

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 132 Session of
1999

INTRODUCED BY BISHOP, YOUNGBLOOD, THOMAS, TIGUE, MELIO,
LAUGHLIN, HERMAN, SURRA, BENNINGHOFF, PESCI, CASORIO,
PRESTON, READSHAW, BELARDI, MICHLOVIC, RAMOS, HORSEY,
WILLIAMS AND WASHINGTON, JANUARY 26, 1999

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MARCH 16, 1999

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for harassment and
3 stalking; AND PROVIDING FOR THE REGULATION OF METHADONE
4 MAINTENANCE FACILITIES. <—

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

7 Section 1. Section 2709 of Title 18 of the Pennsylvania
8 Consolidated Statutes is amended by adding subsections to read:
9 § 2709. Harassment and stalking.

10 * * *

11 (b.1) Bail.--

12 (1) A defendant arrested under subsection (b) shall be
13 afforded a preliminary arraignment by the proper issuing
14 authority without unnecessary delay. In no case shall the
15 arresting officer release the defendant from custody rather
16 than taking the defendant before the issuing authority.

17 (2) In determining whether to admit the defendant to

1 bail, the issuing authority shall consider whether the
2 defendant poses a present threat to the physical safety of
3 the victim. If the issuing authority makes such a
4 determination, it shall require as conditions of bail that
5 the defendant refrain from remaining present outside or
6 entering the residence or household of the victim and the
7 victim's place of employment and refrain from committing any
8 further criminal conduct against the victim and shall notify
9 the defendant of the required conditions at the time the
10 defendant is admitted to bail. Conditions shall expire at the
11 time of the preliminary hearing or upon the entry or the
12 denial of the protection of abuse order by the court,
13 whichever occurs first. A violation of a condition is
14 punishable by revocation of pretrial release, forfeiture of
15 bail, issuance of a bench warrant for the defendant's arrest
16 or remanding the defendant to custody or modification of the
17 terms of the bail. The defendant shall be provided a hearing
18 on this matter.

19 (b.2) Mental health, drug and alcohol evaluation.--The court
20 shall order a defendant who is convicted or who pleads guilty or
21 no contest to a charge under this section to undergo a mental
22 health evaluation and a drug and alcohol evaluation.

23 * * *

24 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ: <—
25 § 7330. UNLAWFUL METHADONE MAINTENANCE FACILITY.

26 (A) GENERAL RULE.--METHADONE MAINTENANCE FACILITIES
27 PROHIBITED IN CERTAIN CIRCUMSTANCES.

28 (1) IT IS UNLAWFUL FOR A METHADONE MAINTENANCE FACILITY
29 TO OPERATE UNDER THE FOLLOWING CONDITIONS:

30 (I) THE FACILITY IS WITHIN 2,500 FEET OF A CHURCH,

1 CHARITABLE INSTITUTION, SCHOOL, PUBLIC PARK OR PUBLIC
2 PLAYGROUND.

3 (II) IN THE OPINION OF THE DEPARTMENT OF HEALTH THE
4 FACILITY IS OR WOULD BE DETRIMENTAL TO THE HEALTH,
5 WELFARE, PEACE OR MORALS OF THE INHABITANTS OF THE
6 NEIGHBORHOOD WITHIN A RADIUS OF 2,500 FEET OF THE
7 FACILITY.

8 (2) THE DEPARTMENT SHALL REFUSE ANY APPLICATION FOR A
9 LICENSE FOR A METHADONE MAINTENANCE FACILITY THAT FALLS UNDER
10 THE CRITERIA IN PARAGRAPH (1).

11 (B) EMPLOYEES.--

12 (1) OWNERS AND OPERATORS OF METHADONE MAINTENANCE
13 FACILITIES LICENSED BY THE DEPARTMENT SHALL REQUIRE A
14 PROSPECTIVE EMPLOYEE TO SUBMIT WITH THE PROSPECTIVE
15 EMPLOYEE'S EMPLOYMENT APPLICATION, PURSUANT TO CHAPTER 91
16 (RELATING TO CRIMINAL HISTORY RECORD INFORMATION), A REPORT
17 OF CRIMINAL HISTORY RECORD INFORMATION FROM THE PENNSYLVANIA
18 STATE POLICE OR A STATEMENT FROM THE PENNSYLVANIA STATE
19 POLICE THAT THE CENTRAL REPOSITORY CONTAINS NO SUCH
20 INFORMATION RELATING TO THE PROSPECTIVE EMPLOYEE. THE
21 CRIMINAL HISTORY RECORD INFORMATION SHALL BE LIMITED TO THAT
22 WHICH IS DISSEMINATED UNDER SECTION 9121(B)(2) (RELATING TO
23 GENERAL REGULATIONS) AND SHALL BE NO MORE THAN ONE YEAR OLD.

24 (2) AN APPLICANT MAY SUBMIT A COPY OF THE REQUIRED
25 INFORMATION WITH THE APPLICATION FOR EMPLOYMENT.

26 (3) ADMINISTRATORS SHALL MAINTAIN A COPY OF THE REQUIRED
27 INFORMATION AND SHALL REQUIRE EACH APPLICANT TO PRODUCE THE
28 ORIGINAL DOCUMENT PRIOR TO EMPLOYMENT.

29 (4) ALL CURRENT EMPLOYEES MUST OBTAIN THIS REPORT WITHIN
30 SIX MONTHS FROM THE EFFECTIVE DATE OF THIS SECTION IN ORDER

1 TO REMAIN AN EMPLOYEE OF THE FACILITY.

2 (5) THIS SUBSECTION SHALL APPLY TO ALL CURRENT AND
3 PROSPECTIVE EMPLOYEES OF METHADONE MAINTENANCE FACILITIES
4 LICENSED BY THE DEPARTMENT.

5 (C) REGULATIONS.--THE DEPARTMENT SHALL PROMULGATE
6 REGULATIONS TO IMPLEMENT THIS SECTION.

7 (D) METHADONE MAINTENANCE FACILITY DEFINED.--FOR THE
8 PURPOSES OF THIS SECTION, THE TERM "METHADONE MAINTENANCE
9 FACILITY" SHALL REFER TO ANY SITE THE PRIMARY PURPOSE OF WHICH
10 IS TO CONDUCT PROJECTS APPROVED BY THE DEPARTMENT WHICH USE THE
11 DRUG METHADONE IN THE TREATMENT, MAINTENANCE OR DETOXIFICATION
12 OF PERSONS. THE FACILITIES SHALL COMPLY WITH ALL APPLICABLE
13 FEDERAL AND STATE REGULATIONS CONCERNING THE ADMINISTRATION,
14 DISPENSING AND STORAGE OF METHADONE. THE PROVISIONS OF THIS
15 SECTION SHALL BE IN ADDITION TO ALL OTHER FEDERAL AND STATE
16 REQUIREMENTS GOVERNING THE OPERATION OF METHADONE PROJECTS.

17 (E) PENALTIES.--

18 (1) A PERSON WHO OPERATES A METHADONE MAINTENANCE
19 FACILITY WITHOUT A LICENSE OR IN VIOLATION OF SUBSECTION (A)
20 COMMITTS A MISDEMEANOR OF THE SECOND DEGREE AND, UPON
21 CONVICTION, SHALL BE SENTENCED TO IMPRISONMENT NOT EXCEEDING
22 ONE YEAR AND SHALL PAY A FINE OF NOT MORE THAN \$5,000, OR
23 BOTH.

24 (2) THE ATTORNEY GENERAL SHALL CLOSE DOWN ANY METHADONE
25 MAINTENANCE FACILITY FOUND TO OPERATE IN VIOLATION OF THIS
26 SECTION.

27 (3) ANY PROPERTY, EQUIPMENT OR VEHICLE OR OTHER
28 CONVEYANCE USED FOR THE UNLAWFUL OPERATION OF A METHADONE
29 MAINTENANCE FACILITY MAY BE FORFEITED IN THE MANNER PROVIDED
30 IN 42 PA.C.S. CH. 68 (RELATING TO CONTROLLED SUBSTANCES

1 FORFEITURES).

2 Section ~~2~~ 3. This act shall take effect in 60 days.

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