

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1709 Session of
1989

INTRODUCED BY PICCOLA, HAGARTY, CALTAGIRONE, MOEHLMANN, BORTNER,
McVERRY, McHALE, MAIALE, HECKLER, NOYE, VEON, GIGLIOTTI,
MERRY, D. W. SNYDER, GODSHALL, GEIST, JOHNSON, DEMPSEY,
WAMBACH, REBER, NAHILL, KUKOVICH, E. Z. TAYLOR, CORRIGAN,
SAURMAN, HOWLETT, PHILLIPS, CIVERA, RAYMOND, BUSH,
J. H. CLARK, BATTISTO, S. H. SMITH, LEE AND FLICK,
JUNE 19, 1989

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 19, 1989

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," providing for earned time; and making repeals
18 relating to minimum sentences.

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

21 Section 1. The act of August 6, 1941 (P.L.861, No.323),
22 referred to as the Pennsylvania Board of Probation and Parole
23 Law, is amended by adding sections to read:

1 Section 34.1. In order to provide an incentive for offenders
2 serving a maximum term of two years or more to achieve the
3 maximum benefit from all educational, treatment and vocational
4 programs which are currently available or which may be made
5 available by the Department of Corrections to promote their
6 successful rehabilitation and reintegration into society in a
7 more positive and productive manner, on and after the effective
8 date of this section, offenders may accrue earned time, up to
9 fifty-two days per calendar year in accordance with regulations
10 which the Secretary of Corrections shall issue. By these
11 regulations, the Secretary of Corrections shall define the
12 minimum eligibility requirements for inmate participation in a
13 program that provides earned time credit. The selection of
14 eligible inmates to participate in each program, as well as the
15 number, size and type of programs to be made available at each
16 State institution shall be at the discretion of the Secretary of
17 Corrections or his designee. Meeting the minimum eligibility
18 requirements shall not guarantee an inmate an opportunity to
19 participate in a program nor is any inmate guaranteed the
20 availability of any particular program. The Secretary of
21 Corrections shall issue regulations defining the programs for
22 which time may accrue; the amount of earned time that may accrue
23 for each individual program; the procedures for applying for
24 admission to a program; the standards which must be met by the
25 offender participant in order to earn all or any portion of the
26 time that may be accrued through satisfactory participation in
27 the program; a certification process indicating the Secretary or
28 his designee has found the inmate has successfully complied with
29 such standards; and the time and manner in which the time that
30 has been earned will be awarded to each participant. Nothing in

1 this section shall be construed to create a right of transfer to
2 a different State correctional institution from the institution
3 to which the inmate has been assigned by exercise of the
4 discretion of the Department of Corrections, regardless of the
5 availability of programming at the assigned institution.

6 Section 34.2. An offender who is found guilty of a
7 misconduct violation as defined by the Department of Corrections
8 shall forfeit earned time in accordance with regulations
9 promulgated by that department up to a maximum of one hundred
10 four days for each misconduct violation. An offender who escapes
11 while serving a Pennsylvania sentence or sentences shall forfeit
12 all of the earned time the offender accrued prior to the escape.

13 Section 34.3. Offenders serving a mandatory minimum sentence
14 shall not be eligible for earned time. An offender serving a
15 life sentence shall not be eligible for earned time unless the
16 sentence is reduced by commutation. In such cases, the offender
17 shall be eligible to receive earned time for each program
18 satisfactorily completed after the commutation is ordered. An
19 offender who has been returned to prison by the Board of
20 Probation and Parole for violations of parole shall not be
21 eligible for earned time during service of the balance of the
22 offender's original term of imprisonment but shall be eligible
23 for earned time during service of any new sentence imposed.

24 Section 34.4. For the purposes of this act, the court shall
25 note on the sentencing order whether a sentence given is a
26 mandatory minimum and the length of the mandatory period.

27 Section 34.5. The Secretary of Corrections shall, each
28 January, make a report to the House and Senate Judiciary
29 Committees regarding the status of the earned time credit
30 system. This report shall include, but not be limited to, the

fiscal impact of this system on the Department of Corrections; a statement of credits earned by type and by institution; a statement of earned time credits lost for inmate misconduct violations and types of violations for which earned time is lost, by institution; impact of this system on the prison population, by institution; changes in or regulations which are being developed regarding earned time; and recommendations for statutory changes in the earned time credit system.

Section 34.6. Unless the provisions of this section shall be repealed or amended by the General Assembly, sections 34.1 through 34.5 and this section shall expire at the conclusion of the fiscal year which ends on June 30, 1992; except that any earned time which has been accrued during the effective period of these sections shall continue to be applicable to the sentences of inmates who have earned it.

Section 2. The following acts or parts of acts are repealed:

Act of June 22, 1931 (P.L.864, No.280), entitled "An act making a convict whose minimum sentence exceeds one-half of the maximum sentence eligible to apply for release on parole when said convict has served or will have served one-half his maximum sentence."

As much as reads "which shall not exceed one-half of the maximum sentence imposed" of 42 Pa.C.S. § 9755(b) (relating to sentence of partial confinement).

As much as reads "which shall not exceed one-half of the maximum sentence imposed" of 42 Pa.C.S. § 9756(b) (relating to sentence of total confinement).

The last sentence of 42 Pa.C.S. § 9757 (relating to consecutive sentences of total confinement for multiple offenses).

1 Section 3. This act shall take effect immediately upon
2 promulgation and adoption, as provided by law, of the
3 regulations required by section 1 (section 34.2), but not later
4 than 180 days from the date of final enactment.