
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 6

Session of
2007

INTRODUCED BY MANDERINO, BAKER, BASTIAN, BENNINGHOFF, CAPPELLI,
CLYMER, DALLY, DENLINGER, EVERETT, FABRIZIO, FAIRCHILD,
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WANSACZ, WATSON, YUDICHAK, J. WHITE, WALKO, JAMES,
CALTAGIRONE AND D. O'BRIEN, AUGUST 21, 2007

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED,
MAY 13, 2008

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 intent, for business of
18 the Pennsylvania Board of Probation and Parole, for powers
19 and duties of the board, for duties of the chairman of the
20 board, for supervision of parole and probation, for power to
21 parole, for commission of crime during parole and for victim
22 of the offense.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

1 Section 1. Section 1 of the act of August 6, 1941 (P.L.861,
2 No.323), referred to as the Pennsylvania Board of Probation and
3 Parole Law, amended December 18, 1996 (P.L.1098, No.164), is
4 amended to read:

5 Section 1. The parole system provides several benefits to
6 the criminal justice system, including the provision of adequate
7 supervision of the offender while protecting the public, the
8 opportunity for the offender to become a useful member of
9 society and the diversion of appropriate offenders from prison.

10 In providing these benefits to the criminal justice system,
11 the board shall first and foremost seek to protect the safety of
12 the public. In addition to this goal, the board shall address
13 input by crime victims [and], assist in the fair administration
14 of justice by ensuring the custody, control and treatment of
15 paroled offenders[.], shall consider any applicable guidelines
16 established by the Pennsylvania Commission on Sentencing and
17 shall ensure that parole proceedings, release and recommitment
18 are administered in an efficient and timely manner.

19 Section 2. Sections 3 and 4 of the act, amended October 9,
20 1986 (P.L.1424, No.134), are amended to read:

21 Section 3. The Governor shall from time to time, as the
22 occasion may arise, designate one of the members of the board to
23 be its chairman who shall direct the operations, management and
24 administration of the board and fulfill the functions
25 established by this act, secure the effective application of the
26 probation system in all of the courts of the State and the
27 enforcement of the probation laws. [He] The chairman shall
28 preside at all meetings of the board and perform all the duties
29 and functions of chairman thereof, including organizing,
30 staffing, controlling, directing and administering the work of

1 the staff. The chairman shall administer the proceedings of the
2 board to ensure efficient and timely procedures for parole board
3 decisions, parole releases, discharges and recommitments. The
4 board may designate one of its members to act as chairman during
5 the absence or incapacity of the chairman and, when so acting,
6 the member so designated shall have and perform all the powers
7 and duties of chairman of the board, but shall not receive any
8 additional compensation for so acting. [The chairman, in
9 performing his duties as they relate to parole, reparole and
10 violation and revocation proceedings, shall act in accordance
11 with the policies and procedures established by the board.]

12 Section 4. (a) A majority of the board shall constitute a
13 quorum for transacting business and, except as hereinafter
14 otherwise provided, a majority vote of those present at any
15 meeting shall be sufficient for any official action taken by the
16 board. Except as provided in subsections (b), (c) [and (d)], (d)
17 and (e) and 44 Pa.C.S. Ch. 53 (relating to recidivism risk
18 reduction incentive), no person shall be paroled, discharged
19 from parole, or the parole of any person revoked, except by a
20 majority of the entire membership of the board.

21 (b) The board may make decisions on parole, reparole, return
22 or revocation in panels of two persons. A panel shall consist of
23 one board member and one hearing examiner or of two board
24 members. Panels shall be appointed by the chairman or the
25 chairman's designee.

26 (c) If there is disagreement on a decision to parole between
27 the members of a panel, the matter shall be decided by a board
28 member appointed by the chairman or the chairman's designee, who
29 shall concur with one of the original panel members. If there is
30 disagreement on a revocation decision between the members of the

1 panel, the matter shall be decided by three board members
2 appointed by the chairman or the chairman's designee; at least
3 two of these members must not have been on the disagreeing
4 panel, if practicable.

5 (d) An interested party may appeal a revocation decision
6 within thirty days of the board's order. The decision shall be
7 reviewed by three board members appointed by the chairman or the
8 chairman's designee. If practicable, at least two of the board
9 members reviewing the decision must not have been on the panel
10 whose decision is being appealed. The three board members
11 deciding the appeal may affirm, reverse or remand the decision
12 of the panel or may order the matter be heard de novo.

13 (e) Subject to the provisions of section 21(b.2), the board
14 or its designee may issue a decision to parole an eligible
15 offender as defined under 44 Pa.C.S. § 5303 (relating to
16 definitions) without further review by the board.

17 Section 3. Section 16.2(a) of the act is amended by adding a
18 paragraph to read:

19 Section 16.2. (a) The board shall have the power and its
20 duty shall be:

21 * * *

22 (12) To provide information as required under 42 Pa.C.S. §
23 2153(a)(14) (relating to powers and duties) as requested by the
24 Pennsylvania Commission on Sentencing.

25 Section 4. Section 17 of the act, amended December 27, 1965
26 (P.L.1230, No.501), is amended to read:

27 Section 17. (a) The board shall have exclusive power to
28 parole and reparole, commit and recommit for violations of
29 parole, and to discharge from parole all persons heretofore or
30 hereafter sentenced by any court in this Commonwealth to

1 imprisonment in any prison or penal institution thereof, whether
2 the same be a state or county penitentiary, prison or penal
3 institution, as hereinafter provided. It is further provided
4 that the board shall have exclusive power to supervise any
5 person hereafter placed on parole (when sentenced to a maximum
6 period of less than two years) by any judge of a court having
7 criminal jurisdiction, when the court may by special order
8 direct supervision by the board, in which case the parole case
9 shall be known as a special case and the authority of the board
10 with regard thereto shall be the same as herein provided with
11 regard to parole cases within one of the classifications above
12 set forth: Provided, however, That, except for such special
13 cases, the powers and duties herein conferred shall not extend
14 to persons sentenced for a maximum period of less than two
15 years~~], and nothing]~~ AND SHALL NOT EXTEND TO THOSE PERSONS ←
16 COMMITTED TO COUNTY CONFINEMENT WITHIN THE JURISDICTION OF THE
17 COURT PURSUANT TO 42 PA.C.S. § 9762(B)(2) (RELATING TO
18 SENTENCING PROCEEDING; PLACE OF CONFINEMENT).

19 (b) Nothing herein contained shall prevent [any] a court of
20 this Commonwealth from paroling any person sentenced by it for a
21 maximum period of less than two [years: And provided further,
22 That the] years OR FROM PAROLING A PERSON COMMITTED TO COUNTY ←
23 CONFINEMENT WITHIN THE JURISDICTION OF THE COURT PURSUANT TO 42
24 PA.C.S. § 9762(B)(2). If a court paroles or reparaoles a person,
25 the court shall report the parole decision to the Pennsylvania
26 Commission on Sentencing pursuant to 42 Pa.C.S. § 2153(a)(14)
27 (relating to powers and duties).

28 (c) The period of two years herein referred to shall mean
29 the entire continuous term of sentence to which a person is
30 subject, whether the same be by one or more sentences, either to

1 simple imprisonment or to an indeterminate imprisonment at hard
2 labor, as now or hereafter authorized by law to be imposed for
3 criminal offenses. The power of the board to parole shall extend
4 to prisoners sentenced to definite or flat sentences.

5 Section 5. Section 21 of the act, amended December 21, 1998
6 (P.L.1077, No.143), is amended to read:

7 Section 21. (a) The board is hereby authorized, to parole
8 subject to consideration of guidelines established under 42
9 Pa.C.S. § 2154.5 (relating to adoption of guidelines for
10 parole), to release on parole any convict confined in any penal
11 institution of this Commonwealth as to whom power to parole is
12 herein granted to the board, except convicts condemned to death
13 or serving life imprisonment, whenever in its opinion the best
14 interests of the convict justify or require his being paroled
15 and it does not appear that the interests of the Commonwealth
16 will be injured thereby. Parole shall be subject in every
17 instance to the Commonwealth's right to immediately retake and
18 hold in custody without further proceedings any parolee charged
19 after his parole with an additional offense until a
20 determination can be made whether to continue his parole status.
21 The power to parole herein granted to the Board of Parole may
22 not be exercised in the board's discretion at any time before,
23 but only after, the expiration of the minimum term of
24 imprisonment fixed by the court in its sentence or by the Pardon
25 Board in a sentence which has been reduced by commutation.

26 (a.1) In each case in which the board deviates from the
27 guidelines established under 42 Pa.C.S. § 2154.5, the board
28 shall provide a contemporaneous written statement of the reason
29 for the deviation from the guidelines to the Pennsylvania
30 Commission on Sentencing, as established under 42 Pa.C.S. §

1 2153(a)(14) (relating to powers and duties). The board may
2 develop and use internal decisional instruments. This subsection
3 shall not be construed to prevent the board from also developing
4 forms or other documents, policies and procedures consistent
5 with this act including internal decisional instruments.

6 (a.2) (1) An eligible offender shall be placed on
7 administrative parole one year after release on parole and until
8 the maximum sentence date if the board's supervision staff
9 determines that:

10 ~~(i) the eligible offender has not violated the terms and~~ <—

11 ~~(I) (A) THE ELIGIBLE OFFENDER HAS NOT VIOLATED THE TERMS~~ <—

12 AND conditions of the eligible offender's parole; or

13 ~~(ii) (A) the eligible offender has not been subject to the~~ <—

14 ~~(B) THE ELIGIBLE OFFENDER HAS NOT BEEN SUBJECT TO THE~~ <—

15 extensive use of sanctions prior to the completion of one year
16 from the date of release on parole; and

17 ~~(B) there is no substantial information indicating~~ <—

18 ~~(II) THERE IS NO SUBSTANTIAL INFORMATION INDICATING~~ <—

19 dangerousness or that placement on administrative parole would
20 compromise public safety.

21 (2) An eligible offender placed on administrative parole
22 shall continue to be subject to recommitment at the board's
23 discretion and shall be subject to the board's power to recommit
24 and reparole, recommit and review or otherwise impose sanctions
25 at its discretion until the eligible offender's maximum sentence
26 date.

27 (3) An eligible offender placed on administrative parole
28 shall do all of the following:

29 (i) Have supervision contact at least one time a year.

30 (ii) Provide updated contact information upon a change in

1 residence or employment.

2 (iii) Continue to pay any restitution owed.

3 (iv) Comply with other requirements imposed by the board.

4 (a.3) The board shall have the power and its duty shall be
5 to comply with the requirements of 44 Pa.C.S. § 5306 (relating
6 to recidivism risk reduction incentive minimum).

7 (b) The board may not release a person on parole unless the
8 person achieves a negative result within forty-five days prior
9 to the date of release in a screening test approved by the
10 Department of Health for the detection of the presence of
11 controlled substances or designer drugs under the act of April
12 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,
13 Drug, Device and Cosmetic Act." The cost of these pre-parole
14 drug screening tests for inmates subject to the parole release
15 jurisdiction of the board, whether confined in a State or local
16 correctional facility, shall be paid by the board. The board
17 shall establish rules and regulations for the payment of these
18 costs and may limit the types and cost of these screening tests
19 that would be subject to payment by the board. The board shall
20 establish, as a condition of continued parole for a parolee who,
21 as an inmate, tested positive for the presence of a controlled
22 substance or a designer drug or who was paroled from a sentence
23 arising from a conviction under "The Controlled Substance, Drug,
24 Device and Cosmetic Act," or from a drug-related crime, the
25 parolee's achievement of negative results in such screening
26 tests randomly applied. The random screening tests shall be
27 performed at the discretion of the board, and the parolee
28 undergoing the tests shall be responsible for the costs of the
29 tests. The funds collected for the tests shall be applied
30 against the contract for such testing between the board and a

1 testing laboratory approved by the Department of Health.

2 (b.1) The board may not release a person who is serving a
3 sentence for a crime of violence as defined in 42 Pa.C.S. §
4 9714(g) (relating to sentences for second and subsequent
5 offenses) on parole unless the person has received instruction
6 from the Department of Corrections on the impact of crime on
7 victims and the community.

8 (b.2) (1) The department shall identify all prisoners
9 committed to the custody of the department that meet the
10 definition of an eligible offender.

11 (2) Upon identification of a prisoner as an eligible
12 offender, the department shall send notice to the board. The
13 board shall send notice to the prosecuting attorney and the
14 court no less than six months before the expiration of the
15 prisoner's minimum sentence indicating that the department has
16 preliminarily identified the prisoner as an eligible offender.
17 The notice shall be sent by United States mail unless the board,
18 the court and the prosecutor have consented to receipt of notice
19 via electronic means. For prisoners committed to the department
20 whose expiration of the minimum sentence is six months or less
21 from the date of admission, the department shall give prompt
22 notice.

23 (3) Within 60 days of receipt of notice under paragraph (2),
24 the court or prosecuting attorney may file a written objection
25 to the department's preliminary identification of the prisoner
26 as an eligible offender. Notice of the objection shall be
27 provided to the department and the board.

28 (4) If no notice of objection has been filed under paragraph
29 (3), the board or its designee shall approve for parole at the
30 expiration of the eligible offender's minimum date upon a

1 determination that all of the following apply:

2 (i) The department certified that the prisoner has
3 maintained a good conduct record and continues to remain an
4 eligible offender.

5 (ii) The reentry plan for the prisoner is adequate.

6 (iii) Individual conditions and requirements for parole have
7 been established.

8 (iv) There is no reasonable indication that the prisoner
9 poses a risk to public safety.

10 (5) If the court or prosecuting attorney files a timely
11 objection under paragraph (3), the board shall make a
12 determination as to whether the prisoner is an eligible
13 offender. The board shall notify the department, prosecuting
14 attorney and court of its determination no later than 60 days
15 prior to the minimum parole date. If the board determines that
16 the prisoner is an eligible offender under this act, the board
17 shall follow the provisions of paragraph (4). If the board
18 determines that the prisoner is not an eligible offender under
19 44 Pa.C.S. § 5303, the board shall retain exclusive jurisdiction
20 to grant parole and shall determine whether the offender should
21 be paroled at the minimum date, paroled at a later date or
22 denied parole.

23 (6) Nothing in this subsection shall be interpreted as
24 granting a right to be paroled to any person, and any decision
25 by the board and its designees or the department, under this
26 section, shall not be considered an adjudication under 2 Pa.C.S.
27 Ch. 5 Subch. A (relating to practice and procedure of
28 Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial
29 review of Commonwealth agency action).

30 (7) Except as provided under this subsection, nothing in

1 this act shall otherwise affect the powers and duties of the
2 board or the department.

3 (c) The board shall have the power during the period for
4 which a person shall have been sentenced to recommit one paroled
5 for violation of the terms and conditions of his parole and from
6 time to time to reparole and recommit in the same manner and
7 with the same procedure as in the case of an original parole or
8 recommitment, if, in the judgment of the board, there is a
9 reasonable probability that the convict will be benefited by
10 again according him liberty and it does not appear that the
11 interests of the Commonwealth will be injured thereby. In
12 exercising these powers, the board shall consider any applicable
13 recommitment ranges established by the Pennsylvania Commission
14 on Sentencing under 42 Pa.C.S. § 2154.6 (relating to adoption of
15 recommitment ranges following revocation of parole by board).

16 (c.1) In each case in which the board deviates from the
17 recommitment ranges established under 42 Pa.C.S. § 2154.6, the
18 board shall provide a contemporaneous written statement of the
19 reason for the deviation from the recommitment ranges to the
20 Pennsylvania Commission on Sentencing, as established under 42
21 Pa.C.S. § 2153(a)(14).

22 (d) When the board releases a parolee from a State or local
23 correctional facility, the board shall provide written notice to
24 the probation department located in the county where the
25 sentencing order was imposed of the release and new address of
26 the parolee.

27 (e) For the purposes of this section, the term "eligible
28 offender" shall have the same meaning as the term is given under
29 44 Pa.C.S § 5303 (relating to definitions).

30 Section 6. Section 21.1(c) of the act, amended June 28, 1957

1 (P.L.429, No.235), is amended to read:

2 Section 21.1. * * *

3 (c) Recommitment. Technical violators shall be recommitted
4 for service of the balance of said term originally imposed to
5 penal or correctional institutions as follows:

6 (1) If paroled from a county penal or correctional
7 institution, to the same institution or to any other institution
8 to which legally transferred.

9 [(2) If paroled from the Pennsylvania Industrial School at
10 Camp Hill and upon recommitment such person has not attained the
11 age of twenty-one years, to the same institution.

12 (3) If paroled from the State Industrial Home for Women at
13 Muncy, to the same institution.

14 (4) If paroled from any other State penal or correctional
15 institution under the control and supervision of the Department
16 of Justice, to the nearest Correctional Diagnostic and
17 Classification Center wherein the person shall be classified for
18 service of the balance of the term in such institution as shall
19 be designated by the Deputy Commissioner for Treatment in the
20 Bureau of Correction.]

21 (5) If paroled from a penal or correctional institution
22 under the control and supervision of the Department of
23 Corrections, any male person upon recommitment shall be sent to
24 the nearest State correctional institution for service of the
25 remainder of the original term at the institution as shall be
26 designated by the Department of Corrections. Any female person
27 shall be recommitted to the State Correctional Institution at
28 Muncy or other State correctional institution as designated by
29 the Department of Corrections.

30 Section 7. Section 22.1 of the act, amended July 11, 1990

1 (P.L.476, No.114), is amended to read:

2 Section 22.1. The victim of the offense for which a
3 defendant is sentenced, or a member of the immediate family of
4 the victim if the victim is a juvenile, is incapable of
5 testifying or died as a result of the defendant's conduct, shall
6 be notified by the district attorney immediately following
7 sentencing, in cases where the defendant has been sentenced to a
8 term of imprisonment, that he shall have the opportunity to
9 present a statement for the parole report to be considered at
10 the parole hearing or to testify to the parole board expressing
11 his opinion concerning the release of the defendant. Each victim
12 or relative shall be responsible for notifying the board of his
13 intention to submit such a statement and to provide and keep
14 current an appropriate mailing address.

15 The report may include a statement concerning the continuing
16 nature and extent of any physical harm or psychological or
17 emotional harm or trauma suffered by the victim, the extent of
18 any loss of earnings or ability to work suffered by the victim
19 and the continuing effect of the crime upon the victim's family.
20 At the time public notice is given that an inmate is being
21 considered for parole pursuant to this section, the board shall
22 also notify any victim or nearest relative who has previously
23 contacted the board of the availability to provide a statement
24 for inclusion in the parole report or to present testimony for
25 inclusion at the parole hearing.

26 The board shall notify such person at his last known mailing
27 address. The notification required by this section shall be
28 given by the board, in the case of a parole to be granted
29 pursuant to section 22 of this act, or by the court, in the case
30 of a parole to be granted pursuant to section 17 of this act.

1 The victim or family member shall notify the board within
2 thirty days from the date of the notice of his intent to present
3 testimony for a parole hearing. This time period may be waived
4 by the board for good cause.

5 Upon the victim or family member submitting a written
6 statement to the board subsequent to notice, the statement shall
7 be made a part of the board's file on the inmate, and the
8 inmate's case shall be referred to a hearing officer designated
9 to conduct parole release hearings.

10 Upon the victim or family member informing the board
11 subsequent to notice being provided that such person intends to
12 testify, the chairperson shall assign the inmate's case to a
13 hearing examiner for the purpose of receiving such person's
14 testimony.

15 The assigned hearing examiner shall conduct a hearing within
16 thirty days from the date the board received notification of the
17 intent to offer testimony.

18 The hearing shall be conducted at a time and place and on a
19 date determined by the chairperson or designee. Notice of the
20 time, place and date of the hearing shall be provided to the
21 victim or family member, in writing, and shall be mailed at
22 least ten days prior to the hearing date.

23 The hearing shall be recorded by an electronic recording
24 device.

25 The hearing examiner shall prepare a written report within a
26 reasonable amount of time prior to the hearing date. A copy of
27 the report shall be forwarded to the person offering testimony.
28 A copy of the report shall be made a part of the board's file on
29 the prisoner.

30 Upon completion of the written report, the prisoner's case

1 shall be referred to a hearing examiner designated to conduct
2 parole release hearings.

3 The hearing scheduled pursuant to this section shall be
4 conducted, when possible, prior to a parole release hearing and
5 prior to the board rendering a decision. However, nothing herein
6 shall be construed to preclude the board from conducting a
7 timely parole release hearing.

8 After submission of the report, the board shall within a
9 reasonable amount of time:

10 (1) evaluate the information provided;

11 (2) determine whether the decision shall be affirmed or
12 modified;

13 (3) determine whether a rescission hearing shall be
14 conducted; and

15 (4) notify the prisoner in writing of its decision.

16 [Any] Except as otherwise provided by law or this section,
17 any and all statements or testimony of the victim or family
18 member submitted to the board pertaining to the continuing
19 nature and extent of any physical harm or psychological or
20 emotional harm or trauma suffered by the victim, the extent of
21 any loss of earnings or ability to work suffered by the victim
22 and the continuing effect of the crime upon the victim's family
23 shall [not be deemed confidential and shall be released to the
24 prisoner unless the withholding of the statements or testimony
25 is requested by the victim and the hearing officer determines
26 that the release of the statements or testimony would endanger
27 the safety of the person providing the statements or testifying.
28 The board on its own motion may for good cause identify all or
29 part of the statements or testimony as confidential.]:

30 (1) Be deemed confidential and privileged.

1 (2) Not be subject to subpoena or discovery.

2 (3) Not be introduced into evidence in any judicial or
3 administrative proceeding.

4 (4) Not be released to the prisoner.

5 All records maintained by the board pertaining to victims
6 shall be kept separate[, and current address information of the
7 victim or]. Current address, telephone numbers and any other
8 personal information of the victim and family members shall be
9 deemed confidential.

10 Except as otherwise provided by law, no person who has had
11 access to a report, record or any other information under this
12 section shall disclose the content of the report, record or
13 other information or testify in a judicial or administrative
14 proceeding without the written consent of the victim.

15 A victim or the family member who has submitted a written
16 statement for the parole report or testified at a hearing
17 pursuant to this section shall be notified by the board of the
18 final decision rendered in the prisoner's case.

19 If the final decision is to not release the prisoner and if,
20 subsequent to that decision, additional parole release hearings
21 are conducted for that same prisoner, then the victim or family
22 member who has submitted a written statement for the parole
23 report or who has testified at a hearing pursuant to this
24 section shall be notified by the board at the last known address
25 if and when additional parole hearings are scheduled by the
26 board.

27 Section 8. This act shall take effect in 60 days.