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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1044 Session of  
2007

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INTRODUCED BY KITCHEN, WASHINGTON, COSTA, FONTANA, TARTAGLIONE,  
O'PAKE, EARLL, ERICKSON, STACK AND FERLO, AUGUST 2, 2007

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REFERRED TO JUDICIARY, AUGUST 2, 2007

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AN ACT

1 Amending the act of May 31, 1919 (P.L.356, No.170), entitled, as  
2 amended, "An act authorizing courts of record to remove  
3 convicts and persons confined in jails, workhouses,  
4 reformatories, reform or industrial schools, penitentiaries,  
5 prisons, houses of correction or any other penal  
6 institutions, who are seriously ill, to other institutions;  
7 and providing penalties for breach of prison," further  
8 providing for removal of certain convicts who are seriously  
9 ill.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Section 1 of the act of May 31, 1919 (P.L.356,  
13 No.170), entitled "An act authorizing courts of record to remove  
14 convicts and persons confined in jails, workhouses,  
15 reformatories, reform or industrial schools, penitentiaries,  
16 prisons, houses of correction or any other penal institutions,  
17 who are seriously ill, to other institutions; and providing  
18 penalties for breach of prison," amended January 26, 1966 (1965  
19 P.L.1593, No.561), is amended to read:

20 Section 1. [Be it enacted, &c., That whenever any convict or  
21 person is confined in any jail, workhouse, reformatory, or

1 reform or industrial school, penitentiary, prison, house of  
2 correction or any other penal institution, under conviction or  
3 sentence of a court, or is so confined while awaiting trial or  
4 confined for any other reason or purpose, and it is shown to a  
5 court of record by due proof that such convict or person is  
6 seriously ill, and that it is necessary that he or she be  
7 removed from such penal institution, the court shall have power  
8 to modify its sentence, impose a suitable sentence, or modify  
9 the order of confinement for trial, as the case may be, and  
10 provide for the confinement or care of such convict or person in  
11 some other suitable institution where proper treatment may be  
12 administered. Upon the recovery of such person, the court shall  
13 recommit him or her to the institution from which he or she was  
14 removed.] Transfer.

15 (a) Petition.--If a prisoner is committed to the custody of  
16 the Department of Corrections, the Department of Corrections may  
17 petition the sentencing court to approve the proposed removal of  
18 the prisoner committed to the custody of the Department of  
19 Corrections for placement in a hospital, long-term nursing care  
20 facility or hospice care location. The following shall apply:

21 (1) The sentencing court may approve the Department of  
22 Corrections' request to place the prisoner in a hospital or  
23 long-term nursing care facility upon proof that all of the  
24 following apply:

25 (i) The Department of Corrections reasonably  
26 believes that the medical needs of the prisoner can be  
27 more appropriately addressed in the hospital or long-term  
28 care nursing facility.

29 (ii) The hospital or long-term care nursing facility  
30 requested by the Department of Corrections has agreed to

1 accept the placement of the prisoner and to provide  
2 necessary medical care.

3 (iii) The prisoner is seriously ill.

4 (iv) The Department of Corrections reasonably  
5 believes that there are no writs filed or detainers  
6 lodged against the prisoner and the prisoner is not  
7 subject to any court order requiring the prisoner's  
8 presence.

9 (v) The placement in the hospital or long-term care  
10 nursing facility does not pose an undue risk of escape or  
11 danger to the community.

12 (vi) The hospital or long-term nursing care facility  
13 has agreed to notify the Department of Corrections and  
14 the court of any material changes in the health status of  
15 the prisoner, the nature of the care provided or other  
16 information required by the Department of Corrections.

17 (2) The sentencing court may approve the Department of  
18 Corrections' request to place the prisoner in a hospice care  
19 location proposed by the Department of Corrections upon proof  
20 that all of the following apply:

21 (i) The prisoner is terminally ill, not ambulatory  
22 and likely to die in the near future.

23 (ii) The Department of Corrections reasonably  
24 believes that the licensed hospice provider and the  
25 proposed hospice care location can provide more  
26 appropriate care for the prisoner than the care available  
27 in a State correctional institution.

28 (iii) Appropriate medical care and palliative and  
29 supportive services will be provided by the licensed  
30 hospice provider at the proposed hospice care location.

1           (iv) The placement of the prisoner in the hospice  
2           location does not pose an undue risk of escape or danger  
3           to the community.

4           (v) The licensed hospice provider has agreed to  
5           notify the Department of Corrections and the court of any  
6           material changes in the health status of the prisoner,  
7           the nature of the hospice care provided or other  
8           information required by the Department of Corrections or  
9           the court.

10          (3) Any entry of an order under this section shall  
11          include a provision that the Department of Corrections may  
12          detain and recommit the released prisoner for changed or  
13          previously unknown circumstances, including a change in the  
14          prisoner's medical status, the prisoner's risk of escape, the  
15          prisoner's danger to the community, the nature of the medical  
16          or other care provided by the hospital, long-term care  
17          nursing facility or hospice provider or the Department of  
18          Corrections lack of continued consent to the placement. The  
19          Department of Corrections shall develop guidelines to  
20          implement this section.

21          (b) Placement.--An inmate not committed to the custody of  
22          the Department of Corrections but confined in a correctional  
23          facility, jail or other institution authorized to incarcerate or  
24          detain persons for criminal sentences, violations of criminal  
25          law or orders of parole, probation, bail or other order related  
26          to a civil or criminal matter may be placed in a hospital, long-  
27          term care nursing facility or hospice care location by order of  
28          the judge that committed the person to a facility, jail or other  
29          institution or by another available judge designated to preside  
30          if all of the following apply:

1       (1) The chief administrator of the correctional  
2       facility, jail or other institution or the chief  
3       administrator's designee petitions the court or has given  
4       written consent to the grant of a petition under this section  
5       filed on behalf of the person confined.

6       (2) There is sufficient proof to establish the  
7       requirements for a placement to a hospital or long-term care  
8       nursing facility under subsection (a)(1) or a placement to a  
9       hospice care location under subsection (a)(2).

10       (3) The placement order shall specify the conditions  
11       under which the person shall be returned.

12       (c) Service.--Any petition filed under this section shall be  
13       served on each agency representing the Commonwealth at each  
14       proceeding which resulted in an order by which the inmate is  
15       committed or detained. Each party shall have an opportunity to  
16       object and be heard as to the petition for alternative  
17       placement, the circumstances of placement, the conditions of  
18       return or any other relevant issue. The court shall ensure that  
19       any crime victim entitled to notification under section 201(7)  
20       or (8) of the act of November 24, 1998 (P.L.882, No.111), known  
21       as the Crime Victims Act, has been given notice and the  
22       opportunity to be heard on the petition. All parties served or  
23       notified under this subsection shall receive a copy of the final  
24       order adjudicating the petition.

25       (d) Definitions.--As used in this section, the following  
26       words and phrases shall have the meanings given to them in this  
27       subsection unless the context clearly indicates otherwise:

28       "Hospice care location." A home, independent living  
29       environment or inpatient setting that will provide a coordinated  
30       program of palliative and supportive services through a licensed

1 hospice provider.

2 "Hospital." An entity licensed as an acute-care general  
3 hospital, a specialty hospital or a rehabilitation hospital  
4 under the act of July 19, 1979 (P.L.130, No.48), known as the  
5 Health Care Facilities Act.

6 "Licensed hospice provider." A hospice as defined under  
7 section 802.1 of the act of July 19, 1979 (P.L.130, No.48),  
8 known as the Health Care Facilities Act.

9 "Long-term care nursing facility." A long-term care nursing  
10 facility as defined under section 802.1 of the act of July 19,  
11 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

12 "Sentencing court." Any court that has imposed a sentence  
13 for which the prisoner is currently serving, committed or  
14 detained.

15 Section 2. Section 2 of the act is amended to read:

16 Section 2. Escape.

17 If any person so removed under an order of court, as provided  
18 in the first section of this act, shall escape, he or she, so  
19 offending, shall, upon conviction thereof, be guilty of the  
20 crime of breach of prison.

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