

PENNSYLVANIA BOARD OF PROBATION AND PAROLE LAW - AMEND DRUG
SCREENING TEST

Act of Dec. 27, 1994, P.L. 1359, No. 159

Cl. 44

Session of 1994

No. 1994-159

SB 1688

AN ACT

Amending the act of August 6, 1941 (P.L.861, No.323), entitled, as amended, "An act to create a uniform and exclusive system for the administration of parole in this Commonwealth; providing state probation services; establishing the 'Pennsylvania Board of Probation and Parole'; conferring and defining its jurisdiction, duties, powers and functions; including the supervision of persons placed upon probation and parole in certain designated cases; providing for the method of appointment of its members; regulating the appointment, removal and discharge of its officers, clerks and employees; dividing the Commonwealth into administrative districts for purposes of probation and parole; fixing the salaries of members of the board and of certain other officers and employees thereof; making violations of certain provisions of this act misdemeanors; providing penalties therefor; and for other cognate purposes, and making an appropriation," further providing for pre-parole drug screening tests.

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

Section 1. Section 21 of the act of August 6, 1941 (P.L.861, No.323), referred to as the Pennsylvania Board of Probation and Parole Law, amended June 22, 1993 (P.L.109, No.25), is amended to read:

Section 21. The board is hereby authorized to release on parole any convict confined in any penal institution of this Commonwealth as to whom power to parole is herein granted to said board, except convicts condemned to death or serving life imprisonment, whenever in its opinion the best interests of the convict justify or require his being paroled and it does not appear that the interests of the Commonwealth will be injured thereby. The power to parole herein granted to the Board of Parole may not be exercised in the board's discretion at any time before, but only after, the expiration of the minimum term of imprisonment fixed by the court in its sentence or by the Pardon Board in a sentence which has been reduced by commutation: Provided, however, That if the Board of Parole refuse to parole the prisoner at the expiration of any minimum term fixed by the Pardon Board, it shall, within ten days after the date when the minimum term expired, transmit to the Pardon Board a written statement of the reasons for refusal to parole the prisoner at the expiration of the minimum term fixed by the Pardon Board.

Thereafter, the Pardon Board may either accept the action of the Board of Parole, or order the immediate release of the prisoner on parole, under the supervision of the Board of Parole. The board may not release a person on parole unless the person achieves a negative result [not later than fifteen days or earlier than] **within** forty-five days prior to the date of release in a screening test approved by the Department of Health for the detection of the presence of controlled substances or designer drugs under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled

Substance, Drug, Device and Cosmetic Act." The cost of these pre-parole drug screening tests for inmates subject to the parole release jurisdiction of the board, whether confined in a State or local correctional facility, shall be paid by the board. The board shall establish rules and regulations for the payment of these costs and may limit the types and cost of these screening tests that would be subject to payment by the board. The board shall establish, as a condition of continued parole for a parolee who, as an inmate, tested positive for the presence of a controlled substance or a designer drug or who was paroled from a sentence arising from a conviction under "The Controlled Substance, Drug, Device and Cosmetic Act," or from a drug-related crime, the parolee's achievement of negative results in such screening tests randomly applied. The random screening tests shall be performed at the discretion of the board, and the parolee undergoing the tests shall be responsible for the costs of the tests. The funds collected for the tests shall be applied against the contract for such testing between the board and a testing laboratory approved by the Department of Health. Said board shall have the power during the period for which a person shall have been sentenced to recommit one paroled for violation of the terms and conditions of his parole and from time to time to reparole and recommit in the same manner and with the same procedure as in the case of an original parole or recommitment, if, in the judgment of the said board, there is a reasonable probability that the convict will be benefited by again according him liberty and it does not appear that the interests of the Commonwealth will be injured thereby.

Section 2. This act shall take effect in 60 days.

APPROVED--The 27th day of December, A. D. 1994.

ROBERT P. CASEY