

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 24

Special Session No. 1 of
1995

INTRODUCED BY LAWLESS, HERSHEY, STABACK, CORRIGAN, PRESTON,
ROBINSON, GANNON, FLEAGLE, BUNT, TRELLO, TRUE, FARMER,
CIVERA, RAYMOND, E. Z. TAYLOR, GODSHALL, GEIST, MELIO,
BROWNE, SCHULER, DONATUCCI, HUTCHINSON, PISTELLA, SAYLOR,
MERRY, CAPPABIANCA AND J. TAYLOR, JANUARY 24, 1995

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
FEBRUARY 14, 1995

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for a mandatory minimum
3 penalty for delivery of contraband to certain confined
4 persons AND FOR A SUBSTANCE ABUSE AND CHEMICAL DEPENDENCY <—
5 ASSESSMENT AND TREATMENT PROGRAM; AND AUTHORIZING THE USE OF
6 DRUG-SNIFFING ANIMALS IN JAILS AND PRISONS.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 5123 of Title 18 of the Pennsylvania
10 Consolidated Statutes is amended by adding a ~~subsection~~ <—

11 SUBSECTIONS to read: <—

12 § 5123. Contraband.

13 * * *

14 (a.1) Mandatory minimum penalty.--Any person convicted of a
15 violation of subsection (a) shall be sentenced to a minimum
16 sentence of at least two years of total confinement
17 notwithstanding any other provision of this title or any other
18 statute to the contrary. Nothing in this subsection shall

1 prevent the sentencing court from imposing a sentence greater
2 than that provided in this subsection, up to the maximum penalty
3 prescribed by this title for a felony of the second degree.
4 There shall be no authority in any court to impose on an
5 offender to which this subsection is applicable any lesser
6 sentence than provided for in subsection (a) or to place such
7 offender on probation or to suspend sentence. Sentencing
8 guidelines promulgated by the Pennsylvania Commission on
9 Sentencing shall not supersede the mandatory sentences provided
10 in this subsection. If a sentencing court refuses to apply this
11 subsection where applicable, the Commonwealth shall have the
12 right to appellate review of the action of the sentencing court.
13 The appellate court shall vacate the sentence and remand the
14 case to the sentencing court for imposition of a sentence in
15 accordance with this subsection if it finds that the sentence
16 was imposed in violation of this subsection.

17 * * *

18 (D) DRUG-SNIFFING ANIMALS.--ANY JAIL OR PRISON MAY USE DOGS <—
19 OR OTHER ANIMALS TRAINED TO SNIFF CONTROLLED SUBSTANCES OR OTHER
20 CONTRABAND FOR SUCH PURPOSES IN OR ON ANY PART OF THE JAIL OR
21 PRISON AT ANY TIME.

22 (E) STATE CORRECTIONAL SUBSTANCE ABUSE AND CHEMICAL
23 DEPENDENCY ASSESSMENT AND TREATMENT PROGRAM.--

24 (1) THE OFFICE OF DRUG AND ALCOHOL PROGRAMS WITHIN THE
25 DEPARTMENT OF HEALTH, WORKING IN COOPERATION WITH THE
26 DEPARTMENT OF CORRECTIONS, IS HEREBY AUTHORIZED TO ESTABLISH
27 A PILOT SUBSTANCE ABUSE AND CHEMICAL DEPENDENCY ASSESSMENT
28 PROGRAM FOR THE PURPOSE OF ASSESSING AND TREATING SUBSTANCE-
29 ABUSING AND CHEMICALLY DEPENDENT INMATES WHILE INCARCERATED
30 IN STATE FACILITIES. THE PROGRAM SHALL BE CONTRACTED WITH A

1 PRIVATE DRUG AND ALCOHOL TREATMENT PROVIDER. THE DEPARTMENT
2 OF HEALTH AND THE DEPARTMENT OF CORRECTIONS SHALL SELECT A
3 PILOT CORRECTIONAL FACILITY OR FACILITIES TO IMPLEMENT THE
4 PROGRAM AND SHALL COLLABORATE WITH THE COURTS, OTHER CRIMINAL
5 JUSTICE AGENCIES AND DRUG AND ALCOHOL TREATMENT PROGRAMS TO
6 DEVELOP WRITTEN GUIDELINES AND PROCEDURES GOVERNING THE
7 SELECTION OF THE CORRECTIONAL FACILITY OR FACILITIES,
8 OPERATION OF THE PROGRAM, ELIGIBILITY OF TREATMENT PROGRAMS
9 TO APPLY TO PROVIDE THIS SERVICE AND ELIGIBILITY OF INMATES
10 FOR THE ASSESSMENT AND TREATMENT PROGRAM. THE PILOT PROGRAM
11 ESTABLISHED UNDER THIS SECTION SHALL NOT TAKE THE PLACE OF
12 ANY OTHER EXISTING THERAPEUTIC COMMUNITY DRUG AND ALCOHOL
13 PROGRAM IN ANY STATE CORRECTIONAL FACILITY.

14 (2) ASSESSMENTS OF DRUG AND ALCOHOL ABUSE AND DEPENDENCY
15 SHALL BE PERFORMED BY DRUG AND ALCOHOL COUNSELORS WHO HAVE
16 BEEN CERTIFIED BY THE PENNSYLVANIA CHEMICAL ABUSE
17 CERTIFICATION BOARD (PCACB) OR WHO HOLD A RECIPROCITY-LEVEL
18 CERTIFICATION BY THE INTERNATIONAL CERTIFICATION RECIPROCITY
19 CONSORTIUM (ICRC).

20 (3) IF THE ASSESSMENT DETERMINES THAT THE INCARCERATED
21 INMATE IS IN NEED OF ALCOHOL OR OTHER DRUG TREATMENT, THE
22 INMATE SHALL BE REFERRED TO THE TREATMENT PROGRAM PROVIDED
23 WITHIN THE CORRECTIONAL FACILITY.

24 (4) THE ALCOHOL AND DRUG TREATMENT PROGRAM OR PROGRAMS
25 WITHIN THE CORRECTIONAL INSTITUTION SHALL BE ESTABLISHED AND
26 ADMINISTERED IN A SEPARATE AREA OF THE PRISON BY PRIVATE
27 ALCOHOL AND DRUG TREATMENT PROGRAMS LICENSED BY THE OFFICE OF
28 DRUG AND ALCOHOL PROGRAMS WITHIN THE DEPARTMENT OF HEALTH. IN
29 ADDITION TO LICENSURE, DRUG AND ALCOHOL TREATMENT PROGRAMS
30 ELIGIBLE TO APPLY TO PROVIDE THIS SERVICE MUST HAVE AT LEAST

1 FIVE YEARS' EXPERIENCE IN TREATING CHEMICALLY DEPENDENT
2 INDIVIDUALS INVOLVED WITH THE CRIMINAL JUSTICE SYSTEM, FIVE
3 YEARS' EXPERIENCE RUNNING A THERAPEUTIC COMMUNITY AND BE ABLE
4 TO PROVIDE A LONG-TERM RESIDENTIAL THERAPEUTIC COMMUNITY
5 WITHIN THE CORRECTIONAL FACILITY. IN ADDITION, AS PART OF THE
6 APPLICATION PROCESS, THE TREATMENT PROGRAM MUST DEMONSTRATE
7 THE ABILITY TO PROVIDE POST-PRISON AFTERCARE AND CONTINUING
8 CARE TREATMENT FACILITIES.

9 (5) THE SUBSTANCE ABUSE AND CHEMICAL DEPENDENCY
10 ASSESSMENTS UNDER THIS SECTION SHALL INCORPORATE METHODS FOR
11 DETECTION AND DETERMINATION OF CHRONIC DRUG AND ALCOHOL
12 ADDICTION AND SHALL INCLUDE, BUT NOT BE LIMITED TO, DRUG AND
13 ALCOHOL COUNSELING AND EVALUATION, CHEMICAL TESTING AND ANY
14 OTHER ACCEPTABLE MEANS FOR DETECTION AND DETERMINATION OF
15 SUBSTANCE ABUSE AND CHEMICAL DEPENDENCY.

16 (6) THE OFFICE OF DRUG AND ALCOHOL TREATMENT PROGRAMS
17 WITHIN THE DEPARTMENT OF HEALTH SHALL CONDUCT AN ONGOING,
18 COMPREHENSIVE EVALUATION PROGRAM TO DETERMINE THE
19 EFFECTIVENESS OF THE SUBSTANCE ABUSE ASSESSMENT PILOT PROGRAM
20 IN REDUCING CRIMINAL BEHAVIOR, RECIDIVISM, ARREST AND
21 COMMITMENTS TO CORRECTIONAL INSTITUTIONS. IN ADDITION, THE
22 OFFICE OF DRUG AND ALCOHOL TREATMENT PROGRAMS SHALL
23 COLLABORATE WITH THE DEPARTMENT OF PUBLIC WELFARE TO SECURE
24 MEDICAL ASSISTANCE PAYMENTS TO COVER THE COST OF DRUG AND
25 ALCOHOL DETOXIFICATION AND REHABILITATION SERVICES FOR ANY
26 PERSON ELIGIBLE FOR THE PAYMENTS.

27 (7) ON OR BEFORE MARCH 1 OF EACH YEAR, THE DEPARTMENT OF
28 HEALTH SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY WHICH
29 SHALL INCLUDE, BUT NOT BE LIMITED TO, A COMPREHENSIVE
30 EVALUATION TO DETERMINE THE EFFECTIVENESS OF THE SUBSTANCE

1 ABUSE ASSESSMENT PILOT PROGRAM IN REDUCING CRIMINAL BEHAVIOR,
2 RECIDIVISM, ARREST AND COMMITMENTS TO CORRECTIONAL
3 INSTITUTIONS.

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