accordingly, the motions to dismiss filed on behalf of C.R.S. and J.J.H. will be denied for the reasons discussed below.

#### DISCUSSION

##### Incorporating the Crimes Code's Statute of Limitations into the Juvenile Act

A juvenile cannot be adjudicated delinquent under the Juvenile Act ("Juvenile Act"), 42 Pa.C.S.A. §§ 6301-6375, unless it is first determined that the juvenile has committed a delinquent act and is in need of treatment, supervision or rehabilitation. 42 Pa.C.S.A. § 6341(b); see also Commonwealth v. M.W., 39 A.3d 958, 966 (Pa. 2012). Because the Juvenile Act defines a delinquent act, *inter alia*, as an act designated a crime under the laws of this Commonwealth,<sup>3</sup> the minors argue, in effect, that by incorporating the elements of the crime of failing to prevent a catastrophe set forth in the Crimes Code, also incorporated are the Crimes Code's time limitations on when such conduct can be prosecuted. At first glance, this approach appears both fair and logical. After all, why should a minor be subject to juvenile proceedings under the Juvenile Act for what

would otherwise be a crime if committed by an adult, but for which an adult similarly situated could not be prosecuted because of the running of the statute of limitations?

The answer is simple, but perhaps not apparent: the Legislature has singled out juvenile offenders for special treatment precisely because of their age, and the different needs, concerns and goals this entails as compared to an adult criminal offender. As explained by the Pennsylvania Superior Court:

Our esteemed colleague would hold that juvenile courts have jurisdiction over criminal matters because delinquent acts are those which are designated a crime under the laws of the Commonwealth. Concurring Statement at 1227, *citing*, 42 Pa.C.S. § 6302. While we see the logic and appeal of this position, we are constrained to disagree. It is true that juvenile courts concern themselves with acts which would be considered criminal if they were committed by adults. Our Legislature, however, has seen fit through the Juvenile Act to authorize separate non-criminal proceedings to adjudicate these matters, precisely because the perpetrators are not adults. . . . [T]hese proceedings are materially different from criminal proceedings in many respects.

In the interest of R.A., 761 A.2d 1220, 1225 (Pa.Super. 2000).

The Juvenile Act draws deeply from the doctrine of *parens patriae*. Its purpose is holistic - to simultaneously salvage the life of a child in need of guidance while preserving the unity of the family, 42 Pa.C.S.A. § 6301 (b)<sup>4</sup> - not primarily



"[t]o forbid and prevent conduct that unjustifiably inflicts or threatens substantial harm to individual or public interest," or to punish, as in the Crimes Code. 18 Pa.C.S.A. § 104 (1). See also In the Interest of J.F., 714 A.2d 467, 473 (Pa.Super. 1998) ("[W]e must never forget that in creating a separate juvenile system, the [legislature] did not seek to punish an offender but to salvage a boy [sic] who may be in danger of becoming one.") (citation and quotation marks omitted), *appeal denied*, 734 A.2d 395 (Pa. 1998), *cert. denied*, 528 U.S. 814, 120 S.Ct. 49, 145 L.Ed.2d 44 (1999).

To this end, the Juvenile Act sets forth

a comprehensive scheme for the treatment of juveniles who commit offenses which would constitute crimes if committed by adults. The purposes and procedures of the juvenile system differ significantly from those of the adult criminal system. . . . [T]he purpose of juvenile proceedings is to seek treatment, reformation and rehabilitation of the youthful offender, not to punish.

In the Interest of R.D.R., 876 A.2d 1009, 1016 (Pa.Super. 2005) (citation and quotation marks omitted). Clearly, "the juvenile court system was designed to provide [a] distinctive procedure and setting to deal with the problems of youth." In the Interest of A.B., 987 A.2d 769, 776 (Pa.Super. 2009) (*en banc*) (citation and quotation marks omitted), *appeal denied*, 12 A.3d 369 (Pa. 2010).

By design juvenile proceedings are distinct from criminal prosecutions under the Juvenile Act.

Under the Juvenile Act, juveniles are not charged with crimes; they are charged with committing delinquent acts. They do not have a trial; they have an adjudicatory hearing. If the charges are substantiated, they are not convicted; they are adjudicated delinquent. See 42 Pa.C.S. §§ 6302, 6303, 6341, 6352. Indeed, the Juvenile Act expressly provides an adjudication under its provisions "is not a conviction of crime." 42 Pa.C.S. § 6354 (a).

In the Interest of J.H., 737 A.2d 275, 278 (Pa.Super. 1999), *appeal denied*, 753 A.2d 819 (Pa. 2000). In contrast to adult prosecutions, juvenile proceedings are intended to be intimate, informal and protective in nature, In the Interest of J.F., 714 A.2d at 471, with the policies underlying the juvenile system emphasizing the supervision, care and rehabilitation of juvenile offenders. *Id.* at 473. In addition, the Pennsylvania Rules of Criminal Procedure do not apply to juvenile proceedings, which have their own set of rules. In the Interest of Bradford, 705 A.2d 443, 444 (Pa.Super. 1997), *appeal denied*, 724 A.2d 932 (Pa. 1998); see also Rules of Juvenile Court Procedure adopted by the Pennsylvania Supreme Court. Because juvenile offenses are not crimes and are not prosecuted under the Crimes Code, they are not subject to the time periods for prosecutions applicable to the Crimes Code. See 18 Pa.C.S.A. § 108 (a).

Excepting the Minors' argument that the time limits on commencing prosecutions for offenses under Title 18 apply to juvenile proceedings, which we have rejected, the Minors next argue that the absence of a statute of limitations in the Juvenile Act violates their constitutional rights to due process and equal protection of the laws. To the extent both of these principles review the substance of the law, its fundamental fairness, and whether the law is constitutionally permissible, the two complement one another, but they are different.

In assessing whether a law will withstand constitutional analysis, substantive due process<sup>5</sup> and equal protection require the court to identify a legitimate governmental interest or purpose to be served by the law and to examine the means employed by the law to achieve that interest or purpose against the private rights and interests of individual members of the public which will be burdened thereby. This assessment is conducted pursuant to one of three standards of review discussed in greater detail below: strict, intermediate, and rational basis. A law which burdens or restricts freedom of action of all persons in the same way and to the same extent will be examined under substantive due process. A law which classifies or distinguishes between persons so as to create non-uniform benefits or burdens will be examined under equal protection,

since “[t]he Equal Protection Clause of the Fourteenth Amendment is essentially a direction that all persons similarly situated should be treated alike.” Lawrence v. Texas, 539 U.S. 558, 579, 123 S.Ct. 2472, 156 L.Ed.2d 508 (2003) (O’Connor, J., concurring) (citation and quotation marks omitted).

#### Substantive Due Process

Granting that the commencement of a juvenile delinquency proceeding is not limited by a statute of limitations, we disagree that this violates principles of substantive due process. “Substantive due process is the esoteric concept interwoven within our judicial framework to guarantee fundamental fairness and substantial justice, and its precepts protect fundamental liberty interests against infringement by the government.” Khan v. State Bd. of Auctioneer Examiners, 842 A.2d 936, 946 (Pa. 2004) (citation and quotation marks omitted). The fundamental liberty interests protected by the due process provisions of Article I, Section 9 of the Pennsylvania Constitution and the Fourteenth Amendment of the United States Constitution are the same. Commonwealth v. Louden, 803 A.2d 1181, 1184 (Pa. 2002).<sup>6</sup>

“Preliminarily, for substantive due process rights to attach there must first be the deprivation of a property right or other interest that is constitutionally protected.” Khan,

842 A.2d at 946 (citation omitted). Laws which restrict or limit the exercise of fundamental constitutional rights encompassed within the meaning of due process - those which are explicitly and specifically guaranteed in either the Federal or State Constitution or their amendments, or implied therein, and which have been deemed to be incorporated into the due process provisions of the respective Constitutions, as well as those natural law rights which the courts have determined from a review of our Nation's or, as applicable, State's history are so deeply rooted in the traditions and conscience of our people as to constitute a fundamental aspect of liberty encompassed within and specially protected by the Fourteenth Amendment of the United States Constitution or the Declaration of Rights of the Pennsylvania Constitution, and without which neither liberty or justice would exist if they were sacrificed - are subject to substantive due process analysis. Washington v. Glucksberg, 521 U.S. 702, 720-21, 117 S.Ct. 2258, 138 L.Ed.2d 772 (1997) (citations and quotation marks omitted); Nixon v. Commonwealth, 839 A.2d 277, 286-87 (Pa. 2003). In arguing the need of a statute of limitations to protect a fundamental right or liberty interest, absent which such right or interest will be denied, the Minors rely on those cases which recognize a substantive component of due process which prevents the government from

infringing certain "fundamental" liberty interests unless the infringement is narrowly tailored to serve a compelling state interest.

The Due Process Clause of the Fourteenth Amendment provides that:

No state shall . . . deprive any person of life, liberty, or property, *without due process of law*.

U.S. Const. amend. XIV, § 1 (emphasis added). This Clause guarantees that all citizens have certain "fundamental rights comprised within the term liberty [that] are protected by the Federal Constitution from invasion by the States." Planned Parenthood v. Casey, 505 U.S. 833, 847, 112 S.Ct. 2791, 120 L.Ed.2d 674 (1992) (quoting Whitney v. California, 274 U.S. 357, 373, 47 S.Ct. 641, 71 L.Ed. 1095 (1927)); see also Lawrence, 539 U.S. at 565 (recognizing that "the protection of liberty under the Due Process Clause has a substantive dimension of fundamental significance in defining the rights of the person"). The Due Process Clause "protects those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition . . . and implicit in the concept of ordered liberty." Glucksberg, 521 U.S. at 720-21 (internal citations and quotation marks omitted). Nevertheless, "[h]istory and tradition are the starting point but not in all cases the ending point of the substantive due process inquiry."

Lawrence, 539 U.S. at 572 (citation and internal quotation marks omitted).

Similarly,

Article I, section 1 of the Pennsylvania Constitution provides: "All men are born equally free and independent, and have certain inherent and inalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness." Pa. Const. art. I, § 1. This section, like the due process clause in the Fourteenth Amendment of the United States Constitution, guarantees persons in this Commonwealth certain inalienable rights.

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The constitutional analysis applied to the laws that impede upon these inalienable rights is a means-end review, legally referred to as a substantive due process analysis. See Adler v. Montefiore Hosp. Ass'n of Western Pennsylvania, 453 Pa. 60, 311 A.2d 634, 640-41 (1973); see also Moore v. City of East Cleveland, Ohio, 431 U.S. 494, 500-05, 97 S.Ct. 1932, 52 L.Ed.2d 531 (1977). Under that analysis, courts must weigh the rights infringed upon by the law against the interest sought to be achieved by it, and also scrutinize the relationship between the law (the means) and that interest (the end). The touchstone of due process is protection of the individual against arbitrary action of the government.

Nixon, 839 A.2d at 286-87 (additional citations and quotation marks omitted).

Under the judicially created doctrine of "substantive due process," "the Due Process Clause prohibits States from infringing *fundamental* liberty interests, unless the

infringement is narrowly tailored to serve a compelling state interest." Lawrence, 539 U.S. at 593 (Scalia, J., dissenting). Only fundamental constitutional rights qualify for this heightened standard of review. "All other liberty interests may be abridged or abrogated pursuant to a validly enacted state law if that law is rationally related to a legitimate state interest." Lawrence, 539 U.S. at 593 (Scalia, J., dissenting); see also Nixon, 839 A.2d at 287 (acknowledging the same standard of review applicable to substantive due process claims under Pennsylvania's constitution).<sup>7</sup>

In a state's exercise of the police power to preserve the public health, safety, morals, and general welfare of its residents, the state legislature may limit the enjoyment of personal liberty and property within constitutional limitations and subject to judicial review. Munn v. Illinois, 94 U.S. (4 Otto) 113, 24 L.Ed. 77 (1877); Nixon, 839 A.2d at 286. These limits, as previously noted, include not only those imposed by specific constitutional guarantees - *i.e.*, those having a specific textual basis in the Constitution or its amendments - which are deemed to be fundamental liberty interests inseparable from due process, but also those implied from or inherent in the language and history of the Due Process Clause or State Declaration of Rights as affecting fundamental constitutional



rights. Absent these limitations, a state statute must bear a rational relationship to the protection of the public health, morals or safety in order to constitute a valid exercise of the state's police power.

"Substantive due process analysis must begin with a careful description of the asserted right, for the doctrine of judicial self-restraint requires us to exercise the utmost care whenever we are asked to break new ground in this field." Reno v. Flores, 507 U.S. 292, 302, 113 S.Ct. 1439, 123 L.Ed.2d 1 (1993) (citation and quotation marks omitted). This is especially true here since the Minors are not claiming a right to be free from bodily restraint or restraints on their freedom of movement which unquestionably is a fundamental liberty interest and which the Juvenile Act authorizes when a delinquent act has been committed and the juvenile is in need of treatment, supervision or rehabilitation. Foucha v. Louisiana, 504 U.S. 71, 80, 112 S.Ct. 1780, 118 L.Ed.2d 437 (1992) ("Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action."); DeShaney v. Winnebago County Dept. of Social Services, 489 U.S. 189, 200, 109 S.Ct. 998, 103 L.Ed.2d 249 (1989) ("In the substantive due process analysis, it is the State's affirmative act of restraining the individual's freedom to act on his own

behalf - through incarceration, institutionalization, or other similar restraint of personal liberty - which is the 'deprivation of liberty' triggering the protections of the Due Process Clause. . . ."). Instead, the right claimed is the alleged right to require the State to impose a statute of limitations beyond which no action can be taken by the government for violation of its criminal laws.

Such a right, however, does not exist. In Commonwealth v. Wilcox, the Pennsylvania Superior Court stated the following with respect to criminal statutes of limitations:

It is one of the inherent rights of a state to apprehend and bring to trial those accused of a violation of its public criminal law. This right may be exercised without limitation of time, save in so far as the state by its own statute has seen fit to waive or limit its otherwise undeniable right. In construing statutes of limitation in criminal cases, it is to be remembered, as declared by Dr. Wharton, that in such cases 'The state is the grantor, surrendering by act of grace its right to prosecute and declaring the offense to be no longer the subject of prosecution.'

56 Pa.Super. 244, 250 (1913).

This is not to say that a person charged with a criminal act may not seek dismissal of the charges when it can be established that the length of delay between the commission of the offense and the commencement of prosecution results in a denial of due process. The right to a speedy trial, implied in

due process, has long been recognized by our courts. In Barker v. Wingo, 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972), the United States Supreme Court identified the factors to be balanced in determining whether a defendant's right to a speedy trial has been violated: (1) the length of the delay; (2) the reason for the delay; (3) the defendant's assertion of rights; and (4) the prejudice to defendant. *Id.*, 407 U.S. at 530. See also Commonwealth v. Dallenbach, 729 A.2d 1218, 1222 (Pa.Super. 1999) (making the Sixth Amendment right to a speedy trial applicable to juvenile delinquency proceedings by virtue of the Due Process Clause of the Fourteenth Amendment).

The Minors confuse the constitutional right to a speedy trial in criminal proceedings (which, as previously discussed, and which we emphasize here, are separate and distinct from juvenile proceedings) with the Legislature's prerogative to enact a statute of limitations. They are not the same. One emanates from the Constitution, the other from the Legislature. One is part of the core bundle of rights essential to the exercise of personal liberty and the pursuit of justice, the other sets down a line drawn by elected officials for limiting prosecutions. And while the existence of a statute of limitations may well serve as the first line of defense against overly stale criminal charges, United States v. Marion, 404 U.S.

307, 322, 92 S.Ct. 455, 30 L.Ed.2d 468 (1971), the absence of a statute of limitations does not infringe upon the right to a speedy trial. Thus, the absence of a statute of limitations in the Juvenile Act does not infringe upon a fundamental liberty interest under the Due Process Clause.

A compelling state interest and narrow tailoring is required only when fundamental rights are involved. The test for substantive due process in the area of economic and social welfare legislation is whether the challenged statute is rationally related to a legitimate interest of government. West Coast Hotel v. Parrish, 300 U.S. 379, 392, 57 S.Ct. 578, 81 L.Ed. 703 (1937) (approving a minimum-wage law on the principle that "regulation which is reasonable in relation to its subject and is adopted in the interests of the community is due process"); Nixon, 839 A.2d at 287. With reference to the Pennsylvania Constitution, the rational basis test requires that "a law which purports to be an exercise of the police power must not be unreasonable, unduly oppressive or patently beyond the necessities of the case, and the means which it employs must have a real and substantial relation to the objects sought to be attained." Gambone v. Commonwealth, 101 A.2d 634, 637 (Pa. 1954); see also Pennsylvania State Bd. of Pharmacy v. Pastor, 272 A.2d 487, 490-91 (Pa. 1971). This standard of review as

applied to our State's Constitution may require a slightly closer (*i.e.*, less deferential) level of scrutiny than under federal substantive due process jurisprudence. Pastor, 272 A.2d at 490; see also Ferguson v. Skrupa, 372 U.S. 726, 730, 83 S.Ct. 1028, 10 L.Ed.2d 93 (1963) (declining to follow Commonwealth v. Stone, 155 A.2d 453 (Pa.Super. 1959); stating that "courts do not substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws," and the "[United States Supreme] Court does not sit to subject the state to an intolerable supervision hostile to the basic principles of our government and wholly beyond the protection which the general clause of the Fourteenth Amendment was intended to secure.") (quotation marks omitted). "Furthermore, in determining the constitutionality of a law, [the Pennsylvania Supreme Court will] not question the propriety of the public policies adopted by the General Assembly for the law [so long as the end sought is not clearly unconstitutional], but rather is limited to examining the connection between those policies and the law." Nixon, 839 A.2d at 286. Consequently, laws which do not substantially impair a fundamental constitutional right enjoy a presumption of constitutionality under state substantive due process review and "may only be found to be unconstitutional if the party challenging the law can prove that it 'clearly,

palpably, and plainly' violates the Constitution." Nixon, 839 A.2d at 286 (citation omitted).

The question before us, from the perspective of substantive due process, is whether the legislative decision in the Juvenile Act not to include a statute of limitations for commencing delinquency proceedings has a real and substantial relation to the objects sought to be attained. Those objects, as previously noted, are the social welfare of children, particularly those in need of treatment, supervision or rehabilitation. The Act defines a child for these purposes as "[a]n individual who: (1) is under the age of 18 years; [or] (2) is under the age of 21 years who committed an act of delinquency before reaching the age of 18 years." 42 Pa.C.S.A. § 6302 (definition of the term "child"). A "delinquent child" is one who is "ten years of age or over whom the court has found to have committed a delinquent act and is in need of treatment, supervision or rehabilitation." 42 Pa.C.S.A. § 6302 (definition of the term "delinquent child"). Consequently, as a practical matter, in dealing with delinquent acts the Juvenile Act is concerned with an eight-year span in a child's life, from the age of ten until 18 years of age.

It is unquestioned in the legal literature that in contrast to adults, "juveniles have diminished culpability and greater prospects for reform." Miller v. Alabama, 132 S.Ct. 2455, 2464,

183 L.Ed.2d 407 (U.S. 2012). In Miller, the Court described three significant gaps between juveniles and adults:

First, children have a lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking. Second, children are more vulnerable ... to negative influences and outside pressures, including from their family and peers; they have limited contro[l] over their own environment and lack the ability to extricate themselves from horrific, crime-producing settings. And third, a child's character is not as well formed as an adult's; his traits are less fixed and his actions less likely to be evidence of irretrievabl[e] deprav[ity].

Miller, 132 S.Ct. at 2464 (citations and quotation marks omitted). Such characteristics - "transient rashness, proclivity for risk, and inability to assess consequences - both lessen[ ] a child's moral culpability and enhance[ ] the prospect that, as the years go by and neurological development occurs, his deficiencies will be reformed." *Id* at 2465. (citations and quotation marks omitted).<sup>8</sup>

In the same context, in In re J.B., 107 A.3d 1 (Pa. 2014), the Pennsylvania Supreme Court stated:

Pennsylvania has long noted the distinctions between juveniles and adults and juveniles' amenability to rehabilitation. Pennsylvania utilizes courts which are specifically trained to address the distinct issues involving youth, and are guided by the concepts of balanced and restorative justice. Indeed, these goals are evident in the introductory section of the Juvenile Act, which instructs that the Act must be construed as follows:

to provide for children committing delinquent acts programs of supervision, care and rehabilitation 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.

42 Pa.C.S. § 6301(b) (2).

107 A.3d at 18.

Thus, the absence of a statute of limitations is explained in part because of the relatively short timeframe within which a delinquent act subject to the juvenile court's jurisdiction occurs and, in part, because of the need to address the unique concerns of children within the juvenile justice system before the child reaches 21 years of age, regardless of when the offense occurred. See also Commonwealth v. Monaco, 869 A.2d 1026, 1029 (Pa.Super. 2005) (holding that a defendant who was 22 years of age when criminal charges were filed against him was ineligible to be tried in juvenile court, notwithstanding that he was 15 years old at the time the offense occurred), appeal denied, 880 A.2d 1238 (Pa. 2005).

From this, it is clear that youth matters in addressing criminal acts and, therefore, as further set forth in the Juvenile Act's statement of purposes (42 Pa.C.S.A. § 6301 (b)), that the Act has a legitimate purpose. That the Act is



rationaly drawn to accomplish these purposes is equally clear and, with the exception of not having a statute of limitations, has not been questioned by the Minors. See 42 Pa.C.S.A. § 6352 (disposition of delinquent child); see also In re J.B., 107 A.3d at 9 (quoting with approval from the trial court opinion that juvenile courts are structured "to provide [measures of] guidance and rehabilitation for the child and protection for society, not to [fix] criminal responsibility, guilt, and punishment.") (citations omitted); Commonwealth v. Fisher, 62 A. 198 (Pa. 1905) (holding constitutional the intent and goal of the juvenile system to provide treatment and rehabilitation to a child, rather than punishment, and to insulate the child from the harshness of criminal law).<sup>9</sup>

#### Equal Protection

In creating different systems for dealing with juvenile "crime" and adult crime, constitutional due process requires only that an arbitrary or discriminatory classification scheme be avoided. Commonwealth v. Cotto, 708 A.2d 806, 809 (Pa.Super. 1998), *affirmed*, 753 A.2d 217 (Pa. 2000). Equal protection requires the like treatment of similarly situated persons; it does not require the same treatment of all persons under all circumstances. Stated differently, "[t]he right to equal protection under the law does not absolutely prohibit the

Commonwealth from classifying individuals for the purpose of receiving different treatment, and does not require equal treatment of people having different needs.” Commonwealth v. Albert, 758 A.2d 1149, 1151 (Pa. 2000) (citations omitted).

There is nothing inherently suspect or unreasonable in classifying and treating minors separate from adults because of their age. The statutes making an age-based distinction of this type are legion. See, e.g., 75 Pa.C.S.A. § 1503 (setting minimum age of 18 for issuance of a regular driver’s license); 18 Pa.C.S.A. § 6308 (making it illegal for a person less than 21 years of age to purchase, consume, possess, or transport alcoholic beverages); and 43 P.S. § 40.3 (setting age and hour limitations on the employment of minors). See also 42 Pa.C.S.A. § 5533 (b)(1) (tolling an unemancipated minor’s cause of action until the minor turns eighteen, regardless of when the injury occurred).

Classifications which affect fundamental constitutional rights or which create distinctions premised on some suspect basis or trait must promote a compelling governmental interest for the law to be upheld. However, when the law does not involve a fundamental constitutional right and does not classify persons on the basis of “suspect” or “quasi-suspect” traits, tremendous latitude is allowed to the wisdom and judgment of the

legislature, unless the law is patently arbitrary or irrational. Because age is not a constitutionally suspect trait, such as race, national origin or alienage, or one deemed "quasi-suspect," such as gender and illegitimacy, see Massachusetts Bd. of Ret. v. Murgia, 427 U.S. 307, 312, 96 S.Ct. 2562, 49 L.Ed.2d 520 (1976) (*per curiam*); Albert, 758 A.2d at 1152, the legality of such statutes on equal protection grounds rests on whether the statutory classification is rationally related to any legitimate governmental purpose.<sup>10</sup> See Heller v. Doe, 509 U.S. 312, 320, 113 S.Ct. 2637, 125 L.Ed.2d 257 (1993); Albert, 758 A.2d at 1151.

Under the rational basis standard of review, "legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest." Lawrence, 539 U.S. at 579 (O'Connor, J., concurring). Review for rationality is highly deferential to the legislature, and the burden rests with the challenger to negate every possible basis for the law. Heller, 509 U.S. at 320; Albert, 758 A.2d at 1151-52. "In undertaking its analysis, the reviewing court is free to hypothesize reasons the legislature might have had for the classification." Albert, 758 A.2d at 1152; *Cf.* United States v. Carolene Products Co., 304 U.S. 144, 154, 58 S.Ct. 778, 82 L.Ed. 1234 (1938) ("[W]here the

legislative judgment is draw in question, [the inquiry] must be restricted to the issue whether any state of facts either known or which could reasonably be assumed, affords support for [the legislation].") (applying the implied equal protection guarantee of the Fifth Amendment's due process provision to federal legislation). See also City of New Orleans v. Dukes, 427 U.S. 297, 303, 96 S.Ct. 2513, 49 L.Ed.2d 511 (1976) ("[T]he judiciary may not sit as a superlegislature to judge the wisdom or desirability of legislative policy determinations made in areas that neither affect fundamental rights nor proceed along suspect lines.").

Moreover, under rational-basis scrutiny, legislatures are presumed to have acted constitutionally. See, e.g., McGowan v. Maryland, 366 U.S. 420, 425-26, 81 S.Ct. 1101, 6 L.Ed.2d 393 (1961); Lawrence, 539 U.S. at 579-80 (O'Connor, J., concurring) ("Laws . . . that are scrutinized under rational basis review normally pass constitutional muster, since the Constitution presumes that even improvident decisions will eventually be rectified by the democratic process.") (citation and quotation marks omitted); cf. 1 Pa.C.S.A. § 1922 (3) (Presumption of Constitutionality). Such a law will not be overturned "unless the varying treatment of different groups or persons is so unrelated to the achievement of any combination of legitimate

purposes that we can only conclude that the people's actions were irrational." Gregory v. Ashcroft, 501 U.S. 452, 471, 111 S.Ct. 2395, 115 L.Ed.2d 410 (1991) (citation and quotation marks omitted).

In this case, the reasons why the Juvenile Act satisfies substantive due process review are equally relevant to why the separate and distinct treatment of juveniles who have committed delinquent acts from adult criminal offenders does not violate equal protection. Because children are not similarly situated to adults with respect to criminal acts, different treatment is warranted, and because the manner in which the Juvenile Act treats juveniles is rationally related to that objective, the purpose and classification scheme of the Juvenile Act are rationally related to one another.

#### CONCLUSION

In In re X, 9 Pa.D.&C.3d 65 (1976), the Franklin County Court of Common Pleas found that the question of limitation of actions is within the prerogative of the Legislature and that the Legislature's silence on this issue would be interpreted as an indication that such a limitation is inapplicable in juvenile proceedings due to the differences inherent in juvenile matters and criminal proceedings. These reasons, which are just as valid today as when In re X was decided, explain why the absence

of a statute of limitations in the Juvenile Act does not violate principles of either substantive due process or equal protection.

BY THE COURT:

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P.J.

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<sup>1</sup> Section 3303 of the Crimes Code reads as follows:

A person who knowingly or recklessly fails to take reasonable measures to prevent or mitigate a catastrophe, when he can do so without substantial risk to himself, commits a misdemeanor of the second degree if:

(1) he knows that he is under an official, contractual or other legal duty to take such measures; or

(2) he did or assented to the act causing or threatening the catastrophe.

18 Pa.C.S.A. §3303.

<sup>2</sup> Excluding offenses against an unborn child, Section 108 (a) of the Crimes Code requires prosecutions for any offense under Title 18 to be "commenced within the period, if any, limited by Chapter 55 of Title 42 (relating to limitation of time)." 18 Pa.C.S.A. § 108 (a) (emphasis added). As applies to failure to prevent a catastrophe, a prosecution for this offense must be commenced within two years after it is committed. 42 Pa.C.S.A. § 5552 (a). The Juvenile Act, 42 Pa.C.S.A. §§ 6301-6375, contains no limitations period within which a juvenile proceeding is required to be commenced in relation to the date of the alleged offense.

<sup>3</sup> At the time of the delinquent conduct at issue, the Juvenile Act defined the term "Delinquent act" as follows:

The term means an act designated a crime under the law of this Commonwealth, or of another state if the act occurred in that state, or under Federal law, or under local ordinances or an act which constitutes indirect criminal contempt under 23 Pa.C.S. Ch. 61 (relating to protection from abuse).

42 Pa.C.S.A. § 6302 (Definitions). Effective July 1, 2015, the term is defined as follows:

The term means an act designated a crime under the law of this Commonwealth, or of another state if the act occurred in that state, or under Federal law, or under local ordinances or an act which

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constitutes indirect criminal contempt under Chapter 62A (relating to protection of victims of sexual violence or intimidation) with respect to sexual violence or 23 Pa.C.S. Ch. 61 (relating to protection from abuse).

42 Pa.C.S.A. § 6302 (Definitions).

<sup>4</sup> The Juvenile Act sets forth its purposes as follows:

(b) Purposes.--This chapter shall be interpreted and construed as to effectuate the following purposes:

(1) To preserve the unity of the family whenever possible or to provide another alternative permanent family when the unity of the family cannot be maintained.

(1.1) To provide for the care, protection, safety and wholesome mental and physical development of children coming within the provisions of this chapter.

(2) Consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation 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.

(3) To achieve the foregoing purposes in a family environment whenever possible, separating the child from parents only when necessary for his welfare, safety or health or in the interests of public safety, by doing all of the following:

(i) employing evidence-based practices whenever possible and, in the case of a delinquent child, by using the least restrictive intervention that is consistent with the protection of the community, the imposition of accountability for offenses committed and the rehabilitation, supervision and treatment needs of the child; and

(ii) imposing confinement only if necessary and for the minimum amount of time that is consistent with the purposes under paragraphs (1), (1.1) and (2).

(4) To provide means through which the provisions of this chapter are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced.

42 Pa.C.S.A. § 6301 (b).

<sup>5</sup> Substantive due process refers to the substantive rights and guarantees encompassed within and memorialized by the language of the Fourteenth Amendment's Due Process Clause as interpreted by the courts. Under this

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interpretation, the words "liberty" and "due process of law" impose more than merely procedural limitations on governmental actions which deprive or impair a person's "life, liberty or property," but also substantive limitations on the content and subject of governmental actions, including legislation, which adversely affect those fundamental rights and liberty interests embedded within the meaning of due process.

In identifying what fundamental rights and liberty interests are encompassed within due process, the court is prohibited from subjectively imposing its values on the law, for to do so would result in the subservience of the will of the people to the individual views of the court. To avoid such judicial activism, the fundamental rights and liberty interests protected by the Due Process Clause of the Fourteenth Amendment must be "deeply rooted in our history and traditions, or [ ] fundamental to our concept of constitutionally ordered liberty." Washington v. Glucksberg, 521 U.S. 702, 727, 117 S.Ct. 2258, 138 L.Ed.2d 772 (1997). This standard is admittedly an inexact one. As recognized by Justice Harlan in his dissent in Poe v. Ullman, 367 U.S. 497, 81 S.Ct. 1752, 6 L.Ed.2d 989 (1961):

Due Process has not been reduced to any formula; its content cannot be determined by reference to any code. The best that can be said is that through the course of this Court's decisions it has represented the balance which our Nation, built upon postulates of respect for the liberty of the individual, has struck between that liberty and the demands of organized society. If the supplying of content to this Constitutional concept has of necessity been a rational process, it certainly has not been one where judges have felt free to roam where unguided speculation might take them. The balance of which I speak is the balance struck by this country, having regard to what history teaches are the traditions from which it developed as well as the traditions from which it broke. That tradition is a living thing. A decision of this Court which radically departs from it could not long survive, while a decision which builds on what has survived is likely to be sound. No formula could serve as a substitute, in this area, for judgment and restraint.

367 U.S. at 542 (Harlan, J., dissenting).

In construing the text of the Due Process Clause in the light of our Nation's history, legal traditions and practices, the United States Supreme Court has defined and delineated some of the unenumerated fundamental liberty interests specially protected by constitutional due process by including and incorporating into the Due Process Clause of the Fourteenth Amendment certain guarantees of the Bill of Rights, then applying them to the States. In addition to the specific freedoms protected by the Bill of Rights, the Supreme Court has also recognized the following fundamental constitutional rights and liberty interests protected by due process: the right to freedom of association, the right to vote and to participate in the electoral process, the right to interstate travel, and the right to privacy. At the same time, it is important to understand and recognize that not all liberty interests protected by the Constitution are fundamental liberty interests entitled to independent judicial review under strict scrutiny. See Chicago v. Morales, 527 U.S. 41, 73-98, 119 S.Ct. 1849, 144 L.Ed.2d 67 (1999) (Scalia, J., dissenting) (distinguishing between a fundamental constitutional right and a constitutionally protected liberty interest); Nixon v. Commonwealth,



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839 A.2d 277, 288 (Pa. 2003) (recognizing that while the right to pursue a lawful occupation is one of the rights guaranteed under Article I, Section 1 of the Pennsylvania Constitution, it is not a fundamental right).

<sup>6</sup> Article I, Sections 1 and 9 of the Pennsylvania Constitution, provide the legal underpinnings for substantive due process under the Pennsylvania Constitution. Article I, Section 9 states, *inter alia*, that an accused cannot "be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land." In Commonwealth v. Brown, 8 Pa.Super. 339, 350-51 (1898), the Superior Court explained that this language prevents the legislature not only from making laws that deprive a person of life, liberty or property without procedural due process, but also places substantive limits on what laws the legislature can enact. "The phrase 'law of the land' is equivalent to the due process language in the federal Constitution, and has been referred to as 'the due process clause of our state constitution.'" Commonwealth v. Davis, 586 A.2d 914, 916 (Pa. 1991) (opinion in support of affirmance) (extending this protection to juvenile probation revocation hearings to prohibit inadmissible hearsay testimony from being the sole basis for revocation) (citation omitted). This provision, while ostensibly applicable only to criminal cases, has also been applied in civil matters. See, e.g., Palaioret's Appeal, 67 Pa. 479, 486 (1871).

<sup>7</sup> Under the Equal Protection Clause, an intermediate level of review also exists. In discussing these three standards of review, the District Court for the Middle District of Pennsylvania recently stated:

Laws reviewed under the Equal Protection Clause are subject to various levels of scrutiny depending upon the classification imposed. See generally City of Cleburne, Tex. v. Cleburne Living Ctr., 473 U.S. 432, 439-41, 105 S.Ct. 3249, 87 L.Ed.2d 313 (1985). Strict scrutiny is reserved for statutes engendering suspect classifications, such as those based on race, alienage, or national origin, and requires the government to demonstrate that the law is narrowly tailored to further compelling state interests. See id. at 440, 105 S.Ct. 3249; Johnson v. California, 543 U.S. 499, 505, 125 S.Ct. 1141, 160 L.Ed.2d 949 (2005). Intermediate or heightened scrutiny has been applied to classifications deemed "quasi-suspect," such as those based on sex or illegitimacy. See Mills v. Habluetzel, 456 U.S. 91, 99, 102 S.Ct. 1549, 71 L.Ed.2d 770 (1982); Miss. Univ. for Women v. Hogan, 458 U.S. 718, 724, 102 S.Ct. 3331, 73 L.Ed.2d 1090 (1982). To survive intermediate scrutiny, a statutory classification must be substantially related to an important governmental objective. See Clark v. Jeter, 486 U.S. 456, 461, 108 S.Ct. 1910, 100 L.Ed.2d 465 (1988). Lastly, for classifications that do not target suspect or quasi-suspect groups, courts apply rational-basis review, which is satisfied if a statutory classification is rationally related to a legitimate governmental purpose. See Heller v. Doe, 509 U.S. 312, 320, 113 S.Ct. 2637, 125 L.Ed.2d 257 (1993). Review for rationality is highly deferential to the legislature, and the burden rests with the challenger to negate every possible basis for the law. See id.

Whitewood v. Wolf, 992 F.Supp.2d 410, 424-25 (M.D. Pa. 2014) (footnotes omitted), *appeal dismissed*, 621 Fed.Appx. 141 (3d Cir. 2015) (*per curiam*).

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The Court in Whitewood further discussed the criteria for determining whether a class qualifies as suspect or quasi-suspect stating:

The Supreme Court has established certain criteria for evaluating whether a class qualifies as suspect or quasi-suspect, which query whether the group: (1) has been subjected to "a history of purposeful unequal treatment," Mass. Bd. of Ret. v. Murgia, 427 U.S. 307, 313, 96 S.Ct. 2562, 49 L.Ed.2d 520 (1976) (*per curiam*); (2) possesses a characteristic that "frequently bears no relation to ability to perform or contribute to society," Cleburne, 473 U.S. at 440-41, 105 S.Ct. 3249; (3) exhibits "obvious, immutable, or distinguishing characteristics that define them as a discrete group[,]" Bowen v. Gilliard, 483 U.S. 587, 602, 107 S.Ct. 3008, 97 L.Ed.2d 485 (1987) (citation and internal quotation marks omitted); and (4) is "a minority or politically powerless." Id.

Whitewood, 992 F.Supp.2d at 426-27.

It is unclear whether the intermediate standard of review applicable in equal protection cases also applies to substantive due process analysis. See Boddie v. Connecticut, 401 U.S. 371, 91 S.Ct. 780, 28 L.Ed.2d 113 (1971) (holding that a state's refusal to permit the filing of a divorce action based partially on the plaintiff's inability to pay a \$60.00 court fee was unconstitutional on substantive due process grounds without stating precisely whether the "necessary to a compelling interest" test or the "substantially related to an important interest" test was the standard of review); M.L.B. v. S.L.J., 519 U.S. 102, 117 S.Ct. 555, 136 L.Ed.2d 473 (1996) (holding that a state's denial of a mother's right to appeal from a trial court's decision terminating her parental rights because she could not afford record preparation fees violated both due process and equal protection, the court having reached this conclusion after engaging in an independent review of the individual and governmental interests at stake without identifying the standard of review being applied).

<sup>8</sup> For similar reasons, the law does not hold children to the same standard of care as adults when negligence is claimed against a minor: "minors under the age of seven years are conclusively presumed incapable of negligence; minors over the age of fourteen years are presumptively capable of negligence, the burden being placed on such minors to prove their incapacity; minors between the ages of seven and fourteen years are presumed incapable of negligence, but such presumption is rebuttable and grows weaker with each year until the fourteenth year is reached." Kuhns v. Brugger, 135 A.2d 395, 401 (Pa. 1957) (footnotes omitted).

<sup>9</sup> Procedural due process, unlike substantive due process, ensures that a person has been accorded fair procedure (*i.e.*, "due process") with respect to governmental actions affecting the individual's life, liberty or property. Because the setting of a statute of limitations, or, as in this case, the failure to set a statute of limitations, concerns the content of the statute, rather than a challenge to the process the Minors have been afforded to defend against the charges, we have analyzed this aspect of the Minors' claim as raising a question of substantive due process, not procedural due process.

We further note that while procedural due process requires that in juvenile delinquency proceedings, the elements of the offense charged must be proven

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beyond a reasonable doubt, In re Winship, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970), and that the juvenile is entitled to adequate notice of the charges, to counsel, to invoke the privilege against self-incrimination, and to the right of confrontation and cross-examination, In re Gault, 387 U.S. 1, 87 S.Ct. 1428, 18 L.Ed.2d 527 (1967), it does not require that juvenile adjudicatory proceedings in all particulars must be the same as adult criminal proceedings. See, e.g., In the Interest of J.F., 714 A.2d 467, 473 (Pa.Super. 1998) (holding that due process does not guaranty the right to a jury trial in a juvenile adjudication proceeding); see also McKeiver v. Pennsylvania, 403 U.S. 528, 91 S.Ct. 1976, 29 L.Ed.2d 647 (1971). To do so would transform a juvenile delinquency proceeding to the legal equivalent of an adult criminal proceeding, which it is not. In the Interest of R.A., 761 A.2d 1220, 1223 (Pa.Super. 2000) ("[J]uvenile proceedings are not criminal proceedings.").

<sup>10</sup> The Equal Protection Clause of the Fourteenth Amendment provides that no State shall "deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1. Likewise, Article I, Section 26 of the Pennsylvania Constitution provides that "[n]either the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right." Pa. Const. art. I, § 26. This equal protection guarantee in the Pennsylvania Constitution is analyzed under the same standards used by the United States Supreme Court when reviewing similar claims under the Fourteenth Amendment. See Commonwealth v. Albert, 758 A.2d 1149, 1151 (Pa. 2000).