

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2592 Session of  
1992

INTRODUCED BY PERZEL, GEIST, SERAFINI AND JOHNSON, APRIL 1, 1992

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 1, 1992

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 the board's authority  
18 to release prisoners.

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,  
22 No.323), referred to as the Pennsylvania Board of Probation and  
23 Parole Law, amended July 11, 1990 (P.L.476, No.114), is amended  
24 to read:

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

1 Commonwealth as to whom power to parole is herein granted to  
2 said 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. The power to parole herein granted to the Board of  
7 Parole may not be exercised in the board's discretion at any  
8 time before, but only after, the expiration of the minimum term  
9 of imprisonment fixed by the court in its sentence or by the  
10 Pardon Board in a sentence which has been reduced by  
11 commutation: Provided, however, That if the Board of Parole  
12 refuse to parole the prisoner at the expiration of any minimum  
13 term fixed by the Pardon Board, it shall, within ten days after  
14 the date when the minimum term expired, transmit to the Pardon  
15 Board a written statement of the reasons for refusal to parole  
16 the prisoner at the expiration of the minimum term fixed by the  
17 Pardon Board. Thereafter, the Pardon Board may either accept the  
18 action of the Board of Parole, or order the immediate release of  
19 the prisoner on parole, under the supervision of the Board of  
20 Parole. The board may not release a person on parole unless the  
21 person achieves a negative result within one week prior to the  
22 date of release in a screening test approved by the Department  
23 of Health for the detection of the presence of controlled  
24 substances or designer drugs under the act of April 14, 1972  
25 (P.L.233, No.64), known as "The Controlled Substance, Drug,  
26 Device and Cosmetic Act." The cost of these pre-parole drug  
27 screening tests for inmates subject to the parole release  
28 jurisdiction of the board, whether confined in a State or local  
29 correctional facility, shall be paid by the board. The board  
30 shall establish rules and regulations for the payment of these

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

24 (b) If a convict confined in any penal institution of this  
25 Commonwealth obtains a certificate of eligibility issued by the  
26 Department of Corrections, a rebuttable presumption that the  
27 convict should be released on parole arises. The presumption may  
28 be rebutted by a showing that the best interests of the convict  
29 justify or require denying release on parole and that the  
30 interests of the Commonwealth will be injured if the convict is

1 released on parole.

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