

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

TUESDAY, FEBRUARY 7, 1995

1995

FIRST SPECIAL SESSION

No. 7

SENATE

TUESDAY, February 7, 1995

The Senate met at 4:42 p.m., Eastern Standard Time.

The PRESIDENT (Lieutenant Governor Mark S. Schweiker) in the Chair.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Special Session of February 6, 1995.

The Clerk proceeded to read the Journal of the preceding Special Session, when, on motion of Senator LOEPER, further reading was dispensed with and the Journal was approved.

LEGISLATIVE LEAVES

The PRESIDENT. The following leaves requested in today's Regular Session will also be granted in the Special Session:

Legislative leave for Senator Afflerbach; temporary Capitol leave for Senator Porterfield; and personal leave for Senator Bell.

HOUSE MESSAGE

**HOUSE CONCURS IN SENATE
CONCURRENT RESOLUTION**

The Clerk of the House of Representatives informed the Senate that the House has concurred in resolution from the Senate, entitled:

Weekly adjournment.

**SPECIAL ORDER OF BUSINESS
ANNOUNCEMENT BY THE SECRETARY**

The SECRETARY. Consent has been given for the Committee on Appropriations to meet during the Special Session to consider Senate Bill No. 16.

REPORTS FROM COMMITTEE

Senator GREENLEAF, from the Committee on Judiciary, reported the following bills:

SB 4 (Pr. No. 4)

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for the powers of the Board of Pardons.

SB 5 (Pr. No. 53) (Amended)

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," further providing for the Board of Pardons.

SB 11 (Pr. No. 49)

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for rights of accused in criminal prosecutions.

SB 23 (Pr. No. 23)

An Act amending the act of August 6, 1941 (P. L. 861, No. 323), entitled, as amended, "Pennsylvania Board of Probation and Parole Law," further providing for investigations and recommendations to the Board of Pardons.

SB 50 (Pr. No. 54) (Amended)

An Act amending the act of July 16, 1968 (P. L. 351, No. 173), entitled, as amended, "Prisoner Pre-release Plan Law," further providing for release plan for prison inmates.

CALENDAR

THIRD CONSIDERATION CALENDAR

**BILL REREPORTED FROM COMMITTEE AS
AMENDED OVER IN ORDER**

SB 7 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request temporary Capitol leaves for Senator Dawida and Senator O'Pake.

The PRESIDENT. Senator Mellow requests temporary Capitol leaves for Senator Dawida and Senator O'Pake. Without objection, those leaves will be granted.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair notes the presence on the floor of Senator Porterfield, and his temporary Capitol leave is cancelled.

THIRD CONSIDERATION CALENDAR RESUMED

BILL REREPORTED FROM COMMITTEE AS AMENDED ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 14 (Pr. No. 51) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," further providing for rights of crime victims and local correctional facilities.

On the question,

Will the Senate agree to the bill on third consideration?

Senator FUMO offered the following amendment No. A0659:

Amend Title, page 1, line 21, by removing the period after "facilities" and inserting: ; and making an appropriation.

Amend Bill, page 6, by inserting between lines 12 and 13:

Section 3. The sum of \$180,000, or as much thereof as may be necessary, is hereby appropriated to the Pennsylvania Commission on Crime and Delinquency for the fiscal year July 1, 1994, to June 30, 1995, to provide grants to counties to provide for their costs in compliance with this act.

Amend Sec. 3, page 6, line 13, by striking out "3" and inserting:
4

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, this is a small amendment. I have asked the sponsor of the bill and he agrees with the amendment. This would add \$180,000 to the bill to pick up the costs that local counties would incur upon implementation of this legislation. It merely prevents an unfunded mandate. I ask for agreement if I could, but if not, I ask for an affirmative vote.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I would simply call to the Members' attention that Senate Bill No. 14 just really expands already existing law. It is not a new concept. It is a concept that is already in case law in Pennsylvania, and it simply indicates that where the offender is in a county institution rather than a State institution, that the notification provision be made.

I would also indicate to the Members, Mr. President, that the bill is not effective for 90 days after it is passed. That would bring it maybe in the neighborhood of June 1. The amount in the gentleman's amendment is \$180,000 for 67 counties. It is less than \$2,500 per county, if, in fact, counties do get a block grant out of PCCD.

For those reasons, Mr. President, I would oppose the adoption of the amendment.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, just in response. Granted, the amount is small by comparison to other amounts that we appropriate around here, and I agree with the gentleman from Delaware, Senator Loeper, but even though the bill would take effect during the latter part of this fiscal year, it would require the counties to set up a data bank to begin gathering this information and this would be more or less in the form of a capital cost.

If the Majority does not want to recognize its responsibility in this area with the counties, vote that way, but I think it is about time that we stop giving unfunded mandates to the counties, even \$180,000. Be it \$180,000 or \$180 million, we have to stop this. It is very hypocritical for us to applaud Congress when they say they have to stop sending us mandates and then continue to funnel on down to the counties other mandates. I will be the first to admit this is not a lot of money, and that is probably one of the reasons why we should accept it.

We intend to vote in the affirmative. We intend to try to keep our counties whole across the board on every piece of legislation that comes out from now on. We had hoped by this time we would have seen a constitutional amendment doing this. We have not seen that, so each and every time we do this, you are going to face this issue.

I would hope that you would join with us, especially since the majority of the counties are under Republican control, and I do not think you would want to give your taxpayers this kind of an indirect tax increase, but that is up to the Majority, Mr. President. I ask for an affirmative vote.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I would just simply reiterate that this is already existing law as far as the notification process for any individuals who are incarcerated in State institutions. There is no significant added burden to the counties as far as any kind of an unfunded mandate. I think what we have seen has been a pattern on this floor of every bill that has been introduced or debated on this floor thus far, whether it be in Regular Session or Special Session, regardless of what the merits may be, it is characterized as an unfunded mandate. I do not believe that is the case with the current bill before us and, again, I would reiterate my request for a negative vote on the amendment.

And the question recurring,

Will the Senate agree to the amendment?

The yeas and nays were required by Senator FUMO and were as follows, viz:

YEAS—21

Afflerbach	Hughes	Musto	Stewart
Andrezeski	Jones	O'Pake	Stout
Belan	Kasunic	Porterfield	Tartaglione
Bodack	LaValle	Schwartz	Wagner

Dawida	Mellow	Stapleton	Williams
Fumo			

NAYS—28

Armstrong	Greenleaf	Loeper	Salvatore
Baker	Hart	Madigan	Shaffer
Brightbill	Heckler	Mowery	Shumaker
Corman	Helfrick	Peterson	Tilghman
Delp	Holl	Punt	Tomlinson
Fisher	Jubelirer	Rhoades	Uliana
Gerlach	Lemmond	Robbins	Wenger

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,
Will the Senate agree to the bill on third consideration?
It was agreed to.

And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—49

Afflerbach	Greenleaf	Madigan	Shaffer
Andrezeski	Hart	Mellow	Shumaker
Armstrong	Heckler	Mowery	Stapleton
Baker	Helfrick	Musto	Stewart
Belan	Holl	O'Pake	Stout
Bodack	Hughes	Peterson	Tartaglione
Brightbill	Jones	Porterfield	Tilghman
Corman	Jubelirer	Punt	Tomlinson
Dawida	Kasunic	Rhoades	Uliana
Delp	LaValle	Robbins	Wagner
Fisher	Lemmond	Salvatore	Wenger
Fumo	Loeper	Schwartz	Williams
Gerlach			

NAYS—0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE

SB 10 (Pr. No. 10) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for law enforcement records, juvenile history record information and adjudications involving certain children.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Gerlach.

Senator GERLACH. Mr. President, I would appreciate an affirmative vote of the Members of this Chamber on Senate Bill No. 10. This bill will greatly enhance the ability of local law enforcement officials to investigate juvenile crime here in the Commonwealth of Pennsylvania. Under existing law, law enforcement officials do not have the ability to take the fingerprints and photographs of juveniles who have been charged with crimes unless the crime charged is a felony crime or a weapons violation. Even if they have the ability to take fingerprints and a photographic record of that juvenile for those kinds of crimes, they cannot disseminate that information to local law enforcement officials until such time as that juvenile has been adjudicated guilty of that offense.

Under this proposal, law enforcement officials will have the ability to take the fingerprints and photographs of juveniles charged with felony and misdemeanor crimes and have the ability, through the compilation of those records within a central repository, to then disseminate those records to local law enforcement agencies that are investigating juvenile crime at the local level. This will greatly enhance their ability to investigate juvenile crime, and I ask for an affirmative vote by the Members of this Chamber.

Thank you.

And the question recurring,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—49

Afflerbach	Greenleaf	Madigan	Shaffer
Andrezeski	Hart	Mellow	Shumaker
Armstrong	Heckler	Mowery	Stapleton
Baker	Helfrick	Musto	Stewart
Belan	Holl	O'Pake	Stout
Bodack	Hughes	Peterson	Tartaglione
Brightbill	Jones	Porterfield	Tilghman
Corman	Jubelirer	Punt	Tomlinson
Dawida	Kasunic	Rhoades	Uliana
Delp	LaValle	Robbins	Wagner
Fisher	Lemmond	Salvatore	Wenger
Fumo	Loeper	Schwartz	Williams
Gerlach			

NAYS—0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, at this time I would ask for a very brief recess of the Senate for the purpose of a meeting of the Committee on Appropriations in the Rules room at the rear of the Senate Chamber.

The PRESIDENT. Senator Loeper asks for a recess of the Senate for the purpose of a meeting of the Committee on Appropriations in the Rules room at the rear of the Senate Chamber. Without objection, the Senate will stand in recess for the purpose of a meeting of the Committee on Appropriations.

AFTER RECESS

The PRESIDENT pro tempore (Robert C. Jubelirer) in the Chair.

The PRESIDENT pro tempore. The time of recess having expired, the Senate will come to order.

REPORT FROM COMMITTEE

Senator TILGHMAN, from the Committee on Appropriations, reported the following bill:

SB 16 (Pr. No. 16) (Rereported)

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for attempted murder and for sentencing.

BILLS ON FIRST CONSIDERATION

Senator ROBBINS. Mr. President, I move that the Senate do now proceed to consideration of all bills reported from committee for the first time at today's Session.

The motion was agreed to.

The bills were as follows:

SB 4, SB 5, SB 11, SB 23 and SB 50.

And said bills having been considered for the first time,
Ordered, To be printed on the Calendar for second consideration.

ADJOURNMENT

Senator LOEPER. Mr. President, I move that the Special Session do now adjourn until Wednesday, February 8, 1995, immediately following the adjournment of the Regular Session.

The motion was agreed to.

The Special Session of the Senate adjourned at 5:10 p.m., Eastern Standard Time.