

No. 1995-16 (SS1)

AN ACT

HB 6

Amending the act of August 6, 1941 (P.L.861, No.323), entitled, as amended, "An act to create a uniform and exclusive system for the administration of parole in this Commonwealth; providing state probation services; establishing the 'Pennsylvania Board of Probation and Parole'; conferring and defining its jurisdiction, duties, powers and functions; including the supervision of persons placed upon probation and parole in certain designated cases; providing for the method of appointment of its members; regulating the appointment, removal and discharge of its officers, clerks and employes; dividing the Commonwealth into administrative districts for purposes of probation and parole; fixing the salaries of members of the board and of certain other officers and employes thereof; making violations of certain provisions of this act misdemeanors; providing penalties therefor; and for other cognate purposes, and making an appropriation," further providing for investigations and recommendations to the Board of Pardons.

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

Section 1. Section 21 of the act of August 6, 1941 (P.L.861, No.323), referred to as the Pennsylvania Board of Probation and Parole Law, amended December 27, 1994 (P.L.1359, No.159), is amended to read:

Section 21. The board is hereby authorized to release on parole any convict confined in any penal institution of this Commonwealth as to whom power to parole is herein granted to said board, except convicts condemned to death or serving life imprisonment, whenever in its opinion the best interests of the convict justify or require his being paroled and it does not appear that the interests of the Commonwealth will be injured thereby. The power to parole herein granted to the Board of Parole may not be exercised in the board's discretion at any time before, but only after, the expiration of the minimum term of imprisonment fixed by the court in its sentence or by the Pardon Board in a sentence which has been reduced by commutation[: **Provided, however, That if the Board of Parole refuse to parole the prisoner at the expiration of any minimum term fixed by the Pardon Board, it shall, within ten days after the date when the minimum term expired, transmit to the Pardon Board a written statement of the reasons for refusal to parole the prisoner at the expiration of the minimum term fixed by the Pardon Board. Thereafter, the Pardon Board may either accept the action of the Board of Parole, or order the immediate release of the prisoner on parole, under the supervision of the Board of Parole**]. The board may not release a person on parole unless the person achieves a negative result within forty-five days prior to the date of release in a screening test approved by the Department of Health for the detection of the presence of controlled substances or designer drugs under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device

and Cosmetic Act.” The cost of these pre-parole drug screening tests for inmates subject to the parole release jurisdiction of the board, whether confined in a State or local correctional facility, shall be paid by the board. The board shall establish rules and regulations for the payment of these costs and may limit the types and cost of these screening tests that would be subject to payment by the board. The board shall establish, as a condition of continued parole for a parolee who, as an inmate, tested positive for the presence of a controlled substance or a designer drug or who was paroled from a sentence arising from a conviction under “The Controlled Substance, Drug, Device and Cosmetic Act,” or from a drug-related crime, the parolee’s achievement of negative results in such screening tests randomly applied. The random screening tests shall be performed at the discretion of the board, and the parolee undergoing the tests shall be responsible for the costs of the tests. The funds collected for the tests shall be applied against the contract for such testing between the board and a testing laboratory approved by the Department of Health. Said board shall have the power during the period for which a person shall have been sentenced to recommit one paroled for violation of the terms and conditions of his parole and from time to time to reparole and recommit in the same manner and with the same procedure as in the case of an original parole or recommitment, if, in the judgment of the said board, there is a reasonable probability that the convict will be benefited by again according him liberty and it does not appear that the interests of the Commonwealth will be injured thereby.

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

Section 22. The board shall have the power, subject to the provisions and limitations set forth in section twenty-one, to grant paroles of its own motion whenever in its judgment the interests of justice require the granting of the same. In addition thereto, the board shall have the power, and it shall be its duty, to consider applications for parole by a prisoner or by his attorney, relatives or friends or by any person properly interested in the matter. Hearings of applications shall be held by the board whenever in its judgment hearings are necessary. Reasonable rules and regulations shall be adopted by the board for the presentation and hearing of applications for parole: Provided, however, That whenever any prisoner is paroled by the board, whether of its own motion or after hearing of an application therefor, or whenever an application for parole is refused by the board, a brief statement of the reasons for the board’s action shall be filed of record in the offices of the board and shall be at all reasonable times open to public inspection; in no case shall a parole be granted, or an application for parole be dismissed, unless a district supervisor shall have seen and heard him in person in regard thereto within six months prior to the granting or dismissal thereof. Application shall be disposed of by the board within six months of the filing thereof. [Except in cases where the Pardon Board has reduced a minimum term by commutation, the board shall initially act on the

application, if possible, before the expiration of the minimum term so fixed, and in no case more than thirty days thereafter.]

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

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

Section 3. Section 34 of the act is repealed.

Section 4. The act is amended by adding a section to read:

Section 34.1. (a) The board shall have the following powers and duties with regard to the Board of Pardons and individuals granted clemency by the Governor who are subject to parole supervision by the board:

(1) Make investigations and recommendations to the Board of Pardons in cases coming before it and upon its request. The investigations shall include all information set forth under section 19 of this act, including a risk assessment if the applicant is incarcerated.

(2) Immediately notify the Board of Pardons when a parolee has violated a condition of parole. This shall apply to parolees under supervision by other jurisdictions through the Interstate Compact.

(3) In no case shall the board act upon an application of an inmate whose term of imprisonment was commuted from life to life on parole or upon an inmate who was serving a term of imprisonment for a crime of violence or is an inmate serving a sentence under 42 Pa.C.S. § 9712 (relating to sentences for offenses committed with firearms) unless the inmate has served at least one year in a prerelease center. The transfer of the inmate to a prerelease center shall not occur where the transfer is not appropriate due to a certified terminal illness. Upon parole, these parolees shall be subject to weekly supervision for the first six months of parole. The parolee shall not be paroled to another jurisdiction unless the jurisdiction will provide weekly supervision for the first six months of parole.

(b) As used in this section, the term "crime of violence" means:

(1) Murder of the third degree, voluntary manslaughter, rape, sexual assault, involuntary deviate sexual intercourse, robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery), aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) (relating to aggravated assault) or kidnapping.

(2) An attempt to commit voluntary manslaughter, rape, involuntary deviate sexual intercourse, robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii), aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or kidnapping.

Section 5. This act shall take effect in 60 days.

APPROVED—The 1st day of June, A.D. 1995.

THOMAS J. RIDGE