

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2258

Session of
1998

INTRODUCED BY GANNON, CLARK, BARRAR, WOGAN, LEDERER,
C. WILLIAMS, MASLAND, FARGO, BELFANTI, GEIST, STEVENSON,
TIGUE, HERMAN, HENNESSEY, DALLY, L. I. COHEN, CALTAGIRONE,
KENNEY, ROSS, COY, M. COHEN, McCALL, BENNINGHOFF, FEESE,
SAYLOR, E. Z. TAYLOR, BROWNE, BOSCOLA, STEELMAN, HALUSKA,
BIRMELIN, CHADWICK, O'BRIEN, ORIE, REBER, SCHULER, J. TAYLOR,
SEYFERT, MAHER, MILLER, RAMOS, PIPPY, GODSHALL, TRUE, PLATTS,
LEH, SERAFINI, EGOLF, FLEAGLE, MAITLAND, BUTKOVITZ, TRELLO,
STRITTMATTER, MELIO, RUBLEY, BAKER, McNAUGHTON, SCHRODER AND
MARSICO, FEBRUARY 17, 1998

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 17, 1998

AN ACT

1 Amending the act of August 6, 1941 (P.L.861, No.323), entitled,
2 as amended, "An act to create a uniform and exclusive system
3 for the administration of parole in this Commonwealth;
4 providing state probation services; establishing the
5 'Pennsylvania Board of Probation and Parole'; conferring and
6 defining its jurisdiction, duties, powers and functions;
7 including the supervision of persons placed upon probation
8 and parole in certain designated cases; providing for the
9 method of appointment of its members; regulating the
10 appointment, removal and discharge of its officers, clerks
11 and employes; dividing the Commonwealth into administrative
12 districts for purposes of probation and parole; fixing the
13 salaries of members of the board and of certain other
14 officers and employes thereof; making violations of certain
15 provisions of this act misdemeanors; providing penalties
16 therefor; and for other cognate purposes, and making an
17 appropriation," further providing for CONDITIONS OF PAROLE; <—
18 PROVIDING FOR SUBSEQUENT ARREST OF A PAROLEE; AND FURTHER
19 PROVIDING FOR supervision of persons paroled in other states.

20 The General Assembly of the Commonwealth of Pennsylvania

21 hereby enacts as follows:

22 ~~Section 1. Section 33 of the act of August 6, 1941 (P.L.861,~~ <—

1 ~~No.323), referred to as the Pennsylvania Board of Probation and~~
2 ~~Parole Law, amended December 18, 1996 (P.L.1098, No.164), is~~
3 ~~amended to read:~~

4 SECTION 1. SECTION 21 OF THE ACT OF AUGUST 6, 1941 (P.L.861, <—
5 NO.323), REFERRED TO AS THE PENNSYLVANIA BOARD OF PROBATION AND
6 PAROLE LAW, AMENDED JUNE 1, 1995 (1ST SP.SESS., P.L.1020,
7 NO.16), IS AMENDED TO READ:

8 SECTION 21. THE BOARD IS HEREBY AUTHORIZED TO RELEASE ON
9 PAROLE ANY CONVICT CONFINED IN ANY PENAL INSTITUTION OF THIS
10 COMMONWEALTH AS TO WHOM POWER TO PAROLE IS HEREIN GRANTED TO
11 SAID BOARD, EXCEPT CONVICTS CONDEMNED TO DEATH OR SERVING LIFE
12 IMPRISONMENT, WHENEVER IN ITS OPINION THE BEST INTERESTS OF THE
13 CONVICT JUSTIFY OR REQUIRE HIS BEING PAROLED AND IT DOES NOT
14 APPEAR THAT THE INTERESTS OF THE COMMONWEALTH WILL BE INJURED
15 THEREBY. PAROLE SHALL BE SUBJECT IN EVERY INSTANCE TO THE
16 COMMONWEALTH'S RIGHT TO IMMEDIATELY RETAKE AND HOLD IN CUSTODY
17 WITHOUT FURTHER PROCEEDINGS ANY PAROLEE CHARGED AFTER HIS PAROLE
18 WITH AN ADDITIONAL OFFENSE, UNTIL A DETERMINATION CAN BE MADE
19 WHETHER TO CONTINUE HIS PAROLE STATUS. THE POWER TO PAROLE
20 HEREIN GRANTED TO THE BOARD OF PAROLE MAY NOT BE EXERCISED IN
21 THE BOARD'S DISCRETION AT ANY TIME BEFORE, BUT ONLY AFTER, THE
22 EXPIRATION OF THE MINIMUM TERM OF IMPRISONMENT FIXED BY THE
23 COURT IN ITS SENTENCE OR BY THE PARDON BOARD IN A SENTENCE WHICH
24 HAS BEEN REDUCED BY COMMUTATION. THE BOARD MAY NOT RELEASE A
25 PERSON ON PAROLE UNLESS THE PERSON ACHIEVES A NEGATIVE RESULT
26 WITHIN FORTY-FIVE DAYS PRIOR TO THE DATE OF RELEASE IN A
27 SCREENING TEST APPROVED BY THE DEPARTMENT OF HEALTH FOR THE
28 DETECTION OF THE PRESENCE OF CONTROLLED SUBSTANCES OR DESIGNER
29 DRUGS UNDER THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS
30 "THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT." THE

1 COST OF THESE PRE-PAROLE DRUG SCREENING TESTS FOR INMATES
2 SUBJECT TO THE PAROLE RELEASE JURISDICTION OF THE BOARD, WHETHER
3 CONFINED IN A STATE OR LOCAL CORRECTIONAL FACILITY, SHALL BE
4 PAID BY THE BOARD. THE BOARD SHALL ESTABLISH RULES AND
5 REGULATIONS FOR THE PAYMENT OF THESE COSTS AND MAY LIMIT THE
6 TYPES AND COST OF THESE SCREENING TESTS THAT WOULD BE SUBJECT TO
7 PAYMENT BY THE BOARD. THE BOARD SHALL ESTABLISH, AS A CONDITION
8 OF CONTINUED PAROLE FOR A PAROLEE WHO, AS AN INMATE, TESTED
9 POSITIVE FOR THE PRESENCE OF A CONTROLLED SUBSTANCE OR A
10 DESIGNER DRUG OR WHO WAS PAROLED FROM A SENTENCE ARISING FROM A
11 CONVICTION UNDER "THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
12 COSMETIC ACT," OR FROM A DRUG-RELATED CRIME, THE PAROLEE'S
13 ACHIEVEMENT OF NEGATIVE RESULTS IN SUCH SCREENING TESTS RANDOMLY
14 APPLIED. THE RANDOM SCREENING TESTS SHALL BE PERFORMED AT THE
15 DISCRETION OF THE BOARD, AND THE PAROLEE UNDERGOING THE TESTS
16 SHALL BE RESPONSIBLE FOR THE COSTS OF THE TESTS. THE FUNDS
17 COLLECTED FOR THE TESTS SHALL BE APPLIED AGAINST THE CONTRACT
18 FOR SUCH TESTING BETWEEN THE BOARD AND A TESTING LABORATORY
19 APPROVED BY THE DEPARTMENT OF HEALTH. SAID BOARD SHALL HAVE THE
20 POWER DURING THE PERIOD FOR WHICH A PERSON SHALL HAVE BEEN
21 SENTENCED TO RECOMMIT ONE PAROLED FOR VIOLATION OF THE TERMS AND
22 CONDITIONS OF HIS PAROLE AND FROM TIME TO TIME TO REPAROLE AND
23 RECOMMIT IN THE SAME MANNER AND WITH THE SAME PROCEDURE AS IN
24 THE CASE OF AN ORIGINAL PAROLE OR RECOMMITMENT, IF, IN THE
25 JUDGMENT OF THE SAID BOARD, THERE IS A REASONABLE PROBABILITY
26 THAT THE CONVICT WILL BE BENEFITED BY AGAIN ACCORDING HIM
27 LIBERTY AND IT DOES NOT APPEAR THAT THE INTERESTS OF THE
28 COMMONWEALTH WILL BE INJURED THEREBY.

29 SECTION 2. SECTION 21.1 OF THE ACT IS AMENDED BY ADDING A
30 SUBSECTION TO READ:

SECTION 21.1. * * *

(A.1) SUBSEQUENT ARREST. THE FORMAL FILING OF A CHARGE AFTER PAROLE AGAINST ANY PAROLEE WITHIN THIS COMMONWEALTH FOR ANY VIOLATION OF THE LAWS OF THIS COMMONWEALTH SHALL CONSTITUTE AN AUTOMATIC DETAINER AND PERMIT HIM TO BE TAKEN INTO AND HELD IN CUSTODY. THE AUTOMATIC DETAINER SHALL DISSOLVE ON THE FIFTEENTH DAY AFTER HE IS TAKEN INTO CUSTODY, UNLESS SOONER WAIVED OR OTHERWISE SUPERSEDED BY DIRECTION OF THE SUPERVISING PAROLE OFFICE. THE AUTOMATIC DETAINER SHALL BE IN ADDITION TO AND NOT IN LIEU OF ANY OTHER DETAINER THAT HERETOFORE MAY HAVE BEEN LODGED IN SUCH CIRCUMSTANCES.

* * *

SECTION 3. SECTION 33 OF THE ACT, AMENDED DECEMBER 18, 1996 (P.L.1098, NO.164), IS AMENDED TO READ:.

Section 33. (a) In compliance with the Federal Interstate Compact Laws[, the Parole Board] and the provisions of this section, the Pennsylvania Board of Probation and Parole is authorized to supervise persons paroled by other states and now residing in Pennsylvania, where such other states agree to perform similar services for the Pennsylvania Board of Probation and Parole.

(b) Additionally, the [Parole Board] Pennsylvania Board of Probation and Parole is authorized to relinquish jurisdiction over a parolee to the proper Federal authorities where the parolee is placed into the [Federal] Witness Protection Program[.] of the United States Department of Justice.

(c) The contracting state must adhere to Pennsylvania's laws regarding the Interstate Compact, which are as follows:

(1) The contracting state solemnly agrees that it is competent for the duly constituted judicial and administrative

authorities of a state party to the compact, referred to as this
"sending state," to permit any person convicted of an offense
within such state and placed on probation or released on parole
to reside in any other state, referred to as the "receiving
state," while on probation or parole, if:

(i) A confirmed offer of viable employment or other
verifiable means of support exists.

(ii) A residence approved by the sending state shall be
available.

(2) The following information must be made available to the
receiving state from the sending state, at the time the
application for acceptance to the receiving state shall be
filed:

(i) Institutional adjustment information on parolees or
probationers.

(ii) Current supervision history on parolees or
probationers.

(iii) A psychological report or psychological update,
completed no more than one year prior to the receiving state's
consideration for persons convicted of a violent offense.

(iv) The following information must be made available to the
receiving state for those cases defined as a sexual offense:

(A) A summary of any type of treatment received and dates of
completion.

(B) A description of behavioral characteristics that may
have contributed to the parolee or probationer's conduct.

(3) Any parolee or probationer convicted of a sexual offense
shall be required to:

(i) Submit to mandatory registration and public notification
of all current addresses with the Pennsylvania State Police.

1 (ii) Provide a signed copy of the "Pennsylvania State Police
2 Sexual Offender Registration Notification" form and the
3 "Pennsylvania State Police Sexual Offender Registration" form to
4 the receiving state.

5 (iii) Provide a signed copy of "Addendum to Application for
6 Compact Services/Agreement to Return" form to the receiving
7 state.

8 ~~(4) No receiving state shall consider the acceptance of~~ <—
9 ~~supervision if the parolee or probationer is already physically~~
10 ~~present in this state. Investigation and consideration of a case~~
11 ~~shall occur only after the parolee or probationer returns to the~~
12 ~~sending state and proper application is filed.~~

13 (4) EXCEPT AS HEREAFTER PROVIDED, THE RECEIVING STATE SHALL <—
14 NOT CONSIDER THE ACCEPTANCE OF SUPERVISION IF THE PAROLEE IS
15 ALREADY PHYSICALLY PRESENT IN THIS STATE. INVESTIGATION AND
16 CONSIDERATION OF A CASE SHALL OCCUR ONLY AFTER THE PAROLEE
17 RETURNS TO THE SENDING STATE AND PROPER APPLICATION IS FILED.
18 THE RECEIVING STATE MAY CONSIDER THE ACCEPTANCE OF SUPERVISION
19 IF THE PROBATIONER IS ALREADY PHYSICALLY PRESENT IN THIS STATE,
20 WHERE THE PROBATIONER HAS ESTABLISHED DOMICILE IN THE RECEIVING
21 STATE BEFORE ADJUDICATION ON THE CRIMINAL OFFENSE.

22 (5) Electronic monitoring, other special conditions, or
23 both, of supervision shall be imposed as deemed necessary by the
24 receiving state.

25 (6) At the request of the receiving state, the sending state
26 shall agree to retake the parolee or probationer if that
27 individual violates any condition of probation or parole.

28 (d) For purposes of this section the term:

29 "Sexual offense" means:

30 (1) Any of the following or equivalent offense that is

classified as a felony and involves a victim who is a minor:

18 Pa.C.S. § 2901 (relating to kidnapping).

18 Pa.C.S. § 5902(a) (relating to prostitution and related offenses).

18 Pa.C.S. § 5903 (a)(3), (4), (5) or (6) (relating to obscene or other sexual materials and performances).

(2) Any of the following or equivalent offense that is classified as a felony and involves a victim who is younger than 13 years of age:

18 Pa.C.S. § 3126 (relating to indecent assault).

(3) Any of the following or equivalent offense, regardless of the victim's age:

18 Pa.C.S. § 3121 (relating to rape).

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

"Violent offense" means:

(1) Any of the following or equivalent offense:

18 Pa.C.S. § 901 (relating to criminal attempt).

18 Pa.C.S. § 902 (relating to criminal solicitation).

18 Pa.C.S. § 903 (relating to criminal conspiracy).

18 Pa.C.S. § 2502 (relating to murder).

18 Pa.C.S. § 2503 (relating to voluntary manslaughter).

18 Pa.C.S. § 2702 (relating to aggravated assault).

18 Pa.C.S. § 2703 (relating to assault by prisoner).

18 Pa.C.S. § 2704 (relating to assault by life prisoner).

18 Pa.C.S. § 3301 (relating to arson and related offenses).

18 Pa.C.S. § 3502 (relating to burglary).

18 Pa.C.S. § 3701 (relating to robbery).

(2) Any equivalent offense relating to kidnapping.

1 "Other verifiable means of support" includes, but is not
2 limited to, support by parent, grandparent, sibling, spouse or
3 adult child. The term does not include public assistance.

4 Section ~~2~~ 4. This act shall take effect in 60 days.

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