

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 223 Session of
1995

INTRODUCED BY JUBELIRER, WILLIAMS, WAGNER, BELL, HELFRICK,
SHUMAKER, SALVATORE, JONES, PUNT, STAPLETON, RHOADES, BAKER,
WENGER, BRIGHTBILL, AFFLERBACH, LAVALLE, DAWIDA, SCHWARTZ,
CORMAN, HECKLER, GERLACH, MADIGAN, ANDREZESKI, MUSTO, HOLL,
HUGHES, HART, LEMMOND AND TARTAGLIONE, JANUARY 23, 1995

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
SEPTEMBER 20, 1995

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, PROVIDING FOR POWERS OF STATE PAROLE <—
3 AGENTS AND COUNTY PROBATION AND PAROLE OFFICERS TO CONDUCT
4 CERTAIN SEARCHES; AND further providing for criminal
5 trespass.

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

8 ~~Section 1. Section 3503 of Title 18 of the Pennsylvania~~ <—
9 ~~Consolidated Statutes is amended by adding a subsection to read:~~

10 SECTION 1. TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED <—

11 STATUTES IS AMENDED BY ADDING SECTIONS TO READ:

12 § 1109. AUTHORITY OF STATE PAROLE AGENTS TO CONDUCT SEARCH.

13 (A) RELATIONSHIP TO OFFENDER.--STATE PAROLE AGENTS ARE IN A
14 SUPERVISORY RELATIONSHIP WITH THEIR OFFENDERS. THE PURPOSE OF
15 THIS SUPERVISION IS TO ASSIST THE OFFENDERS IN THEIR
16 REHABILITATION AND REASSIMILATION INTO THE COMMUNITY AND TO
17 PROTECT THE PUBLIC.

1 (B) SEARCH OF PERSON AND PROPERTY OF STATE OFFENDER.--STATE
2 PAROLE AGENTS ARE AUTHORIZED TO SEARCH THE PERSON AND PROPERTY
3 OF STATE OFFENDERS IN ACCORDANCE WITH THE PROVISIONS OF THIS
4 SECTION.

5 (C) VIOLATION NOT GROUNDS FOR SUPPRESSION.--NO VIOLATION OF
6 THIS SECTION SHALL CONSTITUTE AN INDEPENDENT GROUND FOR
7 SUPPRESSION OF EVIDENCE IN ANY PROBATION/PAROLE OR CRIMINAL
8 PROCEEDING.

9 (D) CONDUCT OF SEARCH.--

10 (1) A PERSONAL SEARCH OF AN OFFENDER MAY BE CONDUCTED BY
11 ANY AGENT UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

12 (I) IF THERE IS A REASONABLE SUSPICION TO BELIEVE
13 THAT THE OFFENDER POSSESSES CONTRABAND OR OTHER EVIDENCE
14 OF VIOLATIONS OF THE CONDITIONS OF SUPERVISION.

15 (II) WHEN AN OFFENDER IS TRANSPORTED OR TAKEN INTO
16 CUSTODY.

17 (III) UPON AN OFFENDER ENTERING OR LEAVING THE
18 SECURING ENCLOSURE OF A CORRECTIONAL INSTITUTION, JAIL OR
19 DETENTION FACILITY.

20 (2) A PROPERTY SEARCH MAY BE CONDUCTED BY ANY AGENT IF
21 THERE IS REASONABLE SUSPICION TO BELIEVE THAT THE OFFENDER'S
22 REAL PROPERTY OR OTHER PROPERTY CONTAINS CONTRABAND OR OTHER
23 EVIDENCE OF VIOLATIONS OF THE CONDITIONS OF SUPERVISION.

24 (3) PRIOR APPROVAL OF A SUPERVISOR SHALL BE OBTAINED FOR
25 A PROPERTY SEARCH ABSENT EXIGENT CIRCUMSTANCES. NO PRIOR
26 APPROVAL SHALL BE REQUIRED FOR A PERSONAL SEARCH.

27 (4) A WRITTEN REPORT OF EVERY PROPERTY SEARCH CONDUCTED
28 WITHOUT PRIOR APPROVAL SHALL BE PREPARED BY THE AGENT WHO
29 CONDUCTED THE SEARCH AND FILED IN THE OFFENDER'S CASE RECORD.
30 THE EXIGENT CIRCUMSTANCES SHALL BE STATED IN THE REPORT.

1 (5) THE OFFENDER MAY BE DETAINED IF HE IS PRESENT DURING
2 A PROPERTY SEARCH. IF THE OFFENDER IS NOT PRESENT DURING A
3 PROPERTY SEARCH, THE AGENT IN CHARGE OF THE SEARCH SHALL
4 ATTEMPT TO PROVIDE THE OFFENDER WITH NOTICE OF THE SEARCH,
5 INCLUDING A LIST OF THE ITEMS SEIZED, AFTER THE SEARCH IS
6 COMPLETED.

7 (6) THE EXISTENCE OF REASONABLE SUSPICION TO SEARCH
8 SHALL BE DETERMINED IN ACCORDANCE WITH CONSTITUTIONAL SEARCH
9 AND SEIZURE PROVISIONS AS APPLIED BY JUDICIAL DECISION. IN
10 ACCORDANCE WITH SUCH CASE LAW, THE FOLLOWING FACTORS, WHERE
11 APPLICABLE, MAY BE TAKEN INTO ACCOUNT:

12 (I) THE OBSERVATIONS OF AGENTS.

13 (II) INFORMATION PROVIDED BY OTHERS.

14 (III) THE ACTIVITIES OF THE OFFENDER.

15 (IV) INFORMATION PROVIDED BY THE OFFENDER.

16 (V) THE EXPERIENCE OF AGENTS WITH THE OFFENDER.

17 (VI) THE EXPERIENCE OF AGENTS IN SIMILAR
18 CIRCUMSTANCES.

19 (VII) THE PRIOR CRIMINAL AND SUPERVISORY HISTORY OF
20 THE OFFENDER.

21 (VIII) THE NEED TO VERIFY COMPLIANCE WITH THE
22 CONDITIONS OF SUPERVISION.

23 (E) SEARCH OF OFFENDER RESIDING IN FOREIGN STATE.--NO AGENT
24 SHALL CONDUCT A PERSONAL OR PROPERTY SEARCH OF AN OFFENDER WHO
25 IS RESIDING IN A FOREIGN STATE, EXCEPT FOR THE LIMITED PURPOSES
26 PERMITTED UNDER THE INTERSTATE COMPACT FOR THE SUPERVISION OF
27 OFFENDERS AND PROBATIONERS. THE OFFENDER IS HELD ACCOUNTABLE TO
28 THE RULES OF BOTH THE SENDING STATE AND THE RECEIVING STATE. ANY
29 PERSONAL OR PROPERTY SEARCH OF AN OFFENDER RESIDING IN ANOTHER
30 STATE SHALL BE CONDUCTED BY AN AGENT OF THE RECEIVING STATE.

1 (F) REGULATION BY BOARD NOT REQUIRED.--THE AUTHORITY GRANTED
2 TO AGENTS UNDER THIS SECTION SHALL BE EFFECTIVE UPON ENACTMENT,
3 WITHOUT THE NECESSITY OF ANY FURTHER REGULATION BY THE BOARD.

4 (G) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
5 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
6 SUBSECTION:

7 "AGENT." A PAROLE OFFICER APPOINTED BY THE PENNSYLVANIA
8 BOARD OF PROBATION AND PAROLE.

9 "BOARD." THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE.

10 "CONDITIONS OF SUPERVISION." ANY TERMS OR CONDITIONS OF THE
11 OFFENDER'S SUPERVISION, WHETHER IMPOSED BY THE COURT, THE
12 PENNSYLVANIA BOARD OF PROBATION AND PAROLE OR AN AGENT,
13 INCLUDING COMPLIANCE WITH ALL REQUIREMENTS OF FEDERAL, STATE AND
14 LOCAL LAW.

15 "CONTRABAND." ANY ITEM THAT THE OFFENDER IS NOT PERMITTED TO
16 POSSESS UNDER THE CONDITIONS OF SUPERVISION, INCLUDING ANY ITEM
17 WHOSE POSSESSION IS FORBIDDEN BY ANY FEDERAL, STATE OR LOCAL
18 LAW.

19 "COURT." THE COURT OF COMMON PLEAS OR ANY JUDGE THEREOF, THE
20 PHILADELPHIA MUNICIPAL COURT OR ANY JUDGE THEREOF, THE
21 PITTSBURGH MAGISTRATES COURT OR ANY JUDGE THEREOF OR ANY
22 DISTRICT JUSTICE.

23 "EXIGENT CIRCUMSTANCES." INCLUDES, BUT IS NOT LIMITED TO,
24 SUSPICION THAT CONTRABAND OR OTHER EVIDENCE OF VIOLATIONS OF THE
25 CONDITIONS OF SUPERVISION MIGHT BE DESTROYED OR SUSPICION THAT A
26 WEAPON MIGHT BE USED. EXIGENT CIRCUMSTANCES ALWAYS EXIST WITH
27 RESPECT TO A VEHICLE.

28 "OFFENDER." ANY PERSON SUBJECT TO THE PAROLE OR PROBATIONARY
29 SUPERVISION OF THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE.

30 "PERSONAL SEARCH." A WARRANTLESS SEARCH OF AN OFFENDER'S

PERSON, INCLUDING, BUT NOT LIMITED TO, THE OFFENDER'S CLOTHING
AND ANY PERSONAL PROPERTY IN THE OFFENDER'S POSSESSION OR WITHIN
HIS REACH.

"PROPERTY SEARCH." A WARRANTLESS SEARCH OF AN OFFENDER'S
REAL PROPERTY, VEHICLE OR PERSONAL PROPERTY, INCLUDING PROPERTY
WITHIN THE OFFENDER'S CONTROL.

"REAL PROPERTY." ANY RESIDENCE OR BUSINESS PROPERTY OF THE
OFFENDER, INCLUDING ALL PORTIONS OF THE PROPERTY TO WHICH THE
OFFENDER HAS ACCESS.

"SUPERVISOR." ANY INDIVIDUAL ACTING IN A SUPERVISORY OR
ADMINISTRATIVE CAPACITY.

§ 1110. AUTHORITY OF COUNTY PROBATION AND PAROLE OFFICERS TO
CONDUCT SEARCH.

(A) RELATIONSHIP TO OFFENDER.--COUNTY PROBATION AND PAROLE
OFFICERS ARE IN A SUPERVISORY RELATIONSHIP WITH THEIR OFFENDERS.
THE PURPOSE OF THIS SUPERVISION IS TO ASSIST THE OFFENDERS IN
THEIR REHABILITATION AND REASSIMILATION INTO THE COMMUNITY AND
TO PROTECT THE PUBLIC.

(B) SEARCH OF PERSON AND PROPERTY OF COUNTY OFFENDER.--
COUNTY PROBATION AND PAROLE OFFICERS ARE AUTHORIZED TO SEARCH
THE PERSON AND PROPERTY OF COUNTY OFFENDERS IN ACCORDANCE WITH
THE PROVISIONS OF THIS SECTION.

(C) VIOLATION NOT GROUNDS FOR SUPPRESSION.--NO VIOLATION OF
THIS SECTION SHALL CONSTITUTE AN INDEPENDENT GROUND FOR
SUPPRESSION OF EVIDENCE IN ANY PROBATION AND PAROLE OR CRIMINAL
PROCEEDING.

(D) CONDUCT OF SEARCH.--

(1) A PERSONAL SEARCH OF AN OFFENDER MAY BE CONDUCTED BY
ANY OFFICER UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

(I) IF THERE IS A REASONABLE SUSPICION TO BELIEVE

1 THAT THE OFFENDER POSSESSES CONTRABAND OR OTHER EVIDENCE
2 OF VIOLATIONS OF THE CONDITIONS OF SUPERVISION.

3 (II) WHEN AN OFFENDER IS TRANSPORTED OR TAKEN INTO
4 CUSTODY.

5 (III) UPON AN OFFENDER ENTERING OR LEAVING THE
6 SECURING ENCLOSURE OF A CORRECTIONAL INSTITUTION, JAIL OR
7 DETENTION FACILITY.

8 (2) A PROPERTY SEARCH MAY BE CONDUCTED BY ANY OFFICER IF
9 THERE IS REASONABLE SUSPICION TO BELIEVE THAT THE OFFENDER'S
10 REAL PROPERTY OR OTHER PROPERTY CONTAINS CONTRABAND OR OTHER
11 EVIDENCE OF VIOLATIONS OF THE CONDITIONS OF SUPERVISION.

12 (3) PRIOR APPROVAL OF A SUPERVISOR SHALL BE OBTAINED FOR
13 A PROPERTY SEARCH ABSENT EXIGENT CIRCUMSTANCES. NO PRIOR
14 APPROVAL SHALL BE REQUIRED FOR A PERSONAL SEARCH.

15 (4) A WRITTEN REPORT OF EVERY PROPERTY SEARCH CONDUCTED
16 WITHOUT PRIOR APPROVAL SHALL BE PREPARED BY THE OFFICER WHO
17 CONDUCTED THE SEARCH AND FILED IN THE OFFENDER'S CASE RECORD.
18 THE EXIGENT CIRCUMSTANCES SHALL BE STATED IN THE REPORT.

19 (5) THE OFFENDER MAY BE DETAINED IF HE IS PRESENT DURING
20 A PROPERTY SEARCH. IF THE OFFENDER IS NOT PRESENT DURING A
21 PROPERTY SEARCH, THE OFFICER IN CHARGE OF THE SEARCH SHALL
22 ATTEMPT TO PROVIDE THE OFFENDER WITH NOTICE OF THE SEARCH,
23 INCLUDING A LIST OF THE ITEMS SEIZED, AFTER THE SEARCH IS
24 COMPLETED.

25 (6) THE EXISTENCE OF REASONABLE SUSPICION TO SEARCH
26 SHALL BE DETERMINED IN ACCORDANCE WITH CONSTITUTIONAL SEARCH
27 AND SEIZURE PROVISIONS AS APPLIED BY JUDICIAL DECISION. IN
28 ACCORDANCE WITH SUCH CASE LAW, THE FOLLOWING FACTORS, WHERE
29 APPLICABLE, MAY BE TAKEN INTO ACCOUNT:

30 (I) THE OBSERVATIONS OF OFFICERS.

1 (II) INFORMATION PROVIDED BY OTHERS.

2 (III) THE ACTIVITIES OF THE OFFENDER.

3 (IV) INFORMATION PROVIDED BY THE OFFENDER.

4 (V) THE EXPERIENCE OF THE OFFICERS WITH THE
5 OFFENDER.

6 (VI) THE EXPERIENCE OF OFFICERS IN SIMILAR
7 CIRCUMSTANCES.

8 (VII) THE PRIOR CRIMINAL AND SUPERVISORY HISTORY OF
9 THE OFFENDER.

10 (VIII) THE NEED TO VERIFY COMPLIANCE WITH THE
11 CONDITIONS OF SUPERVISION.

12 (E) SEARCH OF OFFENDER RESIDING IN FOREIGN STATE.--NO
13 OFFICER SHALL CONDUCT A PERSONAL OR PROPERTY SEARCH OF AN
14 OFFENDER WHO IS RESIDING IN A FOREIGN STATE, EXCEPT FOR THE
15 LIMITED PURPOSES PERMITTED UNDER THE INTERSTATE COMPACT FOR THE
16 SUPERVISION OF PAROLEES AND PROBATIONERS. THE OFFENDER IS HELD
17 ACCOUNTABLE TO THE RULES OF BOTH THE SENDING STATE AND THE
18 RECEIVING STATE. ANY PERSONAL OR PROPERTY SEARCH OF AN OFFENDER
19 RESIDING IN ANOTHER STATE SHALL BE CONDUCTED BY AN OFFICER OF
20 THE RECEIVING STATE.

21 (F) REGULATION BY BOARD NOT REQUIRED.--THE AUTHORITY GRANTED
22 TO THE OFFICERS UNDER THIS SECTION SHALL BE EFFECTIVE UPON
23 ENACTMENT, WITHOUT THE NECESSITY OF ANY FURTHER REGULATION BY
24 THE BOARD.

25 (G) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
26 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
27 SUBSECTION:

28 "BOARD." THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE.

29 "CONDITIONS OF SUPERVISION." ANY TERMS OR CONDITIONS OF THE
30 OFFENDER'S SUPERVISION, WHETHER IMPOSED BY THE COURT OR AN

1 OFFICER, INCLUDING COMPLIANCE WITH ALL REQUIREMENTS OF FEDERAL,
2 STATE AND LOCAL LAW.

3 "CONTRABAND." ANY ITEM THAT THE OFFENDER IS NOT PERMITTED TO
4 POSSESS UNDER THE CONDITIONS OF SUPERVISION, INCLUDING ANY ITEM
5 WHOSE POSSESSION IS FORBIDDEN BY ANY FEDERAL, STATE OR LOCAL
6 LAW.

7 "COURT." THE COURT OF COMMON PLEAS OR ANY JUDGE THEREOF, THE
8 PHILADELPHIA MUNICIPAL COURT OR ANY JUDGE THEREOF, THE
9 PITTSBURGH MAGISTRATES COURT OR ANY JUDGE THEREOF OR ANY
10 DISTRICT JUSTICE.

11 "EXIGENT CIRCUMSTANCES." INCLUDES, BUT IS NOT LIMITED TO,
12 SUSPICION THAT CONTRABAND OR OTHER EVIDENCE OF VIOLATIONS OF THE
13 CONDITIONS OF SUPERVISION MIGHT BE DESTROYED OR SUSPICION THAT A
14 WEAPON MIGHT BE USED. EXIGENT CIRCUMSTANCES ALWAYS EXIST WITH
15 RESPECT TO A VEHICLE.

16 "OFFENDER." ANY PERSON RELEASED ON COUNTY PROBATION,
17 INTERMEDIATE PUNISHMENT OR COUNTY PAROLE. THE TERM SHALL NOT
18 INCLUDE ANY PERSON SERVING A PERIOD OF PROBATION PURSUANT TO
19 ACCELERATED REHABILITATIVE DISPOSITION.

20 "OFFICER." A PROBATION OR PAROLE OFFICER APPOINTED OR
21 EMPLOYED BY ANY COURT OR BY ANY COUNTY DEPARTMENT OF PROBATION
22 AND PAROLE TO SUPERVISE PERSONS RELEASED ON COUNTY PROBATION OR
23 PAROLE.

24 "PERSONAL SEARCH." A WARRANTLESS SEARCH OF AN OFFENDER'S
25 PERSON, INCLUDING, BUT NOT LIMITED TO, THE OFFENDER'S CLOTHING
26 AND ANY PERSONAL PROPERTY IN THE OFFENDER'S POSSESSION OR WITHIN
27 HIS REACH.

28 "PROPERTY SEARCH." A WARRANTLESS SEARCH OF AN OFFENDER'S
29 REAL PROPERTY, VEHICLE OR PERSONAL PROPERTY INCLUDING PROPERTY
30 WITHIN THE OFFENDER'S CONTROL.

1 "REAL PROPERTY." ANY RESIDENCE OR BUSINESS PROPERTY OF THE
2 OFFENDER, INCLUDING ALL PORTIONS OF THE PROPERTY TO WHICH THE
3 OFFENDER HAS ACCESS.

4 "SUPERVISOR." ANY INDIVIDUAL ACTING IN A SUPERVISORY OR
5 ADMINISTRATIVE CAPACITY.

6 SECTION 2. SECTION 3503 OF TITLE 18 IS AMENDED BY ADDING A
7 SUBSECTION TO READ:

8 § 3503. Criminal trespass.

9 * * *

10 (b.1) Simple trespasser.--

11 (1) A person commits an offense if, knowing that he is
12 not licensed or privileged to do so, he enters or remains in
13 any place for the purpose of:

14 (i) threatening or terrorizing the owner or occupant
15 of the premises;

16 (ii) starting or causing to be started any fire upon
17 the premises; or

18 (iii) defacing or damaging the premises.

19 (2) An offense under this subsection constitutes a
20 summary offense.

21 * * *

22 Section ~~2~~ 3. This act shall take effect in 60 days.

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