

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, MELLOW AND
SALVATORE, JANUARY 16, 1998

AS AMENDED ON THIRD CONSIDERATION, MARCH 17, 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 employees; 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 employees 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 21 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 June 1, 1995 (1st Sp.Sess., P.L.1020,
25 No.16), is amended to read:

1 Section 21. The board is hereby authorized to release on
2 parole any convict confined in any penal institution of this
3 Commonwealth as to whom power to parole is herein granted to
4 said board, except convicts condemned to death or serving life
5 imprisonment, whenever in its opinion the best interests of the
6 convict justify or require his being paroled and it does not
7 appear that the interests of the Commonwealth will be injured
8 thereby. Parole shall be subject in every instance to the
9 Commonwealth's right to immediately retake and hold in custody
10 without further proceedings any parolee charged after his parole
11 with an additional offense, until a determination can be made
12 whether to continue his parole status. The power to parole
13 herein granted to the Board of Parole may not be exercised in
14 the board's discretion at any time before, but only after, the
15 expiration of the minimum term of imprisonment fixed by the
16 court in its sentence or by the Pardon Board in a sentence which
17 has been reduced by commutation. The board may not release a
18 person on parole unless the person achieves a negative result
19 within forty-five days prior to the date of release in a
20 screening test approved by the Department of Health for the
21 detection of the presence of controlled substances or designer
22 drugs under the act of April 14, 1972 (P.L.233, No.64), known as
23 "The Controlled Substance, Drug, Device and Cosmetic Act." The
24 cost of these pre-parole drug screening tests for inmates
25 subject to the parole release jurisdiction of the board, whether
26 confined in a State or local correctional facility, shall be
27 paid by the board. The board shall establish rules and
28 regulations for the payment of these costs and may limit the
29 types and cost of these screening tests that would be subject to
30 payment by the board. The board shall establish, as a condition

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

22 Section 2. Section 21.1 of the act is amended by adding a
23 subsection to read:

24 Section 21.1. * * *

25 (a.1) Subsequent Arrest. The formal filing of a charge after
26 parole against any parolee within this Commonwealth for any
27 violation of the ~~laws~~ STATUTES of this Commonwealth shall <—
28 constitute an automatic detainer and permit him to be taken into
29 and held in custody. The automatic detainer shall dissolve on
30 the fifteenth day after he is taken into custody, unless sooner

1 waived or otherwise superseded by direction of the supervising
2 parole office. The automatic detainer shall be in addition to
3 and not in lieu of any other detainer that heretofore may have
4 been lodged in such circumstances.

5 * * *

6 Section 3. Section 33 of the act, amended December 18, 1996
7 (P.L.1098, No.164), is amended to read:

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

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

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

22 (1) The contracting states solemnly agree that it is
23 competent for the duly constituted judicial and administrative
24 authorities of a state party to this compact, herein called
25 "sending state," to permit any person convicted of an offense
26 within such state and placed on probation or released on parole
27 to reside in any other state, herein called "receiving state,"
28 while on probation or parole, if:

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

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

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

6 (i) Institutional adjustment information on parolees or
7 probationers.

8 (ii) Current supervision history on parolees or
9 probationers.

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

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

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

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

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

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

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

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

29 (4) Except as hereafter provided, the receiving state shall
30 not consider the acceptance of supervision if the parolee is

1 already physically present in this State. Investigation and
2 consideration of a case shall occur only after the parolee
3 returns to the sending state and proper application is filed.
4 The receiving state may consider the acceptance of supervision
5 if the probationer is already physically present in this State,
6 where the probationer has established domicile in the receiving
7 state before adjudication on the criminal offense.

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

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

14 (c) Any person who is on parole or probation in another
15 state and who resides in this Commonwealth in violation of this
16 section shall be COMMITS A MISDEMEANOR OF THE FIRST DEGREE AND <—
17 SHALL BE sentenced to pay a fine of not more than ten thousand
18 dollars (\$10,000) or to imprisonment for not more than five
19 years, or both.

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

22 "Other verifiable means of support." The term includes, but
23 is not limited to, support by parent, grandparent, sibling,
24 spouse or adult child. The term shall not include public
25 assistance.

26 "Sexual offense."

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

29 18 Pa.C.S. § 2901 (relating to kidnapping).

30 18 Pa.C.S. § 5902(b) (relating to prostitution and

1 related offenses).

2 18 Pa.C.S. § 5903(a)(3), (4), (5) or (6) (relating to
3 obscene and other sexual materials and performances).

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

7 18 Pa.C.S. § 3126 (relating to indecent assault).

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

10 18 Pa.C.S. § 3121 (relating to rape).

11 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
12 intercourse).

13 18 Pa.C.S. § 3125 (relating to aggravated indecent
14 assault).

15 "Violent offense." Any of the following or equivalent
16 offenses:

17 18 Pa.C.S. § 2502 (relating to murder).

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

19 18 Pa.C.S. § 2702 (relating to aggravated assault).

20 18 Pa.C.S. § 2703 (relating to assault by prisoner).

21 18 Pa.C.S. § 2704 (relating to assault by life prisoner).

22 18 Pa.C.S. § 2901 (relating to kidnapping) where the
23 victim is a minor.

24 18 Pa.C.S. § 3121 (relating to rape).

25 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
26 intercourse).

27 18 Pa.C.S. § 3301 (relating to arson and related
28 offenses).

29 18 Pa.C.S. § 3502 (relating to burglary).

30 18 Pa.C.S. § 3701 (relating to robbery).

1 18 Pa.C.S. § 3923 (relating to theft by extortion) where
2 a threat of violence is made.

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

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