

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1097 Session of
1991

INTRODUCED BY WILLIAMS, McNALLY, ARGALL, WAMBACH, COLAIZZO,
DeWEESE, ROEBUCK, HERMAN, STISH, STABACK, BELARDI, HARPER,
TRELLO, ARMSTRONG, CAPPABIANCA, GAMBLE, ANGSTADT, KASUNIC,
DeLUCA, TIGUE, COY, PISTELLA, JOHNSON, THOMAS, GERLACH,
FREEMAN, J. TAYLOR, STURLA, HUGHES, JAMES, D. W. SNYDER,
TANGRETTI, E. Z. TAYLOR AND TRICH, APRIL 9, 1991

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 9, 1991

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 the board's power to
18 grant parole.

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

21 Section 1. Section 21 of the act of August 6, 1941 (P.L.861,
22 No.323), referred to as the Pennsylvania Board of Probation and
23 Parole Law, amended July 11, 1990 (P.L.476, No.114), is amended
24 to read:

1 Section 21. The board is hereby authorized to release on
2 parole any convict confined in any penal institution of this
3 Commonwealth as to whom power to parole is herein granted to
4 said board, except convicts condemned to death or serving life
5 imprisonment, whenever in its opinion the best interests of the
6 convict justify or require his being paroled and it does not
7 appear that the interests of the Commonwealth will be injured
8 thereby. In the case of a convict who has been sentenced for a
9 violation of the act of April 14, 1972 (P.L.233, No.64), known
10 as "The Controlled Substance, Drug, Device and Cosmetic Act,"
11 the board shall not release the convict on parole unless and
12 until the convict successfully completes a drug treatment and
13 rehabilitation program approved by the Department of Health. The
14 power to parole herein granted to the Board of Parole may not be
15 exercised in the board's discretion at any time before, but only
16 after, the expiration of the minimum term of imprisonment fixed
17 by the court in its sentence or by the Pardon Board in a
18 sentence which has been reduced by commutation: Provided,
19 however, That if the Board of Parole refuse to parole the
20 prisoner at the expiration of any minimum term fixed by the
21 Pardon Board, it shall, within ten days after the date when the
22 minimum term expired, transmit to the Pardon Board a written
23 statement of the reasons for refusal to parole the prisoner at
24 the expiration of the minimum term fixed by the Pardon Board.
25 Thereafter, the Pardon Board may either accept the action of the
26 Board of Parole, or order the immediate release of the prisoner
27 on parole, under the supervision of the Board of Parole. The
28 board may not release a person on parole unless the person
29 achieves a negative result within one week prior to the date of
30 release in a screening test approved by the Department of Health

1 for the detection of the presence of controlled substances or
2 designer drugs under [the act of April 14, 1972 (P.L.233,
3 No.64), known as] "The Controlled Substance, Drug, Device and
4 Cosmetic Act." The cost of these pre-parole drug screening tests
5 for inmates subject to the parole release jurisdiction of the
6 board, whether confined in a State or local correctional
7 facility, shall be paid by the board. The board shall establish
8 rules and regulations for the payment of these costs and may
9 limit the types and cost of these screening tests that would be
10 subject to payment by the board. The board shall establish, as a
11 condition of continued parole for a parolee who, as an inmate,
12 tested positive for the presence of a controlled substance or a
13 designer drug or who was paroled from a sentence arising from a
14 conviction under "The Controlled Substance, Drug, Device and
15 Cosmetic Act," or from a drug-related crime, the parolee's
16 achievement of negative results in such screening tests randomly
17 applied. The random screening tests shall be performed at the
18 discretion of the board, and the parolee undergoing the tests
19 shall be responsible for the costs of the tests. The funds
20 collected for the tests shall be applied against the contract
21 for such testing between the board and a testing laboratory
22 approved by the Department of Health. Said board shall have the
23 power during the period for which a person shall have been
24 sentenced to recommit one paroled for violation of the terms and
25 conditions of his parole and from time to time to reparole and
26 recommit in the same manner and with the same procedure as in
27 the case of an original parole or recommitment, if, in the
28 judgment of the said board, there is a reasonable probability
29 that the convict will be benefited by again according him
30 liberty and it does not appear that the interests of the

1 Commonwealth will be injured thereby.

2 Section 2. Section 22 of the act, amended May 27, 1943
3 (P.L.767, No.324), is amended to read:

4 Section 22. The board shall have the power, subject to the
5 provisions and limitations set forth in section twenty-one, to
6 grant paroles of its own motion whenever in its judgment the
7 interests of justice require the granting of the same. In the
8 case of a convict who has been sentenced for a violation of the
9 act of April 14, 1972 (P.L.233, No.64), known as "The Controlled
10 Substance, Drug, Device and Cosmetic Act," the board shall not
11 have the power to grant a parole unless and until the convict
12 successfully completes a drug treatment and rehabilitation
13 program approved by the Department of Health. In addition
14 thereto, the board shall have the power, and it shall be its
15 duty, to consider applications for parole by a prisoner or by
16 his attorney, relatives or friends or by any person properly
17 interested in the matter. Hearings of applications shall be held
18 by the board whenever in its judgment hearings are necessary.
19 Reasonable rules and regulations shall be adopted by the board
20 for the presentation and hearing of applications for parole:
21 Provided, however, That whenever any prisoner is paroled by the
22 board, whether of its own motion or after hearing of an
23 application therefor, or whenever an application for parole is
24 refused by the board, a brief statement of the reasons for the
25 board's action shall be filed of record in the offices of the
26 board and shall be at all reasonable times open to public
27 inspection; in no case shall a parole be granted, or an
28 application for parole be dismissed, unless a district
29 supervisor shall have seen and heard him in person in regard
30 thereto within six months prior to the granting or dismissal

1 thereof. Application shall be disposed of by the board within
2 six months of the filing thereof. Except in cases where the
3 Pardon Board has reduced a minimum term by commutation, the
4 board shall initially act on the application, if possible,
5 before the expiration of the minimum term so fixed, and in no
6 case more than thirty days thereafter.

7 In granting and revoking paroles, and in discharging from
8 parole, the members of the board acting thereon shall not be
9 required to personally hear or see all the witnesses and
10 evidence submitted to them for their action, but they may act on
11 report submitted to them by their agents and employes, together
12 with any pertinent and adequate information furnished to them by
13 fellow members of the board or by others.

14 At least ten days before paroling a prisoner on its own
15 motion the board shall give written notice of such contemplated
16 parole to the district attorney of the county wherein the
17 prisoner shall have been sentenced, and, in cases of hearings on
18 applications for parole as herein provided for, at least ten
19 days written notice of the time and place fixed for such hearing
20 shall be given either by the board or by the applicant, as the
21 board shall direct, to the court and district attorney of the
22 county wherein the applicant shall have been sentenced.

23 Section 3. This act shall take effect immediately.