
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 7

Session of
2007

INTRODUCED BY CALTAGIRONE, D. O'BRIEN, BENNINGHOFF, BLACKWELL,
CAPPELLI, HALUSKA, HARPER, M. O'BRIEN, PARKER, ROEBUCK,
SIPTROTH, WALKO, WATERS AND WHEATLEY, NOVEMBER 27, 2007

REFERRED TO COMMITTEE ON JUDICIARY, NOVEMBER 27, 2007

AN ACT

1 Amending the act of May 31, 1919 (P.L.356, No.170), entitled, as
2 amended, "An act authorizing courts of record to remove
3 convicts and persons confined in jails, workhouses,
4 reformatories, reform or industrial schools, penitentiaries,
5 prisons, houses of correction or any other penal
6 institutions, who are seriously ill, to other institutions;
7 and providing penalties for breach of prison," further
8 providing for removal of certain convicts who are seriously
9 ill.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 1 of the act of May 31, 1919 (P.L.356,
13 No.170), entitled "An act authorizing courts of record to remove
14 convicts and persons confined in jails, workhouses,
15 reformatories, reform or industrial schools, penitentiaries,
16 prisons, houses of correction or any other penal institutions,
17 who are seriously ill, to other institutions; and providing
18 penalties for breach of prison," amended January 26, 1966 (1965
19 P.L.1593, No.561), is amended to read:

20 Section 1. [Be it enacted, &c., That whenever any convict or
21 person is confined in any jail, workhouse, reformatory, or

1 reform or industrial school, penitentiary, prison, house of
2 correction or any other penal institution, under conviction or
3 sentence of a court, or is so confined while awaiting trial or
4 confined for any other reason or purpose, and it is shown to a
5 court of record by due proof that such convict or person is
6 seriously ill, and that it is necessary that he or she be
7 removed from such penal institution, the court shall have power
8 to modify its sentence, impose a suitable sentence, or modify
9 the order of confinement for trial, as the case may be, and
10 provide for the confinement or care of such convict or person in
11 some other suitable institution where proper treatment may be
12 administered. Upon the recovery of such person, the court shall
13 recommit him or her to the institution from which he or she was
14 removed.] Transfer.

15 (a) Petition.--If a prisoner is committed to the custody of
16 the Department of Corrections, the Department of Corrections may
17 petition the sentencing court to approve the proposed removal of
18 the prisoner committed to the custody of the Department of
19 Corrections for placement in a hospital, long-term nursing care
20 facility or hospice care location. The following shall apply:

21 (1) The sentencing court may approve the Department of
22 Corrections' request to place the prisoner in a hospital or
23 long-term nursing care facility upon proof that all of the
24 following apply:

25 (i) The Department of Corrections reasonably
26 believes that the medical needs of the prisoner can be
27 more appropriately addressed in the hospital or long-term
28 care nursing facility.

29 (ii) The hospital or long-term care nursing facility
30 requested by the Department of Corrections has agreed to

1 accept the placement of the prisoner and to provide
2 necessary medical care.

3 (iii) The prisoner is seriously ill.

4 (iv) The Department of Corrections reasonably
5 believes that there are no writs filed or detainers
6 lodged against the prisoner and the prisoner is not
7 subject to any court order requiring the prisoner's
8 presence.

9 (v) The placement in the hospital or long-term care
10 nursing facility does not pose an undue risk of escape or
11 danger to the community.

12 (vi) The hospital or long-term nursing care facility
13 has agreed to notify the Department of Corrections and
14 the court of any material changes in the health status of
15 the prisoner, the nature of the care provided or other
16 information required by the Department of Corrections.

17 (2) The sentencing court may approve the Department of
18 Corrections' request to place the prisoner in a hospice care
19 location proposed by the Department of Corrections upon proof
20 that all of the following apply:

21 (i) The prisoner is terminally ill, not ambulatory
22 and likely to die in the near future.

23 (ii) The Department of Corrections reasonably
24 believes that the licensed hospice provider and the
25 proposed hospice care location can provide more
26 appropriate care for the prisoner than the care available
27 in a State correctional institution.

28 (iii) Appropriate medical care and palliative and
29 supportive services will be provided by the licensed
30 hospice provider at the proposed hospice care location.

1 (iv) The placement of the prisoner in the hospice
2 location does not pose an undue risk of escape or danger
3 to the community.

4 (v) The licensed hospice provider has agreed to
5 notify the Department of Corrections and the court of any
6 material changes in the health status of the prisoner,
7 the nature of the hospice care provided or other
8 information required by the Department of Corrections or
9 the court.

10 (3) Any entry of an order under this section shall
11 include a provision that the Department of Corrections may
12 detain and recommit the released prisoner for changed or
13 previously unknown circumstances, including a change in the
14 prisoner's medical status, the prisoner's risk of escape, the
15 prisoner's danger to the community, the nature of the medical
16 or other care provided by the hospital, long-term care
17 nursing facility or hospice provider or the Department of
18 Corrections lack of continued consent to the placement. The
19 Department of Corrections shall develop guidelines to
20 implement this section.

21 (b) Placement.--An inmate not committed to the custody of
22 the Department of Corrections but confined in a correctional
23 facility, jail or other institution authorized to incarcerate or
24 detain persons for criminal sentences, violations of criminal
25 law or orders of parole, probation, bail or other order related
26 to a civil or criminal matter may be placed in a hospital, long-
27 term care nursing facility or hospice care location by order of
28 the judge that committed the person to a facility, jail or other
29 institution or by another available judge designated to preside
30 if all of the following apply:

1 (1) The chief administrator of the correctional
2 facility, jail or other institution or the chief
3 administrator's designee petitions the court or has given
4 written consent to the grant of a petition under this section
5 filed on behalf of the person confined.

6 (2) There is sufficient proof to establish the
7 requirements for a placement to a hospital or long-term care
8 nursing facility under subsection (a)(1) or a placement to a
9 hospice care location under subsection (a)(2).

10 (3) The placement order shall specify the conditions
11 under which the person shall be returned.

12 (c) Service.--Any petition filed under this section shall be
13 served on each agency representing the Commonwealth at each
14 proceeding which resulted in an order by which the inmate is
15 committed or detained. Each party shall have an opportunity to
16 object and be heard as to the petition for alternative
17 placement, the circumstances of placement, the conditions of
18 return or any other relevant issue. The court shall ensure that
19 any crime victim entitled to notification under section 201(7)
20 or (8) of the act of November 24, 1998 (P.L.882, No.111), known
21 as the Crime Victims Act, has been given notice and the
22 opportunity to be heard on the petition. All parties served or
23 notified under this subsection shall receive a copy of the final
24 order adjudicating the petition.

25 (d) Definitions.--As used in this section, the following
26 words and phrases shall have the meanings given to them in this
27 subsection unless the context clearly indicates otherwise:

28 "Hospice care location." A home, independent living
29 environment or inpatient setting that will provide a coordinated
30 program of palliative and supportive services through a licensed

1 hospice provider.

2 "Hospital." An entity licensed as an acute-care general
3 hospital, a specialty hospital or a rehabilitation hospital
4 under the act of July 19, 1979 (P.L.130, No.48), known as the
5 Health Care Facilities Act.

6 "Licensed hospice provider." A hospice as defined under
7 section 802.1 of the act of July 19, 1979 (P.L.130, No.48),
8 known as the Health Care Facilities Act.

9 "Long-term care nursing facility." A long-term care nursing
10 facility as defined under section 802.1 of the act of July 19,
11 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

12 "Sentencing court." Any court that has imposed a sentence
13 for which the prisoner is currently serving, committed or
14 detained.

15 Section 2. Section 2 of the act is amended to read:

16 Section 2. Escape.

17 If any person so removed under an order of court, as provided
18 in the first section of this act, shall escape, he or she, so
19 offending, shall, upon conviction thereof, be guilty of the
20 crime of breach of prison.

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