

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 1239 Session of  
1998

INTRODUCED BY GREENLEAF, O'PAKE, GERLACH, WILLIAMS, EARLL,  
WAGNER, AFFLERBACH, ARMSTRONG, COSTA, KASUNIC, LEMMOND,  
RHOADES, TOMLINSON, ULIANA, SCHWARTZ, HOLL AND MELLOW,  
JANUARY 16, 1998

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, JANUARY 21, 1998

## 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 persons  
18 paroled OR ON PROBATION in other states; PROVIDING FOR <—  
19 PROCEEDINGS SUBSEQUENT TO PAROLE; and imposing a penalty.

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

22 ~~Section 1. Section 33 of the act of August 6, 1941 (P.L.861, <—~~  
23 ~~No.323), referred to as the Pennsylvania Board of Probation and~~  
24 ~~Parole Law, amended December 18, 1996 (P.L.1098, No.164), is~~  
25 ~~amended to read:~~

1       SECTION 1.   SECTION 21 OF THE ACT OF AUGUST 6, 1941 (P.L.861, <—  
2 NO.323), REFERRED TO AS THE PENNSYLVANIA BOARD OF PROBATION AND  
3 PAROLE LAW, AMENDED JUNE 1, 1995 (1ST SP.SESS., P.L.1020,  
4 NO.16), IS AMENDED TO READ:

5       SECTION 21.   THE BOARD IS HEREBY AUTHORIZED TO RELEASE ON  
6 PAROLE ANY CONVICT CONFINED IN ANY PENAL INSTITUTION OF THIS  
7 COMMONWEALTH AS TO WHOM POWER TO PAROLE IS HEREIN GRANTED TO  
8 SAID BOARD, EXCEPT CONVICTS CONDEMNED TO DEATH OR SERVING LIFE  
9 IMPRISONMENT, WHENEVER IN ITS OPINION THE BEST INTERESTS OF THE  
10 CONVICT JUSTIFY OR REQUIRE HIS BEING PAROLED AND IT DOES NOT  
11 APPEAR THAT THE INTERESTS OF THE COMMONWEALTH WILL BE INJURED  
12 THEREBY. PAROLE SHALL BE SUBJECT IN EVERY INSTANCE TO THE  
13 COMMONWEALTH'S RIGHT TO IMMEDIATELY RETAKE AND HOLD IN CUSTODY  
14 WITHOUT FURTHER PROCEEDINGS ANY PAROLEE CHARGED AFTER HIS PAROLE  
15 WITH AN ADDITIONAL OFFENSE, UNTIL A DETERMINATION CAN BE MADE  
16 WHETHER TO CONTINUE HIS PAROLE STATUS. THE POWER TO PAROLE  
17 HEREIN GRANTED TO THE BOARD OF PAROLE MAY NOT BE EXERCISED IN  
18 THE BOARD'S DISCRETION AT ANY TIME BEFORE, BUT ONLY AFTER, THE  
19 EXPIRATION OF THE MINIMUM TERM OF IMPRISONMENT FIXED BY THE  
20 COURT IN ITS SENTENCE OR BY THE PARDON BOARD IN A SENTENCE WHICH  
21 HAS BEEN REDUCED BY COMMUTATION. THE BOARD MAY NOT RELEASE A  
22 PERSON ON PAROLE UNLESS THE PERSON ACHIEVES A NEGATIVE RESULT  
23 WITHIN FORTY-FIVE DAYS PRIOR TO THE DATE OF RELEASE IN A  
24 SCREENING TEST APPROVED BY THE DEPARTMENT OF HEALTH FOR THE  
25 DETECTION OF THE PRESENCE OF CONTROLLED SUBSTANCES OR DESIGNER  
26 DRUGS UNDER THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS  
27 "THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT." THE  
28 COST OF THESE PRE-PAROLE DRUG SCREENING TESTS FOR INMATES  
29 SUBJECT TO THE PAROLE RELEASE JURISDICTION OF THE BOARD, WHETHER  
30 CONFINED IN A STATE OR LOCAL CORRECTIONAL FACILITY, SHALL BE

1 PAID BY THE BOARD. THE BOARD SHALL ESTABLISH RULES AND  
2 REGULATIONS FOR THE PAYMENT OF THESE COSTS AND MAY LIMIT THE  
3 TYPES AND COST OF THESE SCREENING TESTS THAT WOULD BE SUBJECT TO  
4 PAYMENT BY THE BOARD. THE BOARD SHALL ESTABLISH, AS A CONDITION  
5 OF CONTINUED PAROLE FOR A PAROLEE WHO, AS AN INMATE, TESTED  
6 POSITIVE FOR THE PRESENCE OF A CONTROLLED SUBSTANCE OR A  
7 DESIGNER DRUG OR WHO WAS PAROLED FROM A SENTENCE ARISING FROM A  
8 CONVICTION UNDER "THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND  
9 COSMETIC ACT," OR FROM A DRUG-RELATED CRIME, THE PAROLEE'S  
10 ACHIEVEMENT OF NEGATIVE RESULTS IN SUCH SCREENING TESTS RANDOMLY  
11 APPLIED. THE RANDOM SCREENING TESTS SHALL BE PERFORMED AT THE  
12 DISCRETION OF THE BOARD, AND THE PAROLEE UNDERGOING THE TESTS  
13 SHALL BE RESPONSIBLE FOR THE COSTS OF THE TESTS. THE FUNDS  
14 COLLECTED FOR THE TESTS SHALL BE APPLIED AGAINST THE CONTRACT  
15 FOR SUCH TESTING BETWEEN THE BOARD AND A TESTING LABORATORY  
16 APPROVED BY THE DEPARTMENT OF HEALTH. SAID BOARD SHALL HAVE THE  
17 POWER DURING THE PERIOD FOR WHICH A PERSON SHALL HAVE BEEN  
18 SENTENCED TO RECOMMIT ONE PAROLED FOR VIOLATION OF THE TERMS AND  
19 CONDITIONS OF HIS PAROLE AND FROM TIME TO TIME TO REPAROLE AND  
20 RECOMMIT IN THE SAME MANNER AND WITH THE SAME PROCEDURE AS IN  
21 THE CASE OF AN ORIGINAL PAROLE OR RECOMMITMENT, IF, IN THE  
22 JUDGMENT OF THE SAID BOARD, THERE IS A REASONABLE PROBABILITY  
23 THAT THE CONVICT WILL BE BENEFITED BY AGAIN ACCORDING HIM  
24 LIBERTY AND IT DOES NOT APPEAR THAT THE INTERESTS OF THE  
25 COMMONWEALTH WILL BE INJURED THEREBY.

26 SECTION 2. SECTION 21.1 OF THE ACT IS AMENDED BY ADDING A  
27 SUBSECTION TO READ:

28 SECTION 21.1. \* \* \*

29 (A.1) SUBSEQUENT ARREST. THE FORMAL FILING OF A CHARGE AFTER  
30 PAROLE AGAINST ANY PAROLEE WITHIN THIS COMMONWEALTH FOR ANY

1 VIOLATION OF THE LAWS OF THIS COMMONWEALTH SHALL CONSTITUTE AN  
2 AUTOMATIC DETAINER AND PERMIT HIM TO BE TAKEN INTO AND HELD IN  
3 CUSTODY. THE AUTOMATIC DETAINER SHALL DISSOLVE ON THE FIFTEENTH  
4 DAY AFTER HE IS TAKEN INTO CUSTODY, UNLESS SOONER WAIVED OR  
5 OTHERWISE SUPERSEDED BY DIRECTION OF THE SUPERVISING PAROLE  
6 OFFICE. THE AUTOMATIC DETAINER SHALL BE IN ADDITION TO AND NOT  
7 IN LIEU OF ANY OTHER DETAINER THAT HERETOFORE MAY HAVE BEEN  
8 LODGED IN SUCH CIRCUMSTANCES.

9 \* \* \*

10 SECTION 3. SECTION 33 OF THE ACT, AMENDED DECEMBER 18, 1996  
11 (P.L.1098, NO.164), IS AMENDED TO READ:

12 Section 33. (a) (1) In compliance with the Federal  
13 Interstate Compact Laws and the provisions of this section, the  
14 [Parole Board] Pennsylvania Board of Probation and Parole is  
15 authorized to supervise persons paroled by other states and now  
16 residing in Pennsylvania, where such other states agree to  
17 perform similar services for the Pennsylvania Board of Probation  
18 and Parole.

19 (2) Additionally, the [Parole Board] Pennsylvania Board of  
20 Probation and Parole is authorized to relinquish jurisdiction  
21 over a parolee to the proper Federal authorities where the  
22 parolee is placed into the [Federal] Witness Protection Program  
23 of the United States Department of Justice.

24 (b) The contracting states must adhere to Pennsylvania's  
25 laws regarding the Interstate Compact, which are as follows:

26 (1) The contracting states solemnly agree that it is  
27 competent for the duly constituted judicial and administrative  
28 authorities of a state party to this compact, herein called  
29 "sending state," to permit any person convicted of an offense  
30 within such state and placed on probation or released on parole

to reside in any other state, herein called "receiving state,"  
while on probation or parole, if:

(i) a confirmed offer of viable employment or other  
verifiable means of support exists; and

(ii) a residence approved by the receiving state is  
available.

(2) The following information must be made available to the  
receiving state from the sending state at the time the  
application for acceptance to the receiving state is filed:

(i) Institutional adjustment information on parolees or  
probationers.

(ii) Current supervision history on parolees or  
probationers.

(iii) A psychological report or psychological update,  
completed no more than one year prior to the receiving state's  
consideration for persons convicted of a violent offense.

(iv) The following information must be made available to the  
receiving state for those cases defined as a sexual offense:

(A) a summary of any type of treatment received and dates of  
completion; and

(B) a description of behavioral characteristics that may  
have contributed to the parolee or probationer's conduct.

(3) Any parolee or probationer convicted of a sexual offense  
shall be required to:

(i) submit to mandatory registration and public notification  
of all current addresses with the Pennsylvania State Police;

(ii) provide a signed copy of Pennsylvania State Police  
Sexual Offender Registration Notification form and Pennsylvania  
State Police Sexual Offender Registration form to receiving  
state; and

1     (iii) provide a signed copy of Addendum to Application for  
2 Compact Services/Agreement to Return form to receiving state.

3     ~~(4) The receiving state will not consider the acceptance of~~ <—  
4 ~~supervision if the parolee or probationer is already physically~~  
5 ~~present in this State. Investigation and consideration of a case~~  
6 ~~shall occur only after the parolee or probationer returns to the~~  
7 ~~sending state and a proper application is filed.~~

8     (4) EXCEPT AS HEREAFTER PROVIDED, THE RECEIVING STATE SHALL <—  
9 NOT CONSIDER THE ACCEPTANCE OF SUPERVISION IF THE PAROLEE IS  
10 ALREADY PHYSICALLY PRESENT IN THIS STATE. INVESTIGATION AND  
11 CONSIDERATION OF A CASE SHALL OCCUR ONLY AFTER THE PAROLEE  
12 RETURNS TO THE SENDING STATE AND PROPER APPLICATION IS FILED.  
13 THE RECEIVING STATE MAY CONSIDER THE ACCEPTANCE OF SUPERVISION  
14 IF THE PROBATIONER IS ALREADY PHYSICALLY PRESENT IN THIS STATE,  
15 WHERE THE PROBATIONER HAS ESTABLISHED DOMICILE IN THE RECEIVING  
16 STATE BEFORE ADJUDICATION ON THE CRIMINAL OFFENSE.

17     (5) Electronic monitoring and/or other special conditions of  
18 supervision shall be imposed as deemed necessary by the  
19 receiving state.

20     (6) At the request of the receiving state, the sending state  
21 shall agree to retake the parolee or probationer if that  
22 individual violates any condition of probation or parole.

23     (c) Any person who is on parole or probation in another  
24 state and who resides in this Commonwealth in violation of this  
25 section shall be sentenced to pay a fine of not more than ten  
26 thousand dollars (\$10,000) or to imprisonment for not more than  
27 five years, or both.

28     (d) As used in this section, the following words and phrases  
29 shall have the meanings given to them in this subsection:

30     "Other verifiable means of support." The term includes, but

1 is not limited to, support by parent, grandparent, sibling,  
2 spouse or adult child. The term shall not include public  
3 assistance.

4 "Sexual offense."

5 (1) Any of the following or equivalent offenses that is  
6 classified as a felony and involves a victim who is a minor:

7 18 Pa.C.S. § 2901 (relating to kidnapping).

8 18 Pa.C.S. § 5902(b) (relating to prostitution and  
9 related offenses).

10 18 Pa.C.S. § 5903(a)(3), (4), (5) or (6) (relating to  
11 obscene and other sexual materials and performances).

12 (2) Any of the following or equivalent offenses that is  
13 classified as a felony and involves a victim who is less than  
14 thirteen years of age:

15 18 Pa.C.S. § 3126 (relating to indecent assault).

16 (3) Any of the following or equivalent offenses, regardless  
17 of the victim's age:

18 18 Pa.C.S. § 3121 (relating to rape).

19 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual  
20 intercourse).

21 18 Pa.C.S. § 3125 (relating to aggravated indecent  
22 assault).

23 "Violent offense." Any of the following or equivalent  
24 offenses:

25 18 Pa.C.S. § 2502 (relating to murder).

26 18 Pa.C.S. § 2503 (relating to voluntary manslaughter).

27 18 Pa.C.S. § 2702 (relating to aggravated assault).

28 18 Pa.C.S. § 2703 (relating to assault by prisoner).

29 18 Pa.C.S. § 2704 (relating to assault by life prisoner).

30 18 Pa.C.S. § 2901 (relating to kidnapping) where the

1 victim is a minor.

2 18 Pa.C.S. § 3121 (relating to rape).

3 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual  
4 intercourse).

5 18 Pa.C.S. § 3301 (relating to arson and related  
6 offenses).

7 18 Pa.C.S. § 3502 (relating to burglary).

8 18 Pa.C.S. § 3701 (relating to robbery).

9 18 Pa.C.S. § 3923 (relating to theft by extortion) where  
10 a threat of violence is made.

11 A criminal attempt, criminal solicitation or criminal  
12 conspiracy to commit any offenses set forth in this clause.

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

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