

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 6

Special Session No. 1 of
1995

INTRODUCED BY L. I. COHEN, HARHART, GODSHALL, RAYMOND, SEMMEL, NYCE, PETTIT, HERSHEY, MERRY, CLARK, FICHTER, HUTCHINSON, SAINATO, COLAIZZO, TRAVAGLIO, WAUGH, WALKO, BROWNE, BROWN, PETRARCA, PICCOLA, STRITTMATTER, GAMBLE, MCGEEHAN, WOZNIAK, TANGRETTI, MASLAND, TRELLO, STERN, ARMSTRONG, BAKER, SCHULER, GEIST, HASAY, LYNCH, FAIRCHILD, CORNELL, CHADWICK, STISH, SAYLOR, RUBLEY, FARMER, MILLER, DEMPSEY, NAILOR, FEESE, TRUE, NICKOL, ARGALL, BARD, PLATTS, J. TAYLOR, SCHRODER, E. Z. TAYLOR, STAIRS, BARLEY, FLICK, FARGO, PITTS, RYAN, DeLUCA, GIGLIOTTI, COY, GEORGE, KELLER, BUTKOVITZ, LEDERER, O'BRIEN, SURRA AND LEH, FEBRUARY 1, 1995

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 1, 1995

AN ACT

1 Amending the act of August 6, 1941 (P.L.861, No.323), entitled,
2 as amended, "An act to create a uniform and exclusive system
3 for the administration of parole in this Commonwealth;
4 providing state probation services; establishing the
5 'Pennsylvania Board of Probation and Parole'; conferring and
6 defining its jurisdiction, duties, powers and functions;
7 including the supervision of persons placed upon probation
8 and parole in certain designated cases; providing for the
9 method of appointment of its members; regulating the
10 appointment, removal and discharge of its officers, clerks
11 and employes; dividing the Commonwealth into administrative
12 districts for purposes of probation and parole; fixing the
13 salaries of members of the board and of certain other
14 officers and employes thereof; making violations of certain
15 provisions of this act misdemeanors; providing penalties
16 therefor; and for other cognate purposes, and making an
17 appropriation," further providing for investigations and
18 recommendations to the Board of Pardons.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 Section 1. Section 21 of the act of August 6, 1941 (P.L.861,

1 No.323), referred to as the Pennsylvania Board of Probation and
2 Parole Law, amended December 27, 1994 (P.L. , No.159), is
3 amended to read:

4 Section 21. The board is hereby authorized to release on
5 parole any convict confined in any penal institution of this
6 Commonwealth as to whom power to parole is herein granted to
7 said board, except convicts condemned to death or serving life
8 imprisonment, whenever in its opinion the best interests of the
9 convict justify or require his being paroled and it does not
10 appear that the interests of the Commonwealth will be injured
11 thereby. The power to parole herein granted to the Board of
12 Parole may not be exercised in the board's discretion at any
13 time before, but only after, the expiration of the minimum term
14 of imprisonment fixed by the court in its sentence or by the
15 Pardon Board in a sentence which has been reduced by
16 commutation[: Provided, however, That if the Board of Parole
17 refuse to parole the prisoner at the expiration of any minimum
18 term fixed by the Pardon Board, it shall, within ten days after
19 the date when the minimum term expired, transmit to the Pardon
20 Board a written statement of the reasons for refusal to parole
21 the prisoner at the expiration of the minimum term fixed by the
22 Pardon Board. Thereafter, the Pardon Board may either accept the
23 action of the Board of Parole, or order the immediate release of
24 the prisoner on parole, under the supervision of the Board of
25 Parole]. The board may not release a person on parole unless the
26 person achieves a negative result within forty-five days prior
27 to the date of release in a screening test approved by the
28 Department of Health for the detection of the presence of
29 controlled substances or designer drugs under the act of April
30 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,

1 Drug, Device and Cosmetic Act." The cost of these pre-parole
2 drug screening tests for inmates subject to the parole release
3 jurisdiction of the board, whether confined in a State or local
4 correctional facility, shall be paid by the board. The board
5 shall establish rules and regulations for the payment of these
6 costs and may limit the types and cost of these screening tests
7 that would be subject to payment by the board. The board shall
8 establish, as a condition of continued parole for a parolee who,
9 as an inmate, tested positive for the presence of a controlled
10 substance or a designer drug or who was paroled from a sentence
11 arising from a conviction under "The Controlled Substance, Drug,
12 Device and Cosmetic Act," or from a drug-related crime, the
13 parolee's achievement of negative results in such screening
14 tests randomly applied. The random screening tests shall be
15 performed at the discretion of the board, and the parolee
16 undergoing the tests shall be responsible for the costs of the
17 tests. The funds collected for the tests shall be applied
18 against the contract for such testing between the board and a
19 testing laboratory approved by the Department of Health. Said
20 board shall have the power during the period for which a person
21 shall have been sentenced to recommit one paroled for violation
22 of the terms and conditions of his parole and from time to time
23 to reparole and recommit in the same manner and with the same
24 procedure as in the case of an original parole or recommitment,
25 if, in the judgment of the said board, there is a reasonable
26 probability that the convict will be benefited by again
27 according him liberty and it does not appear that the interests
28 of the Commonwealth will be injured thereby.

29 Section 2. Section 22 of the act, amended May 27, 1943
30 (P.L.767, No.324), is amended to read:

1 Section 22. The board shall have the power, subject to the
2 provisions and limitations set forth in section twenty-one, to
3 grant paroles of its own motion whenever in its judgment the
4 interests of justice require the granting of the same. In
5 addition thereto, the board shall have the power, and it shall
6 be its duty, to consider applications for parole by a prisoner
7 or by his attorney, relatives or friends or by any person
8 properly interested in the matter. Hearings of applications
9 shall be held by the board whenever in its judgment hearings are
10 necessary. Reasonable rules and regulations shall be adopted by
11 the board for the presentation and hearing of applications for
12 parole: Provided, however, That whenever any prisoner is paroled
13 by the board, whether of its own motion or after hearing of an
14 application therefor, or whenever an application for parole is
15 refused by the board, a brief statement of the reasons for the
16 board's action shall be filed of record in the offices of the
17 board and shall be at all reasonable times open to public
18 inspection; in no case shall a parole be granted, or an
19 application for parole be dismissed, unless a district
20 supervisor shall have seen and heard him in person in regard
21 thereto within six months prior to the granting or dismissal
22 thereof. Application shall be disposed of by the board within
23 six months of the filing thereof. [Except in cases where the
24 Pardon Board has reduced a minimum term by commutation, the
25 board shall initially act on the application, if possible,
26 before the expiration of the minimum term so fixed, and in no
27 case more than thirty days thereafter.]

28 In granting and revoking paroles, and in discharging from
29 parole, the members of the board acting thereon shall not be
30 required to personally hear or see all the witnesses and

1 evidence submitted to them for their action, but they may act on
2 report submitted to them by their agents and employees, together
3 with any pertinent and adequate information furnished to them by
4 fellow members of the board or by others.

5 At least ten days before paroling a prisoner on its own
6 motion the board shall give written notice of such contemplated
7 parole to the district attorney of the county wherein the
8 prisoner shall have been sentenced, and, in cases of hearings on
9 applications for parole as herein provided for, at least ten
10 days written notice of the time and place fixed for such hearing
11 shall be given either by the board or by the applicant, as the
12 board shall direct, to the court and district attorney of the
13 county wherein the applicant shall have been sentenced.

14 Section 3. Section 34 of the act is repealed.

15 Section 4. The act is amended by adding a section to read:

16 Section 34.1. (a) The board shall have the following powers
17 and duties with regard to the Board of Pardons and individuals
18 granted clemency by the Governor who are subject to parole
19 supervision by the board:

20 (1) Make investigations and recommendations to the Board of
21 Pardons in cases coming before it and upon its request. The
22 investigations shall include all information set forth under
23 section 19 of this act, including a risk assessment if the
24 applicant is incarcerated.

25 (2) Immediately notify the Board of Pardons when a parolee
26 has violated a condition of parole. This shall apply to parolees
27 under supervision by other jurisdictions through the Interstate
28 Compact.

29 (3) Not parole an inmate whose term of imprisonment was
30 commuted from life to life on parole or an inmate serving a term

1 of imprisonment for a crime of violence unless the inmate has
2 served at least one year in a prerelease center. Upon parole,
3 these parolees shall be subject to weekly supervision for the
4 first six months of parole. The parolee shall not be paroled to
5 another state unless the state will provide weekly supervision
6 for the first six months of parole.

7 (b) As used in this section, the term "crime of violence"
8 means:

9 (1) Murder of the third degree, voluntary manslaughter,
10 rape, involuntary deviate sexual intercourse, robbery as defined
11 in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to
12 robbery), aggravated assault as defined in 18 Pa.C.S. §
13 2702(a)(1) (relating to aggravated assault) or kidnapping.

14 (2) An attempt to commit voluntary manslaughter, rape,
15 involuntary deviate sexual intercourse, robbery as defined in 18
16 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii), aggravated assault as
17 defined in 18 Pa.C.S. § 2702(a)(1) or kidnapping.

18 (3) The serving of a sentence pursuant to 42 Pa.C.S. § 9712
19 (relating to sentences for offenses committed with firearms).

20 Section 5. This act shall take effect in 60 days.