

AMENDMENTS TO SENATE BILL NO. 1158

Sponsor: SENATOR BAKER

Printer's No. 1703

1 Amend Bill, page 1, lines 6 through 18; page 2, lines 1
2 through 26; by striking out all of said lines on said pages and
3 inserting

4 Section 1. Section 7301 of Title 35 of the Pennsylvania
5 Consolidated Statutes is amended by adding a subsection to read:
6 § 7301. General authority of Governor.

7 * * *

8 (g) Release of incarcerated individuals.--

9 (1) In the event that the Governor, by executive order,
10 proclamation, regulation or otherwise seeks to release,
11 transfer or otherwise move an inmate from the custody of a
12 State correctional institution or county correctional
13 institution as a result of the authority vested in the
14 Governor pursuant to this title, the Governor must first
15 identify specific conditions of the disaster that create a
16 specific and substantial danger to the inmate if the inmate
17 remains incarcerated and which specific and substantial
18 danger would be reduced or eliminated if the inmate was
19 released.

20 (2) The Office of Victim Advocate, either the district
21 attorney or the Attorney General who had jurisdiction over
22 the sentence for which the inmate was incarcerated, and the
23 sentencing court shall be provided notice of the inmate whom
24 the Governor seeks to release, transfer or otherwise move
25 under paragraph (1) and shall be given no less than 72 hours
26 after receipt of the notice to object or otherwise comment on
27 the release, transfer or other movement of the inmate. In the
28 event that the inmate is incarcerated in a county
29 correctional institution, the notice shall also be provided
30 to the board of commissioners or the county executive of the
31 county in which the institution is located, and the board of
32 commissioners or county executive shall be given an
33 opportunity to object or otherwise comment. No individual
34 may be released, transferred or otherwise moved under
35 paragraph (1) for which an objection is timely received.

36 (3) Regardless of the sentence imposed, an inmate may
37 not be released, transferred or otherwise moved under

1 paragraph (1) if the inmate was or is:

2 (i) committed for or with an aggregate sentence
3 containing a personal injury crime or a criminal attempt,
4 criminal solicitation or criminal conspiracy to commit a
5 personal injury crime as defined in section 103 of the
6 act of November 24, 1998 (P.L.882, No.111), known as the
7 Crime Victims Act;

8 (ii) committed for or with an aggregate sentence
9 containing a crime of violence or a criminal attempt,
10 criminal solicitation or criminal conspiracy to commit a
11 crime of violence as defined in 42 Pa.C.S. § 9714(g)
12 (relating to sentences for second or subsequent
13 offenses);

14 (iii) committed for or with an aggregate sentence
15 containing an offense under 18 Pa.C.S. Ch. 61 (relating
16 to firearms and other dangerous articles) or a criminal
17 attempt, criminal solicitation or criminal conspiracy to
18 commit the offense;

19 (iv) committed for or with an aggregate sentence
20 containing an enhancement for the use of a deadly weapon
21 as defined under law or the sentencing guidelines
22 promulgated by the Pennsylvania Commission on Sentencing
23 or where the attorney for the Commonwealth has
24 demonstrated that the defendant has been found guilty of
25 or was convicted of an offense involving a deadly weapon
26 or a criminal attempt, criminal solicitation or criminal
27 conspiracy to commit the offense or an equivalent offense
28 under the laws of the United States or one of its
29 territories or possessions, another state, the District
30 of Columbia, the Commonwealth of Puerto Rico or a foreign
31 nation;

32 (v) committed for or with an aggregate sentence
33 containing a violation of any of the following provisions
34 or an equivalent offense under the laws of the United
35 States or one of its territories or possessions, another
36 state, the District of Columbia, the Commonwealth of
37 Puerto Rico or a foreign nation, including a criminal
38 attempt, criminal solicitation or criminal conspiracy to
39 commit the offense:

40 18 Pa.C.S. § 4302(a) (relating to incest).

41 18 Pa.C.S. § 6312 (relating to sexual abuse of
42 children).

43 18 Pa.C.S. Ch. 76 Subch. C (relating to Internet
44 child pornography).

45 A criminal sentence under 42 Pa.C.S. § 9712.1
46 (relating to sentences for certain drug offenses
47 committed with firearms).

48 An offense listed under 42 Pa.C.S. Ch. 97 Subch. H
49 (relating to registration of sexual offenders).

50 An offense listed under 42 Pa.C.S. Ch. 97 Subch. I
51 (relating to continued registration of sexual offenders).

1 (vi) committed for or with an aggregate sentence
2 containing an offense of drug trafficking as defined in
3 61 Pa.C.S. § 4103 (relating to definitions) or a criminal
4 attempt, criminal solicitation or criminal conspiracy to
5 commit drug trafficking as defined in 61 Pa.C.S. § 4103;

6 (vii) at the time of release, transfer or other
7 movement under paragraph (1), is subject to a pending
8 felony or misdemeanor arrest warrant or detainer;

9 (viii) at the time of the release, transfer or other
10 movement under paragraph (1), is serving a sentence to a
11 State correctional institution and has been denied parole
12 on the sentence;

13 (ix) convicted of any criminal offense committed
14 while incarcerated;

15 (x) poses an identifiable risk to public safety; or

16 (xi) was convicted of any criminal offense contained
17 under subparagraph (i), (ii), (iii), (iv), (v) or (vi)
18 within the past 10 years.

19 (4) An inmate released, transferred or otherwise moved
20 under paragraph (1) must:

21 (i) Either:

22 (A) successfully complete prior to release,
23 transfer or other movement all programs prescribed by
24 the Department of Corrections, the Parole Board or,
25 at the time of sentencing, the Sentencing Court; or

26 (B) continue the programming as a condition of
27 release, transfer or other movement.

28 (ii) Be supervised.

29 (iii) Be tested for drug and alcohol use, as
30 appropriate.

31 (5) An inmate released, transferred or otherwise moved
32 under paragraph (1) may be released to a community
33 corrections center, a community corrections facility or to
34 home confinement. An inmate released to home confinement
35 shall be monitored using an electronic global positioning
36 system or other real-time monitoring system.

37 (6) An inmate released, transferred or otherwise moved
38 from a State correctional institution under paragraph (1)
39 shall be recommitted to a State correctional institution upon
40 the expiration of the declared disaster emergency, or sooner
41 as deemed appropriate by the Department of Corrections.

42 (7) The provisions of paragraph (6) do not apply if the
43 inmate has less than one month to serve on the inmate's
44 minimum sentence.

45 (8) The Department of Corrections may promulgate
46 regulations to implement the provisions of this subsection.
47 In order to facilitate the prompt implementation of this
48 subsection, regulations promulgated by the Department of
49 Corrections under this subsection shall be deemed temporary
50 regulations which shall not expire for a period of one year
51 following publication. Temporary regulations promulgated

1 under this subsection shall not be subject to:

2 (i) Section 612 of the act of April 9, 1929
3 (P.L.177, No.175), known as The Administrative Code of
4 1929.

5 (ii) Sections 201, 202, 203, 204 and 205 of the act
6 of July 31, 1968 (P.L.769, No.240), referred to as the
7 Commonwealth Documents Law.

8 (iii) Sections 204(b) and 301(10) of the act of
9 October 15, 1980 (P.L.950, No.164), known as the
10 Commonwealth Attorneys Act.

11 (iv) The act of June 25, 1982 (P.L.633, No.181),
12 known as the Regulatory Review Act.