

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1121 Session of
2003

INTRODUCED BY JAMES, THOMAS, JOSEPHS, D. EVANS, WASHINGTON,
YOUNGBLOOD, WATERS, KIRKLAND, WANSACZ, LEACH, HORSEY,
PALLONE, HENNESSEY, PRESTON, FRANKEL, J. WILLIAMS AND HARPER,
APRIL 9, 2003

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 9, 2003

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 a system of earned
18 time.

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 December 21, 1998 (P.L.1077, No.143), is
24 amended to read:

25 Section 21. (a) The board is hereby authorized to release

1 on parole any convict confined in any penal institution of this
2 Commonwealth as to whom power to parole is herein granted to the
3 board, except convicts condemned to death or serving life
4 imprisonment, whenever in its opinion the best interests of the
5 convict justify or require his being paroled and it does not
6 appear that the interests of the Commonwealth will be injured
7 thereby. Parole shall be subject in every instance to the
8 Commonwealth's right to immediately retake and hold in custody
9 without further proceedings any parolee charged after his parole
10 with an additional offense until a determination can be made
11 whether to continue his parole status. The power to parole
12 herein granted to the Board of Parole may not be exercised in
13 the board's discretion at any time before, but only after, the
14 expiration of the minimum term of imprisonment fixed by the
15 court in its sentence or by the Pardon Board in a sentence which
16 has been reduced by commutation minus earned time awarded under
17 section 34.2.

18 (b) The board may not release a person on parole unless the
19 person achieves a negative result within forty-five days prior
20 to the date of release in a screening test approved by the
21 Department of Health for the detection of the presence of
22 controlled substances or designer drugs under the act of April
23 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,
24 Drug, Device and Cosmetic Act." The cost of these pre-parole
25 drug screening tests for inmates subject to the parole release
26 jurisdiction of the board, whether confined in a State or local
27 correctional facility, shall be paid by the board. The board
28 shall establish rules and regulations for the payment of these
29 costs and may limit the types and cost of these screening tests
30 that would be subject to payment by the board. The board shall

1 establish, as a condition of continued parole for a parolee who,
2 as an inmate, tested positive for the presence of a controlled
3 substance or a designer drug or who was paroled from a sentence
4 arising from a conviction under "The Controlled Substance, Drug,
5 Device and Cosmetic Act," or from a drug-related crime, the
6 parolee's achievement of negative results in such screening
7 tests randomly applied. The random screening tests shall be
8 performed at the discretion of the board, and the parolee
9 undergoing the tests shall be responsible for the costs of the
10 tests. The funds collected for the tests shall be applied
11 against the contract for such testing between the board and a
12 testing laboratory approved by the Department of Health.

13 (b.1) The board may not release a person who is serving a
14 sentence for a crime of violence as defined in 42 Pa.C.S. §
15 9714(g) (relating to sentences for second and subsequent
16 offenses) on parole unless the person has received instruction
17 from the Department of Corrections on the impact of crime on
18 victims and the community.

19 (c) The board shall have the power during the period for
20 which a person shall have been sentenced to recommit one paroled
21 for violation of the terms and conditions of his parole and from
22 time to time to reparole and recommit in the same manner and
23 with the same procedure as in the case of an original parole or
24 recommitment, if, in the judgment of the board, there is a
25 reasonable probability that the convict will be benefited by
26 again according him liberty and it does not appear that the
27 interests of the Commonwealth will be injured thereby.

28 (d) When the board releases a parolee from a State or local
29 correctional facility, the board shall provide written notice to
30 the probation department located in the county where the

1 sentencing order was imposed of the release and new address of
2 the parolee.

3 Section 2. The act is amended by adding a section to read:

4 Section 34.2. (a) On the effective date of this section,
5 any offender serving a sentence of imprisonment with a maximum
6 term of two years or more shall be awarded earned time at the
7 following rate: two months for the first year, three months for
8 the second year, four months each for the third and fourth years
9 and five months for each subsequent year. This earned time shall
10 be awarded, on a prorated basis, for each complete calendar
11 month spent without infractions of guidelines or regulations
12 established by the Secretary of Corrections or by the
13 inspectors, sheriff or other persons having charge of county
14 jails or prisons.

15 (b) The Secretary of Corrections shall issue guidelines or
16 regulations prescribing the types of conduct for which and the
17 procedures by which earned time may be withheld. The inspectors,
18 sheriffs or other persons having charge of county jails or
19 prisons shall issue guidelines or regulations by which earned
20 time may be withheld for inmates incarcerated in such
21 facilities: Provided, however, That any such guidelines or
22 regulations shall be approved by the Secretary of Corrections
23 before taking effect.

24 (c) An inmate charged with an infraction of such guidelines
25 or regulations shall receive written notice and an explanation
26 of the charge and an opportunity for a hearing.

27 (d) Earned time shall be awarded at the end of each complete
28 calendar month if no infractions have been charged during that
29 month, but earned time once granted may be revoked for
30 subsequent infractions in accordance with the guidelines and

1 regulations for earned time, up to a maximum of one year's
2 accumulation for each infraction, consistent with that year's
3 rate of earning. No earned time shall be awarded for time served
4 prior to the effective date of this section.

5 (e) An individual serving a life sentence shall not
6 accumulate earned time, unless the sentence is reduced by
7 commutation. In such cases, the inmate shall be eligible to
8 receive earned time for each month after the date the term is
9 set.

10 (f) An inmate who has been returned to prison by the
11 Pennsylvania Board of Probation and Parole for violations of
12 parole shall not be eligible for earned time during service of
13 the balance of the inmate's original term of imprisonment, but
14 shall be eligible for earned time during service of any new
15 sentence imposed as a result of the violations of parole.

16 Section 3. This act shall take effect in 60 days.