

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 3058 Session of
2006

INTRODUCED BY O'BRIEN, BOYD, CAPPELLI, CRAHALLA, DALLY,
GINGRICH, GODSHALL, GOODMAN, HARPER, HERSHEY, HICKERNELL,
W. KELLER, McCALL, PYLE, SAYLOR, SIPTROTH, E. Z. TAYLOR AND
TRUE, OCTOBER 20, 2006

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 20, 2006

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 supervision of parole
18 and probation and for parole violations.

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

21 Section 1. Section 17 of the act of August 6, 1941 (P.L.861,
22 No.323), referred to as the Pennsylvania Board of Probation and
23 Parole Law, amended December 27, 1965 (P.L.1230, No.501), is
24 amended to read:

25 Section 17. The board shall have exclusive power to parole

1 and reparole, commit and recommit for violations of parole, and
2 to discharge from parole all persons heretofore or hereafter
3 sentenced by any court in this Commonwealth to imprisonment in
4 any prison or penal institution thereof, whether the same be a
5 state or county penitentiary, prison or penal institution, as
6 hereinafter provided. It is further provided that the board
7 shall have exclusive power to supervise any person hereafter
8 placed on parole (when sentenced to a maximum period of less
9 than two years) by any judge of a court having criminal
10 jurisdiction, when the court may by special order direct
11 supervision by the board, in which case the parole case shall be
12 known as a special case and the authority of the board with
13 regard thereto shall be the same as herein provided with regard
14 to parole cases within one of the classifications above set
15 forth: Provided, however, That, except for such special cases,
16 the powers and duties herein conferred shall not extend to
17 persons sentenced for a maximum period of less than two years,
18 and nothing herein contained shall prevent any court of this
19 Commonwealth from paroling any person sentenced by it for a
20 maximum period of less than two years: And provided further,
21 That the period of two years herein referred to shall mean the
22 entire continuous term of sentence to which a person is subject,
23 whether the same be by one or more sentences, either to simple
24 imprisonment or to an indeterminate imprisonment at hard labor,
25 as now or hereafter authorized by law to be imposed for criminal
26 offenses[.]: And provided further, That the board shall have the
27 power to detain and recommit a person to the Department of
28 Corrections for violation of parole unless the county prison has
29 agreed to make its facilities available for detention and
30 recommittal of parole violators. The power of the board to

1 parole shall extend to prisoners sentenced to definite or flat
2 sentences.

3 Section 2. Section 21.1 of the act, amended June 28, 1957
4 (P.L.429, No.235) and December 21, 1998 (P.L.1077, No.143), is
5 amended to read:

6 Section 21.1. (a) Convicted Violators. Any parolee under
7 the jurisdiction of the Pennsylvania Board of Parole released
8 from any penal institution of the Commonwealth who, during the
9 period of parole or while delinquent on parole, commits any
10 crime punishable by imprisonment, for which he is convicted or
11 found guilty by a judge or jury or to which he pleads guilty or
12 nolo contendere at any time thereafter in a court of record,
13 may, at the discretion of the board, be recommitted as a parole
14 violator. If his recommitment is so ordered, he shall be
15 reentered to serve the remainder of the term which said parolee
16 would have been compelled to serve had he not been paroled, and
17 he shall be given no credit for the time at liberty on parole.
18 The board may, in its discretion, reparole whenever, in its
19 opinion, the best interests of the prisoner justify or require
20 his release on parole and it does not appear that the interests
21 of the Commonwealth will be injured thereby. The period of time
22 for which the parole violator is required to serve shall be
23 computed from and begin on the date that he is taken into
24 custody to be returned to the institution as a parole violator.

25 If a new sentence is imposed upon such parolee, the service
26 of the balance of said term originally imposed shall precede the
27 commencement of the new term imposed in the following cases:

28 (1) If a person is paroled from any State penal or
29 correctional institution under the control and supervision of
30 the Department of Justice and the new sentence imposed upon him

1 is to be served in any such State penal or correctional
2 institution.

3 (2) If a person is paroled from a county penal or
4 correctional institution and the new sentence imposed upon him
5 is to be served in the same county penal or correctional
6 institution. The county penal or correctional system has the
7 sole discretion to transfer the parolee to the custody of the
8 Department of Corrections.

9 In all other cases, the service of the new term for the
10 latter crime shall precede commencement of the balance of the
11 term originally imposed.

12 Where the new term is to be served last, or the balance of
13 the term originally imposed is to be served last, and such
14 service is, in either case, to be had in any penal or
15 correctional institution under the control and supervision of
16 the Department of Justice, any male person upon recommitment
17 shall be sent to the nearest Correctional Diagnostic and
18 Classification Center for service of the remainder of the
19 original term at such institution as shall be designated by the
20 Deputy Commissioner for Treatment of the Bureau of Correction.
21 Any female person shall be recommitted to the State Industrial
22 Home for Women at Muncy.

23 (a.1) Subsequent Arrest. The formal filing of a charge after
24 parole against any parolee within this Commonwealth for any
25 violation of the statutes of this Commonwealth shall constitute
26 an automatic detainer and permit him to be taken into and held
27 in custody. The automatic detainer shall dissolve on the
28 fifteenth day after he is taken into custody unless sooner
29 waived or otherwise superseded by direction of the supervising
30 parole office. The automatic detainer shall be in addition to

1 and not in lieu of any other detainer that heretofore may have
2 been lodged in such circumstances.

3 (b) Technical Violators. Any parolee under the jurisdiction
4 of the Pennsylvania Board of Parole released from any penal
5 institution in the Commonwealth who, during the period of
6 parole, violates the terms and conditions of his parole, other
7 than by the commission of a new crime of which he is convicted
8 or found guilty by a judge or jury or to which he pleads guilty
9 or nolo contendere in a court of record, may be recommitted
10 after hearing before the board. If he is so recommitted, he
11 shall be given credit for the time served on parole in good
12 standing but with no credit for delinquent time, and may be
13 reentered to serve the remainder of his original sentence or
14 sentences. Said remainder shall be computed by the board from
15 the time his delinquent conduct occurred for the unexpired
16 period of the maximum sentence imposed by the court without
17 credit for the period the parolee was delinquent on parole, and
18 he shall be required to serve such remainder so computed from
19 the date he is taken into custody on the warrant of the board.
20 Such prisoner shall be subject to reparole by the board whenever
21 in its opinion the best interests of the prisoner justify or
22 require his being repared and it does not appear that the
23 interests of the Commonwealth will be injured thereby.

24 (c) Recommitment. Technical violators shall be recommitted
25 for service of the balance of said term originally imposed to
26 penal or correctional institutions as follows:

27 (1) If paroled from a county penal or correctional
28 institution, to the [same] custody of the Department of
29 Corrections unless the county penal or correctional institution
30 [or] from which the parole violator was paroled has agreed to

1 detain or recommit the parole violator. This clause shall not be
2 construed to prevent the transfer of a parole violator to any
3 other institution to which he may be legally transferred.

4 (2) If paroled from the Pennsylvania Industrial School at
5 Camp Hill and upon recommitment such person has not attained the
6 age of twenty-one years, to the same institution.

7 (3) If paroled from the State Industrial Home for Women at
8 Muncy, to the same institution.

9 (4) If paroled from any other State penal or correctional
10 institution under the control and supervision of the Department
11 of Justice, to the nearest Correctional Diagnostic and
12 Classification Center wherein the person shall be classified for
13 service of the balance of the term in such institution as shall
14 be designated by the Deputy Commissioner for Treatment in the
15 [Bureau of Correction] Department of Corrections.

16 Section 3. This act shall take effect in 60 days.