

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2634 Session of  
1992

INTRODUCED BY SAURMAN, MERRY, NOYE, FARMER, DEMPSEY, STEELMAN,  
NAHILL, GANNON, ARGALL, HARLEY, PETRONE, E. Z. TAYLOR, TIGUE,  
GERLACH, S. H. SMITH, FLICK, ARMSTRONG, DeLUCA, WOZNIAK,  
KING, SEMMEL, CESSAR, PICCOLA, D. W. SNYDER, CLYMER, JOHNSON,  
M. N. WRIGHT, PITTS, FARGO, DENT, HAGARTY, CORNELL, MCHUGH  
AND ANDERSON, MAY 4, 1992

REFERRED TO COMMITTEE ON JUDICIARY, MAY 4, 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," providing for a literacy requirement as a  
18 condition of eligibility for parole; making an editorial  
19 change; and making an appropriation.

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 July 11, 1990 (P.L.476, No.114), is amended

1 to read:

2 Section 21. (a) The board is hereby authorized to release  
3 on parole any convict confined in any penal institution of this  
4 Commonwealth as to whom power to parole is herein granted to  
5 said board, except convicts condemned to death or serving life  
6 imprisonment and except convicts who do not, as determined by  
7 the Division of Correction Education of the Department of  
8 Education, the Department of Corrections and the board, acquire  
9 basic skills, whenever in [its] the board's opinion the best  
10 interests of the convict justify or require his being paroled  
11 and it does not appear that the interests of the Commonwealth  
12 will be injured thereby. The acquisition-of-basic-skills  
13 exception shall apply to those incarcerated under a sentence of  
14 five years or less who do not demonstrate one and one-half  
15 years' progress in the acquisition of basic skills in each year  
16 of confinement. The acquisition-of-basic-skills exception shall  
17 not apply to individuals who are in the custody of the  
18 Department of Corrections for less than one year, to individuals  
19 whose minimum sentence expires within one year of the effective  
20 date of this amendatory act, to individuals who can demonstrate  
21 the basic skills, or to individuals who have been determined by  
22 the Division of Correction Education to be so educationally or  
23 mentally retarded as to be unable to learn the basic skills at  
24 the required levels. The power to parole herein granted to the  
25 [Board of Parole] board may not be exercised in the board's  
26 discretion at any time before, but only after, the expiration of  
27 the minimum term of imprisonment fixed by the court in its  
28 sentence or by the [Pardon] Board of Pardons in a sentence which  
29 has been reduced by commutation: Provided, however, That if the  
30 [Board of Parole] board refuse to parole the prisoner at the

1 expiration of any minimum term fixed by the [Pardon] Board of  
2 Pardons, it shall, within ten days after the date when the  
3 minimum term expired, transmit to the [Pardon] Board of Pardons  
4 a written statement of the reasons for refusal to parole the  
5 prisoner at the expiration of the minimum term fixed by the  
6 [Pardon] Board of Pardons. Thereafter, the [Pardon] Board of  
7 Pardons may either accept the action of the [Board of Parole]  
8 board, or order the immediate release of the prisoner on parole,  
9 under the supervision of the [Board of Parole] board. The board  
10 may not release a person on parole unless the person achieves a  
11 negative result within one week prior to the date of release in  
12 a screening test approved by the Department of Health for the  
13 detection of the presence of controlled substances or designer  
14 drugs under the act of April 14, 1972 (P.L.233, No.64), known as  
15 "The Controlled Substance, Drug, Device and Cosmetic Act." The  
16 cost of these pre-parole drug screening tests for inmates  
17 subject to the parole release jurisdiction of the board, whether  
18 confined in a State or local correctional facility, shall be  
19 paid by the board. The board shall establish rules and  
20 regulations for the payment of these costs and may limit the  
21 types and cost of these screening tests that would be subject to  
22 payment by the board. The board shall establish, as a condition  
23 of continued parole for a parolee who, as an inmate, tested  
24 positive for the presence of a controlled substance or a  
25 designer drug or who was paroled from a sentence arising from a  
26 conviction under "The Controlled Substance, Drug, Device and  
27 Cosmetic Act," or from a drug-related crime, the parolee's  
28 achievement of negative results in such screening tests randomly  
29 applied. The random screening tests shall be performed at the  
30 discretion of the board, and the parolee undergoing the tests

1 shall be responsible for the costs of the tests. The funds  
2 collected for the tests shall be applied against the contract  
3 for such testing between the board and a testing laboratory  
4 approved by the Department of Health. Said board shall have the  
5 power during the period for which a person shall have been  
6 sentenced to recommit one paroled for violation of the terms and  
7 conditions of his parole and from time to time to reparole and  
8 recommit in the same manner and with the same procedure as in  
9 the case of an original parole or recommitment, if, in the  
10 judgment of the said board, there is a reasonable probability  
11 that the convict will be benefited by again according him  
12 liberty and it does not appear that the interests of the  
13 Commonwealth will be injured thereby.

14 (b) As used in this section the following words and phrases  
15 shall have the meanings given to them in this subsection:

16 "Adult functional literacy proficiency." The ability to  
17 apply basic skills to adult tasks of daily living.

18 "Basic skills." The ability to demonstrate marginal literacy  
19 on a test of adult functional literacy proficiency or to  
20 demonstrate significant progress, consonant with the term of  
21 confinement, in the attainment of marginal literacy.

22 Section 2. The General Assembly finds and declares as  
23 follows:

24 (1) There are basic skills essential for adults to  
25 acquire in order to cope with the demands of daily living and  
26 to participate as productive members of society.

27 (2) Incarcerated individuals may be lacking in the basic  
28 skills described in paragraph (1).

29 (3) It is in the best interest of society that parolees  
30 acquire the basic skills described in paragraph (1) to insure

1       their coping with the demands of daily living and their  
2       participation as productive members of society and to reduce  
3       the risk of return to criminal activity.

4           (4) It is the long-term goal of the General Assembly  
5       that, in the best interests of the Commonwealth, incarcerated  
6       individuals who are eligible for release or parole attain an  
7       eighth-grade level of reading.

8       Section 3. The Division of Correction Education in the  
9       Department of Education, the Department of Corrections and the  
10      Pennsylvania Board of Probation and Parole shall jointly  
11      formulate and promulgate regulations to administer the basic  
12      skills provisions of section 1 (section 21) of this act.

13      Section 4. The sum of \$1,000,000, or as much thereof as may  
14      be necessary, is hereby appropriated to the Division of  
15      Correction Education in the Department of Education, for the  
16      fiscal year July 1, 1992, to June 30, 1993, to ensure the  
17      attainment of marginal literacy by prospective parolees.

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