

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 629 Session of  
2007

INTRODUCED BY GREENLEAF, COSTA, EARLL, FONTANA, BROWNE, O'PAKE,  
KITCHEN, FERLO AND WASHINGTON, MARCH 21, 2007

REFERRED TO JUDICIARY, MARCH 21, 2007

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 release on parole.

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

20 Section 1. Section 21 of the act of August 6, 1941 (P.L.861,  
21 No.323), referred to as the Pennsylvania Board of Probation and  
22 Parole Law, amended December 21, 1998 (P.L.1077, No.143), is  
23 amended to read:

24 Section 21. (a) The board is hereby authorized to release  
25 on parole any convict confined in any penal institution of this

1 Commonwealth as to whom power to parole is herein granted to the  
2 board, except convicts condemned to death or serving life  
3 imprisonment, whenever in its opinion the best interests of the  
4 convict justify or require his being paroled and it does not  
5 appear that the interests of the Commonwealth will be injured  
6 thereby. Parole shall be subject in every instance to the  
7 Commonwealth's right to immediately retake and hold in custody  
8 without further proceedings any parolee charged after his parole  
9 with an additional offense until a determination can be made  
10 whether to continue his parole status. The power to parole  
11 herein granted to the Board of Parole may not be exercised in  
12 the board's discretion at any time before, but only after, the  
13 expiration of the minimum term of imprisonment fixed by the  
14 court in its sentence or by the Pardon Board in a sentence which  
15 has been reduced by commutation.

16 (a.1) (1) The board shall provide expedited review of every  
17 case where the Department of Corrections has reported that the  
18 inmate being considered for parole:

19 (i) has a serious or terminal illness;  
20 (ii) is receiving treatment or hospice care; and  
21 (iii) presents a minimal risk of reoffending, based on the  
22 department's standardized needs and risk assessment of the  
23 inmate.

24 (2) Nothing in this subsection shall be construed to entitle  
25 any inmate to be paroled or to establish a presumption that an  
26 inmate is entitled to be paroled.

27 (3) Government agencies shall assist the board and the  
28 Department of Corrections in developing a plan to house and  
29 treat any inmate the Department of Corrections has identified as  
30 suffering from a serious or terminal illness.

1       (b) (1) The board may not release a person on parole unless  
2 the person achieves a negative result within forty-five days  
3 prior to the date of release in a screening test approved by the  
4 Department of Health for the detection of the presence of  
5 controlled substances or designer drugs under the act of April  
6 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,  
7 Drug, Device and Cosmetic Act." The cost of these pre-parole  
8 drug screening tests for inmates subject to the parole release  
9 jurisdiction of the board, whether confined in a State or local  
10 correctional facility, shall be paid by the board. The board  
11 shall establish rules and regulations for the payment of these  
12 costs and may limit the types and cost of these screening tests  
13 that would be subject to payment by the board. The board shall  
14 establish, as a condition of continued parole for a parolee who,  
15 as an inmate, tested positive for the presence of a controlled  
16 substance or a designer drug or who was paroled from a sentence  
17 arising from a conviction under "The Controlled Substance, Drug,  
18 Device and Cosmetic Act," or from a drug-related crime, the  
19 parolee's achievement of negative results in such screening  
20 tests randomly applied. The random screening tests shall be  
21 performed at the discretion of the board, and the parolee  
22 undergoing the tests shall be responsible for the costs of the  
23 tests. The funds collected for the tests shall be applied  
24 against the contract for such testing between the board and a  
25 testing laboratory approved by the Department of Health.

26       (2) The board may waive the requirements of this subsection  
27 for any inmate identified by the Department of Corrections as:

28       (i) having a serious or terminal illness;

29       (ii) receiving treatment or hospice care; and

30       (iii) presenting a minimal risk of reoffending, based on the

1 department's standardized needs and risk assessment of the  
2 inmate.

3 (b.1) (1) The board may not release a person who is serving  
4 a sentence for a crime of violence as defined in 42 Pa.C.S. §  
5 9714(g) (relating to sentences for second and subsequent  
6 offenses) on parole unless the person has received instruction  
7 from the Department of Corrections on the impact of crime on  
8 victims and the community.

9 (2) The board may waive the requirements of this subsection  
10 for any inmate identified by the Department of Corrections as:

11 (i) having a serious or terminal illness;

12 (ii) receiving treatment or hospice care; and

13 (iii) presenting a minimal risk of reoffending, based on the  
14 department's standardized needs and risk assessment of the  
15 inmate.

16 (c) The board shall have the power during the period for  
17 which a person shall have been sentenced to recommit one paroled  
18 for violation of the terms and conditions of his parole and from  
19 time to time to reparole and recommit in the same manner and  
20 with the same procedure as in the case of an original parole or  
21 recommitment, if, in the judgment of the board, there is a  
22 reasonable probability that the convict will be benefited by  
23 again according him liberty and it does not appear that the  
24 interests of the Commonwealth will be injured thereby.

25 (d) When the board releases a parolee from a State or local  
26 correctional facility, the board shall provide written notice to  
27 the probation department located in the county where the  
28 sentencing order was imposed of the release and new address of  
29 the parolee.

30 (e) As used in this section:

1 "Government agency" shall include any Commonwealth agency or  
2 any political subdivision or municipal or other local authority,  
3 or any officer or agency of any such political subdivision or  
4 local authority.

5 "Hospice" shall mean a special concept of care designed to  
6 provide comfort and support to a patient with a terminal illness  
7 that addresses all symptoms of a disease, with special emphasis  
8 on controlling pain and discomfort, and the emotional, social  
9 and spiritual impact of the disease on the patient.

10 "Serious illness" shall mean a disease process or injury,  
11 including chronic illness, whether due to a physical or  
12 cognitive impairment or mental condition, that requires care and  
13 treatment over a long period of time, is usually not cured and  
14 has progressed to the degree that the inmate meets Department of  
15 Aging area agency on aging criteria for nursing facility  
16 clinical eligibility. The disease process or injury may have  
17 existed before incarceration.

18 "Terminal illness" shall mean an incurable, irreversible  
19 medical condition in an advanced state which will, in the  
20 opinion of the attending physician to a reasonable degree of  
21 medical certainty, result in death regardless of the continued  
22 application of life-sustaining treatment and has progressed to  
23 the degree that the inmate meets Department of Aging area agency  
24 on aging criteria for nursing facility clinical eligibility.

25 Section 2. This act shall take effect in 60 days.