

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1158 Session of 2020

INTRODUCED BY ARNOLD, ARGALL, J. WARD, AUMENT, REGAN, YUDICHAK, BROWNE, YAW, MARTIN, PITTMAN AND STEFANO, MAY 18, 2020

SENATOR BAKER, JUDICIARY, AS AMENDED, JUNE 24, 2020

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania
2 Consolidated Statutes, in Commonwealth services, further
3 providing for general authority of Governor.

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

6 Section 1. Section 7301(f) of Title 35 of the Pennsylvania <--
7 Consolidated Statutes is amended by adding paragraphs to read:
8 § 7301. General authority of Governor.

9 * * *

10 (f) Additional powers. In addition to any other powers
11 conferred upon the Governor by law, the Governor may:

12 * * *

13 (7.1) Control under paragraph (7), when applied to
14 individuals in a State correctional facility, shall require
15 successful completion of all prescribed Department of
16 Corrections programs prior to release or transfer.

17 (7.2) The Department of Corrections shall develop
18 temporary guidelines until the department has promulgated and

1 ~~finalized regulations as follows:~~

2 ~~(i) Develop a process and procedure for the~~
3 ~~supervision of all released inmates under paragraph (7)~~
4 ~~including, but not be limited to:~~

5 ~~(A) exclusion of an inmate convicted of or who~~
6 ~~has a prior conviction involving a personal injury~~
7 ~~crime as defined under section 103 of the act of~~
8 ~~November 24, 1998 (P.L.882, No.111), known as the~~
9 ~~Crime Victims Act, a crime listed under 42 Pa.C.S. §~~
10 ~~9714(g) (relating to sentences for second and~~
11 ~~subsequent offenses), 42 Pa.C.S. Ch. 97 Subch. H~~
12 ~~(relating to registration of sexual offenders) or I~~
13 ~~(relating to continued registration of sexual~~
14 ~~offenders) or any other crime involving domestic or~~
15 ~~sexual abuse or violence or involving child abuse.~~

16 ~~(B) monitoring of inmates using an electronic~~
17 ~~global positioning system or other monitoring;~~

18 ~~(C) drug and alcohol testing;~~

19 ~~(D) scope and depth of supervision; and~~

20 ~~(E) physical location and any exceptions;~~

21 ~~(ii) How the department will address domestic~~
22 ~~violence, sexual violence and child abuse when~~
23 ~~considering placement.~~

24 ~~(iii) Develop a process and procedure for notifying~~
25 ~~victims consistent with the Crime Victims Act.~~

26 * * *

27 SECTION 1. SECTION 7301 OF TITLE 35 OF THE PENNSYLVANIA <--
28 CONSOLIDATED STATUTES IS AMENDED BY ADDING A SUBSECTION TO READ:
29 § 7301. GENERAL AUTHORITY OF GOVERNOR.

30 * * *

1 (G) RELEASE OF INCARCERATED INDIVIDUALS.--

2 (1) IN THE EVENT THAT THE GOVERNOR, BY EXECUTIVE ORDER,
3 PROCLAMATION, REGULATION OR OTHERWISE SEEKS TO RELEASE,
4 TRANSFER OR OTHERWISE MOVE AN INMATE FROM THE CUSTODY OF A
5 STATE CORRECTIONAL INSTITUTION OR COUNTY CORRECTIONAL
6 INSTITUTION AS A RESULT OF THE AUTHORITY VESTED IN THE
7 GOVERNOR PURSUANT TO THIS TITLE, THE GOVERNOR MUST FIRST
8 IDENTIFY SPECIFIC CONDITIONS OF THE DISASTER THAT CREATE A
9 SPECIFIC AND SUBSTANTIAL DANGER TO THE INMATE IF THE INMATE
10 REMAINS INCARCERATED AND WHICH SPECIFIC AND SUBSTANTIAL
11 DANGER WOULD BE REDUCED OR ELIMINATED IF THE INMATE WAS
12 RELEASED.

13 (2) THE OFFICE OF VICTIM ADVOCATE, EITHER THE DISTRICT
14 ATTORNEY OR THE ATTORNEY GENERAL WHO HAD JURISDICTION OVER
15 THE SENTENCE FOR WHICH THE INMATE WAS INCARCERATED, AND THE
16 SENTENCING COURT SHALL BE PROVIDED NOTICE OF THE INMATE WHOM
17 THE GOVERNOR SEEKS TO RELEASE, TRANSFER OR OTHERWISE MOVE
18 UNDER PARAGRAPH (1) AND SHALL BE GIVEN NO LESS THAN 72 HOURS
19 AFTER RECEIPT OF THE NOTICE TO OBJECT OR OTHERWISE COMMENT ON
20 THE RELEASE, TRANSFER OR OTHER MOVEMENT OF THE INMATE. IN THE
21 EVENT THAT THE INMATE IS INCARCERATED IN A COUNTY
22 CORRECTIONAL INSTITUTION, THE NOTICE SHALL ALSO BE PROVIDED
23 TO THE BOARD OF COMMISSIONERS OR THE COUNTY EXECUTIVE OF THE
24 COUNTY IN WHICH THE INSTITUTION IS LOCATED, AND THE BOARD OF
25 COMMISSIONERS OR COUNTY EXECUTIVE SHALL BE GIVEN AN
26 OPPORTUNITY TO OBJECT OR OTHERWISE COMMENT. NO INDIVIDUAL
27 MAY BE RELEASED, TRANSFERRED OR OTHERWISE MOVED UNDER
28 PARAGRAPH (1) FOR WHICH AN OBJECTION IS TIMELY RECEIVED.

29 (3) REGARDLESS OF THE SENTENCE IMPOSED, AN INMATE MAY
30 NOT BE RELEASED, TRANSFERRED OR OTHERWISE MOVED UNDER

1 PARAGRAPH (1) IF THE INMATE WAS OR IS:

2 (I) COMMITTED FOR OR WITH AN AGGREGATE SENTENCE
3 CONTAINING A PERSONAL INJURY CRIME OR A CRIMINAL ATTEMPT,
4 CRIMINAL SOLICITATION OR CRIMINAL CONSPIRACY TO COMMIT A
5 PERSONAL INJURY CRIME AS DEFINED IN SECTION 103 OF THE
6 ACT OF NOVEMBER 24, 1998 (P.L.882, NO.111), KNOWN AS THE
7 CRIME VICTIMS ACT;

8 (II) COMMITTED FOR OR WITH AN AGGREGATE SENTENCE
9 CONTAINING A CRIME OF VIOLENCE OR A CRIMINAL ATTEMPT,
10 CRIMINAL SOLICITATION OR CRIMINAL CONSPIRACY TO COMMIT A
11 CRIME OF VIOLENCE AS DEFINED IN 42 PA.C.S. § 9714(G)
12 (RELATING TO SENTENCES FOR SECOND OR SUBSEQUENT
13 OFFENSES);

14 (III) COMMITTED FOR OR WITH AN AGGREGATE SENTENCE
15 CONTAINING AN OFFENSE UNDER 18 PA.C.S. CH. 61 (RELATING
16 TO FIREARMS AND OTHER DANGEROUS ARTICLES) OR A CRIMINAL
17 ATTEMPT, CRIMINAL SOLICITATION OR CRIMINAL CONSPIRACY TO
18 COMMIT THE OFFENSE;

19 (IV) COMMITTED FOR OR WITH AN AGGREGATE SENTENCE
20 CONTAINING AN ENHANCEMENT FOR THE USE OF A DEADLY WEAPON
21 AS DEFINED UNDER LAW OR THE SENTENCING GUIDELINES
22 PROMULGATED BY THE PENNSYLVANIA COMMISSION ON SENTENCING
23 OR WHERE THE ATTORNEY FOR THE COMMONWEALTH HAS
24 DEMONSTRATED THAT THE DEFENDANT HAS BEEN FOUND GUILTY OF
25 OR WAS CONVICTED OF AN OFFENSE INVOLVING A DEADLY WEAPON
26 OR A CRIMINAL ATTEMPT, CRIMINAL SOLICITATION OR CRIMINAL
27 CONSPIRACY TO COMMIT THE OFFENSE OR AN EQUIVALENT OFFENSE
28 UNDER THE LAWS OF THE UNITED STATES OR ONE OF ITS
29 TERRITORIES OR POSSESSIONS, ANOTHER STATE, THE DISTRICT
30 OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO OR A FOREIGN

1 NATION;

2 (V) COMMITTED FOR OR WITH AN AGGREGATE SENTENCE
3 CONTAINING A VIOLATION OF ANY OF THE FOLLOWING PROVISIONS
4 OR AN EQUIVALENT OFFENSE UNDER THE LAWS OF THE UNITED
5 STATES OR ONE OF ITS TERRITORIES OR POSSESSIONS, ANOTHER
6 STATE, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF
7 PUERTO RICO OR A FOREIGN NATION, INCLUDING A CRIMINAL
8 ATTEMPT, CRIMINAL SOLICITATION OR CRIMINAL CONSPIRACY TO
9 COMMIT THE OFFENSE:

10 18 PA.C.S. § 4302(A) (RELATING TO INCEST).

11 18 PA.C.S. § 6312 (RELATING TO SEXUAL ABUSE OF
12 CHILDREN).

13 18 PA.C.S. CH. 76 SUBCH. C (RELATING TO INTERNET
14 CHILD PORNOGRAPHY).

15 A CRIMINAL SENTENCE UNDER 42 PA.C.S. § 9712.1
16 (RELATING TO SENTENCES FOR CERTAIN DRUG OFFENSES
17 COMMITTED WITH FIREARMS).

18 AN OFFENSE LISTED UNDER 42 PA.C.S. CH. 97 SUBCH. H
19 (RELATING TO REGISTRATION OF SEXUAL OFFENDERS).

20 AN OFFENSE LISTED UNDER 42 PA.C.S. CH. 97 SUBCH. I
21 (RELATING TO CONTINUED REGISTRATION OF SEXUAL OFFENDERS).

22 (VI) COMMITTED FOR OR WITH AN AGGREGATE SENTENCE
23 CONTAINING AN OFFENSE OF DRUG TRAFFICKING AS DEFINED IN
24 61 PA.C.S. § 4103 (RELATING TO DEFINITIONS) OR A CRIMINAL
25 ATTEMPT, CRIMINAL SOLICITATION OR CRIMINAL CONSPIRACY TO
26 COMMIT DRUG TRAFFICKING AS DEFINED IN 61 PA.C.S. § 4103;

27 (VII) AT THE TIME OF RELEASE, TRANSFER OR OTHER
28 MOVEMENT UNDER PARAGRAPH (1), IS SUBJECT TO A PENDING
29 FELONY OR MISDEMEANOR ARREST WARRANT OR DETAINER;

30 (VIII) AT THE TIME OF THE RELEASE, TRANSFER OR OTHER

1 MOVEMENT UNDER PARAGRAPH (1), IS SERVING A SENTENCE TO A
2 STATE CORRECTIONAL INSTITUTION AND HAS BEEN DENIED PAROLE
3 ON THE SENTENCE;

4 (IX) CONVICTED OF ANY CRIMINAL OFFENSE COMMITTED
5 WHILE INCARCERATED;

6 (X) POSES AN IDENTIFIABLE RISK TO PUBLIC SAFETY; OR

7 (XI) WAS CONVICTED OF ANY CRIMINAL OFFENSE CONTAINED
8 UNDER SUBPARAGRAPH (I), (II), (III), (IV), (V) OR (VI)
9 WITHIN THE PAST 10 YEARS.

10 (4) AN INMATE RELEASED, TRANSFERRED OR OTHERWISE MOVED
11 UNDER PARAGRAPH (1) MUST:

12 (I) EITHER:

13 (A) SUCCESSFULLY COMPLETE PRIOR TO RELEASE,
14 TRANSFER OR OTHER MOVEMENT ALL PROGRAMS PRESCRIBED BY
15 THE DEPARTMENT OF CORRECTIONS, THE PAROLE BOARD OR,
16 AT THE TIME OF SENTENCING, THE SENTENCING COURT; OR

17 (B) CONTINUE THE PROGRAMMING AS A CONDITION OF
18 RELEASE, TRANSFER OR OTHER MOVEMENT.

19 (II) BE SUPERVISED.

20 (III) BE TESTED FOR DRUG AND ALCOHOL USE, AS
21 APPROPRIATE.

22 (5) AN INMATE RELEASED, TRANSFERRED OR OTHERWISE MOVED
23 UNDER PARAGRAPH (1) MAY BE RELEASED TO A COMMUNITY
24 CORRECTIONS CENTER, A COMMUNITY CORRECTIONS FACILITY OR TO
25 HOME CONFINEMENT. AN INMATE RELEASED TO HOME CONFINEMENT
26 SHALL BE MONITORED USING AN ELECTRONIC GLOBAL POSITIONING
27 SYSTEM OR OTHER REAL-TIME MONITORING SYSTEM.

28 (6) AN INMATE RELEASED, TRANSFERRED OR OTHERWISE MOVED
29 FROM A STATE CORRECTIONAL INSTITUTION UNDER PARAGRAPH (1)
30 SHALL BE RECOMMITTED TO A STATE CORRECTIONAL INSTITUTION UPON

1 THE EXPIRATION OF THE DECLARED DISASTER EMERGENCY, OR SOONER
2 AS DEEMED APPROPRIATE BY THE DEPARTMENT OF CORRECTIONS.

3 (7) THE PROVISIONS OF PARAGRAPH (6) DO NOT APPLY IF THE
4 INMATE HAS LESS THAN ONE MONTH TO SERVE ON THE INMATE'S
5 MINIMUM SENTENCE.

6 (8) THE DEPARTMENT OF CORRECTIONS MAY PROMULGATE
7 REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.
8 IN ORDER TO FACILITATE THE PROMPT IMPLEMENTATION OF THIS
9 SUBSECTION, REGULATIONS PROMULGATED BY THE DEPARTMENT OF
10 CORRECTIONS UNDER THIS SUBSECTION SHALL BE DEEMED TEMPORARY
11 REGULATIONS WHICH SHALL NOT EXPIRE FOR A PERIOD OF ONE YEAR
12 FOLLOWING PUBLICATION. TEMPORARY REGULATIONS PROMULGATED
13 UNDER THIS SUBSECTION SHALL NOT BE SUBJECT TO:

14 (I) SECTION 612 OF THE ACT OF APRIL 9, 1929
15 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF
16 1929.

17 (II) SECTIONS 201, 202, 203, 204 AND 205 OF THE ACT
18 OF JULY 31, 1968 (P.L.769, NO.240), REFERRED TO AS THE
19 COMMONWEALTH DOCUMENTS LAW.

20 (III) SECTIONS 204(B) AND 301(10) OF THE ACT OF
21 OCTOBER 15, 1980 (P.L.950, NO.164), KNOWN AS THE
22 COMMONWEALTH ATTORNEYS ACT.

23 (IV) THE ACT OF JUNE 25, 1982 (P.L.633, NO.181),
24 KNOWN AS THE REGULATORY REVIEW ACT.

25 Section 2. This act shall take effect immediately.