

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 557 Session of  
2005

INTRODUCED BY GREENLEAF, COSTA, LEMMOND, O'PAKE, RAFFERTY,  
BOSCOLA, PUNT, TARTAGLIONE, KITCHEN, RHOADES, WOZNIAK,  
C. WILLIAMS AND FERLO, MARCH 31, 2005

AS AMENDED ON SECOND CONSIDERATION, JUNE 28, 2006

## AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for weapons or  
3 implements for escape and for contraband; and making a  
4 conforming amendment.

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

7 Section 1. Sections 5122 and 5123 of Title 18 of the  
8 Pennsylvania Consolidated Statutes are amended to read:

9 § 5122. Weapons [or implements for escape], implements of  
10 escape or dangerous material.

11 (a) Offenses defined.--

12 (1) [A person commits a misdemeanor of the first] An  
13 individual commits a felony of the second degree if he  
14 [unlawfully introduces within a detention facility,  
15 correctional institution or mental hospital, or unlawfully  
16 provides an inmate thereof with any weapon, tool, implement,  
17 or other thing] delivers to an inmate A CONFINED PERSON a  
18 weapon, implement of escape, dangerous material or other item <—

1 which may be used for escape.

2 (2) [An inmate] A CONFINED PERSON commits a [misdemeanor <—  
3 of the first] felony of the second degree if he [unlawfully  
4 procures, makes or otherwise provides himself with, or  
5 unlawfully has in his possession or under his control, any  
6 weapon, tool, implement or other thing] possesses a weapon,  
7 implement of escape, dangerous material or other item which  
8 may be used for escape.

9 (b) [Definitions.--

10 (1) As used in this section, the word "unlawfully" means  
11 surreptitiously or contrary to law, regulation or order of  
12 the detaining authority.

13 (2) As used in this section, the word "weapon" means any  
14 implement readily capable of lethal use and shall include any  
15 firearm, ammunition, knife, dagger, razor, other cutting or  
16 stabbing implement or club, including any item which has been  
17 modified or adopted so that it can be used as a firearm,  
18 ammunition, knife, dagger, razor, other cutting or stabbing  
19 implement, or club. The word "firearm" includes an unloaded  
20 firearm and the unassembled components of a firearm.]

21 Definitions.--As used in this section, the following words and  
22 phrases shall have the meanings given to them in this  
23 subsection:

24 "CONFINED PERSON." AN INDIVIDUAL COMMITTED PURSUANT TO A <—  
25 COURT ORDER TO A CORRECTIONAL INSTITUTION, MENTAL HOSPITAL,  
26 YOUTH DEVELOPMENT CENTER, YOUTH FORESTRY CAMP OR OTHER FACILITY  
27 FOR THE DETENTION OR INCARCERATION OF INDIVIDUALS PURSUANT TO A  
28 COURT ORDER, REGARDLESS OF WHETHER THE INDIVIDUAL IS TEMPORARILY  
29 ABSENT DUE TO MEDICAL TREATMENT, TRANSPORTATION, COURT  
30 APPEARANCE OR OTHER REASON FOR A TEMPORARY ABSENCE.

1     "Dangerous material." Any incendiary material or device,  
2 highly flammable or caustic liquid, explosive, bullet or other  
3 material readily capable of causing death or serious bodily  
4 injury.

5     "Delivers." The transfer of a weapon, implement of escape or  
6 dangerous material to an inmate A CONFINED PERSON in a <—  
7 correctional institution, mental hospital, youth development  
8 center, youth forestry camp or other facility for the detention  
9 or incarceration of individuals pursuant to court order,  
10 building appurtenant thereto or any other place. The term  
11 includes taking into or introducing a weapon, implement of  
12 escape or dangerous material into a correctional institution,  
13 mental hospital, youth development center, youth forestry camp  
14 or other facility for the detention or incarceration of  
15 individuals pursuant to court order, building appurtenant  
16 thereto, on land granted to, owned by or leased by the  
17 Commonwealth or a political subdivision that is related to the  
18 confinement of inmates PERSONS. The term includes putting a <—  
19 weapon, implement of escape or dangerous material in a place  
20 where it may be obtained by an inmate A CONFINED PERSON. <—

21     "Implement of escape." A tool, implement, device, equipment  
22 or other item that can facilitate, aid or conceal an escape or  
23 attempted escape by an inmate A CONFINED PERSON. <—

24     "Inmate." An individual committed pursuant to a court order <—  
25 to a correctional institution, mental hospital, youth  
26 development center, youth forestry camp or other facility for  
27 the detention or incarceration of individuals pursuant to a  
28 court order, regardless of whether the individual is temporarily  
29 absent due to medical treatment, transportation, court  
30 appearance or other reason for a temporary absence.

1     "Weapon." An implement readily capable of lethal use,  
2     including any firearm, knife, dagger, razor, other cutting or  
3     stabbing implement or club. The term includes any item which has  
4     been modified or adapted so that it can be used as a firearm,  
5     knife, dagger, razor, other cutting or stabbing implement or  
6     club. For purposes of this definition, the term "firearm"  
7     includes an unloaded firearm or the unassembled components of a  
8     firearm.

9     § 5123. Contraband.

10     (a) Controlled substance contraband to ~~†confined persons†~~ <—  
11     ~~inmates~~ prohibited.--[A person] An individual commits a felony  
12     of the second degree if he [sells, gives, transmits or furnishes  
13     to any convict in a prison, or inmate in a mental hospital, or  
14     gives away in or brings into any prison, mental hospital, or any  
15     building appurtenant thereto, or on the land granted to or owned  
16     or leased by the Commonwealth or county for the use and benefit  
17     of the prisoners or inmates, or puts in any place where it may  
18     be secured by a convict of a prison, inmate of a mental  
19     hospital, or employee thereof, any] delivers to an inmate A <—  
20     CONFINED PERSON or employee of a correctional institution,  
21     mental hospital, youth development center, youth forestry camp  
22     or other facility for the detention or incarceration of  
23     individuals pursuant to court order, a controlled substance  
24     included in Schedules I through V of the act of April 14, 1972  
25     (P.L.233, No.64), known as The Controlled Substance, Drug,  
26     Device and Cosmetic Act, (except the ordinary hospital supply of  
27     the [prison or mental hospital] correctional institution, mental  
28     hospital, youth development center, youth forestry camp or other  
29     facility for the detention or incarceration of individuals  
30     pursuant to court order) without a written permit signed by the

1 physician of such institution, specifying the quantity and  
2 quality of the substance which may be furnished to [any convict,  
3 inmate, or employee in the prison or mental hospital,] the  
4 ~~inmate~~ CONFINED PERSON, the name of the [prisoner, inmate, or <—  
5 employee for whom,] ~~inmate~~ CONFINED PERSON and the time when the <—  
6 same may be furnished[, which permit shall be delivered to and  
7 kept by the warden or superintendent of the prison or mental  
8 hospital].

9 (a.1) Mandatory minimum penalty.--[Any person] An individual  
10 convicted of a violation of subsection (a) shall be sentenced to  
11 a minimum sentence of at least two years of total confinement,  
12 notwithstanding any other provision of this title or any other  
13 statute to the contrary. Nothing in this subsection shall  
14 prevent the sentencing court from imposing a sentence greater  
15 than that provided in this subsection, up to the maximum penalty  
16 prescribed by this title for a felony of the second degree.  
17 There shall be no authority in any court to impose on an  
18 offender to which this subsection is applicable any lesser  
19 sentence than provided for in subsection (a) or to place such  
20 offender on probation or to suspend sentence. Sentencing  
21 guidelines promulgated by the Pennsylvania Commission on  
22 Sentencing shall not supersede the mandatory sentences provided  
23 in this subsection. If a sentencing court refuses to apply this  
24 subsection where applicable, the Commonwealth shall have the  
25 right to appellate review of the action of the sentencing court.  
26 The appellate court shall vacate the sentence and remand the  
27 case to the sentencing court for imposition of a sentence in  
28 accordance with this subsection if it finds that the sentence  
29 was imposed in violation of this subsection. Nothing in this  
30 subsection shall preclude prosecution for a more serious

1 violation of The Controlled Substance, Drug, Device and Cosmetic  
2 Act.

3 (a.2) Possession of controlled substance contraband by an <—  
4 ~~inmate prohibited. [A prisoner or] An inmate commits a felony~~  
5 [INMATE] A CONFINED PERSON PROHIBITED.--[A PRISONER OR INMATE] A <—  
6 CONFINED PERSON COMMITS A FELONY of the second degree if he  
7 unlawfully has in his possession or under his control any  
8 controlled substance in violation of section 13(a)(16) of The  
9 Controlled Substance, Drug, Device and Cosmetic Act. For  
10 purposes of this subsection, no amount shall be deemed de  
11 minimis.

12 (b) Money to inmates prohibited.--[A person] An individual  
13 commits a misdemeanor of the [third] first degree if he [gives  
14 or furnishes money to any inmate confined in a State or county]  
15 delivers money to an inmate committed to a correctional  
16 institution as defined in section 501 (relating to definitions),  
17 provided notice of this prohibition is adequately posted at the  
18 institution. [A person] An individual may, however, deposit  
19 money with the superintendent, warden, or other authorized  
20 individual in charge of a [State or county] correctional  
21 institution for the benefit and use of an inmate confined  
22 therein, which shall be credited to the inmate's account and  
23 expended in accordance with the rules and regulations of the  
24 institution. The person making the deposit shall be provided  
25 with a written receipt for the amount deposited.

26 (c) [Contraband other than controlled substance.--A person]  
27 Other contraband.--An individual commits a misdemeanor of the  
28 first degree if he [sells, gives or furnishes to any convict in  
29 a prison, or inmate in a mental hospital, or gives away in or  
30 brings into any prison, mental hospital, or any building

1 appurtenant thereto, or on the land granted to or owned or  
2 leased by the Commonwealth or county for the use and benefit of  
3 the prisoners or inmates, or puts in any place where it may be  
4 secured by a convict of a prison, inmate of a mental hospital,  
5 or employee thereof,] delivers to an inmate A CONFINED PERSON: <—

6       (1) any kind of spirituous or fermented liquor, poison  
7 or medicine [or poison] (except the ordinary hospital supply  
8 of the [prison or mental hospital] correctional institution,  
9 mental hospital, youth development center, youth forestry  
10 camp or other facility for the detention or incarceration of  
11 individuals pursuant to court order) without a written permit  
12 signed by the physician of such institution, specifying the  
13 quantity and quality of the substance which may be furnished  
14 to [any convict, inmate or employee in the prison or mental  
15 hospital, the name of the prisoner, inmate or employee for  
16 whom,] the inmate, the name of the inmate CONFINED PERSON, <—  
17 THE NAME OF THE CONFINED PERSON and the time when the same  
18 may be furnished[, which permit shall be delivered to and  
19 kept by the warden or superintendent of the prison or mental  
20 hospital.]; or

21       (2) an unauthorized item that is readily capable of  
22 concealing a controlled substance contraband, weapon,  
23 dangerous material, telecommunications device, implement of  
24 escape or other item which may be used for escape.

25       (c.1) Telecommunication devices to [inmates] CONFINED <—  
26 PERSONS prohibited.--A person commits a misdemeanor of the first  
27 degree if, without the written permission of superintendent,  
28 warden or otherwise authorized individual in charge of a  
29 correctional institution, prison, jail, detention facility or  
30 mental hospital, he sells, gives or furnishes to any [inmate] <—

1 CONFINED PERSON in a correctional institution, prison, jail, <—  
2 detention facility or mental hospital, or any building  
3 appurtenant thereto, or puts in any place where it may be  
4 obtained by [an inmate] A CONFINED PERSON of a correctional <—  
5 institution, prison, jail, detention facility or mental  
6 hospital, any telecommunication device.

7 (c.2) Possession of telecommunication devices by [inmates] <—  
8 CONFINED PERSONS prohibited.--[An inmate] A CONFINED PERSON in a <—  
9 correctional institution, prison, jail, detention facility or  
10 mental hospital, or any building appurtenant thereto, commits a  
11 misdemeanor of the first degree if he has in his possession any  
12 telecommunication device without the written permission of the  
13 superintendent, warden or otherwise authorized individual in  
14 charge of a correctional institution, prison, jail, detention  
15 facility or mental hospital.

16 (c.3) Possession of money or other contraband by an <—  
17 inmate. ~~An inmate~~ A CONFINED PERSON.--A CONFINED PERSON commits <—  
18 a misdemeanor of the first degree if he possesses money or other  
19 contraband, the delivery of which is prohibited by this section.

20 (d) Drug-sniffing animals.--Any jail or prison may use dogs  
21 or other animals trained to sniff controlled substances or other  
22 contraband for such purposes in or on any part of the jail or  
23 prison at any time.

24 (e) Definitions.--As used in this section, the following  
25 words and phrases shall have the meanings given to them in this  
26 subsection:

27 "CONFINED PERSON." AN INDIVIDUAL COMMITTED PURSUANT TO A <—  
28 COURT ORDER TO A CORRECTIONAL INSTITUTION, MENTAL HOSPITAL,  
29 YOUTH DEVELOPMENT CENTER, YOUTH FORESTRY CAMP OR OTHER FACILITY  
30 FOR THE DETENTION OR INCARCERATION OF INDIVIDUALS PURSUANT TO A



1 COURT ORDER, REGARDLESS OF WHETHER THE INDIVIDUAL IS TEMPORARILY  
2 ABSENT DUE TO MEDICAL TREATMENT, TRANSPORTATION, COURT  
3 APPEARANCE OR OTHER REASON FOR A TEMPORARY ABSENCE.

4 "Dangerous material." Any incendiary material or device,  
5 highly flammable or caustic liquid, explosive, bullet or other  
6 material readily capable of causing death or serious bodily  
7 injury.

8 "Delivers." The transfer of a weapon, implement of escape or  
9 dangerous material to an inmate A CONFINED PERSON in a <—  
10 correctional institution, mental hospital, youth development  
11 center, youth forestry camp or other facility for the detention  
12 or incarceration of individuals pursuant to court order,  
13 building appurtenant thereto or any other place. The term  
14 includes taking into or introducing a weapon, implement of  
15 escape or dangerous material into a correctional institution,  
16 mental hospital, youth development center, youth forestry camp  
17 or other facility for the detention or incarceration of  
18 individuals pursuant to court order, building appurtenant  
19 thereto, on land granted to, owned by or leased by the  
20 Commonwealth or a political subdivision that is related to the  
21 confinement of inmates PERSONS. The term includes putting a <—  
22 weapon, implement of escape or dangerous material in a place  
23 where it may be obtained by an inmate A CONFINED PERSON. <—

24 "Implement of escape." A tool, implement, device, equipment  
25 or other item that can facilitate, aid or conceal an escape or  
26 attempted escape by an inmate A CONFINED PERSON. <—

27 ["Inmate." A male or female offender who is committed to, <—  
28 under sentence to or confined in a penal or correctional  
29 institution.] <—

30 "Telecommunication device." Any type of instrument, device,

1 machine or equipment which is capable of transmitting  
2 telephonic, electronic, digital, cellular or radio  
3 communications or any part of such instrument, device, machine  
4 or equipment which is capable of facilitating the transmission  
5 of telephonic, electronic, digital, cellular or radio  
6 communications. The term shall include, but not be limited to,  
7 cellular phones, digital phones and modem equipment devices.

8 "Weapon." An implement readily capable of lethal use,  
9 including any firearm, knife, dagger, razor, other cutting or  
10 stabbing implement or club. The term includes any item which has  
11 been modified or adapted so that it can be used as a firearm,  
12 knife, dagger, razor, other cutting or stabbing implement or  
13 club. For purposes of this definition, the term "firearm"  
14 includes an unloaded firearm or the unassembled components of a  
15 firearm.

16 Section 2. Section 6105(b) of Title 18 is amended to read:  
17 § 6105. Persons not to possess, use, manufacture, control, sell  
18 or transfer firearms.

19 \* \* \*

20 (b) Enumerated offenses.--The following offenses shall apply  
21 to subsection (a):

22 Section 908 (relating to prohibited offensive weapons).

23 Section 911 (relating to corrupt organizations).

24 Section 912 (relating to possession of weapon on school  
25 property).

26 Section 2502 (relating to murder).

27 Section 2503 (relating to voluntary manslaughter).

28 Section 2504 (relating to involuntary manslaughter) if  
29 the offense is based on the reckless use of a firearm.

30 Section 2702 (relating to aggravated assault).

1           Section 2703 (relating to assault by prisoner).  
2           Section 2704 (relating to assault by life prisoner).  
3           Section 2709.1 (relating to stalking).  
4           Section 2716 (relating to weapons of mass destruction).  
5           Section 2901 (relating to kidnapping).  
6           Section 2902 (relating to unlawful restraint).  
7           Section 2910 (relating to luring a child into a motor  
8 vehicle).  
9           Section 3121 (relating to rape).  
10          Section 3123 (relating to involuntary deviate sexual  
11 intercourse).  
12          Section 3125 (relating to aggravated indecent assault).  
13          Section 3301 (relating to arson and related offenses).  
14          Section 3302 (relating to causing or risking  
15 catastrophe).  
16          Section 3502 (relating to burglary).  
17          Section 3503 (relating to criminal trespass) if the  
18 offense is graded a felony of the second degree or higher.  
19          Section 3701 (relating to robbery).  
20          Section 3702 (relating to robbery of motor vehicle).  
21          Section 3921 (relating to theft by unlawful taking or  
22 disposition) upon conviction of the second felony offense.  
23          Section 3923 (relating to theft by extortion) when the  
24 offense is accompanied by threats of violence.  
25          Section 3925 (relating to receiving stolen property) upon  
26 conviction of the second felony offense.  
27          Section 4912 (relating to impersonating a public servant)  
28 if the person is impersonating a law enforcement officer.  
29          Section 4952 (relating to intimidation of witnesses or  
30 victims).

1           Section 4953 (relating to retaliation against witness or  
2 victim).

3           Section 5121 (relating to escape).

4           Section 5122 (relating to weapons [or implements for  
5 escape], implements of escape or dangerous material).

6           Section 5501(3) (relating to riot).

7           Section 5515 (relating to prohibiting of paramilitary  
8 training).

9           Section 5516 (relating to facsimile weapons of mass  
10 destruction).

11          Section 6110.1 (relating to possession of firearm by  
12 minor).

13          Section 6301 (relating to corruption of minors).

14          Section 6302 (relating to sale or lease of weapons and  
15 explosives).

16          Any offense equivalent to any of the above-enumerated  
17 offenses under the prior laws of this Commonwealth or any  
18 offense equivalent to any of the above-enumerated offenses  
19 under the statutes of any other state or of the United  
20 States.

21          \* \* \*

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