

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1538 Session of 2019

INTRODUCED BY WHITE, PICKETT, T. DAVIS, BERNSTINE, IRVIN, PYLE, READSHAW, STRUZZI, KAUFER, MOUL, LAWRENCE, DeLUCA, MASSER, GILLEN, QUINN, MEHAFFIE AND FARRY, JUNE 3, 2019

SENATOR BAKER, JUDICIARY, IN SENATE, AS AMENDED, APRIL 29, 2020

AN ACT

1 Amending Title 61 (Prisons and Parole) of the Pennsylvania
2 Consolidated Statutes, in Pennsylvania Board of Probation and
3 Parole, further providing for parole procedure.

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

6 Section 1. Section 6139(a) of Title 61 of the Pennsylvania <--
7 Consolidated Statutes is amended by adding paragraphs to read:

8 SECTION 1. SECTION 6139(A) AND (B) OF TITLE 61 OF THE <--
9 PENNSYLVANIA CONSOLIDATED STATUTES, AMENDED DECEMBER 18, 2019
10 (P.L.776, NO.115), ARE AMENDED TO READ:

11 § 6139. Parole procedure.

12 (a) Specific requirements.--

13 \* \* \* <--

14 (1) THE BOARD MAY, SUBJECT TO THE PROVISIONS AND <--
15 LIMITATIONS SET FORTH IN SECTION 6138 (RELATING TO VIOLATION
16 OF TERMS OF PAROLE), GRANT PAROLES OF ITS OWN MOTION WHENEVER
17 IN ITS JUDGMENT THE INTERESTS OF JUSTICE REQUIRE THE GRANTING

1 OF THESE PAROLES.

2 (2) THE BOARD SHALL CONSIDER APPLICATIONS FOR PAROLE BY  
3 AN INMATE OR THE INMATE'S ATTORNEY.

4 (3) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (2), THE  
5 BOARD SHALL NOT BE REQUIRED TO CONSIDER NOR DISPOSE OF AN  
6 APPLICATION BY AN INMATE OR AN INMATE'S ATTORNEY WHERE A  
7 PAROLE DECISION HAS BEEN ISSUED BY THE BOARD ON THAT CASE  
8 WITHIN ONE YEAR OF THE DATE OF THE CURRENT APPLICATION FOR  
9 PAROLE.

10 (3.1) NOTWITHSTANDING PARAGRAPHS (2) AND (3), THE BOARD  
11 SHALL NOT BE REQUIRED TO CONSIDER NOR TO DISPOSE OF AN  
12 APPLICATION BY AN INMATE OR AN INMATE'S ATTORNEY IN THE CASE  
13 OF AN INMATE SENTENCED UNDER 18 PA.C.S. § 1102.1 (RELATING TO  
14 SENTENCE OF PERSONS UNDER THE AGE OF 18 FOR MURDER, MURDER OF  
15 AN UNBORN CHILD AND MURDER OF A LAW ENFORCEMENT OFFICER) IF A  
16 PAROLE DECISION HAS BEEN ISSUED BY THE BOARD WITHIN FIVE  
17 YEARS OF THE DATE OF THE CURRENT APPLICATION.

18 (3.2) NOTHING UNDER THIS SECTION SHALL BE INTERPRETED AS  
19 GRANTING A RIGHT TO BE PAROLED TO ANY PERSON, AND A DECISION  
20 BY THE BOARD AND ITS DESIGNEES RELATING TO A PERSON SENTENCED  
21 UNDER 18 PA.C.S. § 1102.1 MAY NOT BE CONSIDERED AN  
22 ADJUDICATION UNDER 2 PA.C.S. CHS. 5 SUBCH. A (RELATING TO  
23 PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES) AND 7 SUBCH.  
24 A (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY  
25 ACTION).

26 (3.3) The following apply:

27 (i) Notwithstanding the provisions of paragraphs (2)  
28 and (3), if a parole decision has been issued by the  
29 board within three years of the date of the current  
30 application, the board shall not be required to consider

1 nor dispose of an application by an inmate or an inmate's  
2 attorney in the case of an inmate sentenced under any of  
3 the following provisions of 18 Pa.C.S. (relating to  
4 crimes and offenses):

5 SECTION 2502(C) (RELATING TO MURDER). <--

6 SECTION 2503 (RELATING TO VOLUNTARY  
7 MANSLAUGHTER).

8 Section 2901(a.1) (relating to kidnapping).

9 Section 3011(b) (relating to trafficking in  
10 individuals).

11 Section 3012 (relating to involuntary servitude).

12 Section 3121 (relating to rape).

13 Section 3122.1(b) (relating to statutory sexual  
14 assault).

15 Section 3123 (relating to involuntary deviate  
16 sexual intercourse).

17 Section 3124.1 (relating to sexual assault).

18 Section 3124.2(a.1) (relating to institutional  
19 sexual assault).

20 Section 3125 (relating to aggravated indecent  
21 assault).

22 Section 3126(a)(7) (relating to indecent  
23 assault).

24 Section 4302(b) (relating to incest).

25 (ii) Nothing under this paragraph shall be  
26 interpreted as granting a right to be paroled to any  
27 person, and a decision by the board and its designees  
28 relating to a person sentenced to an offense as set forth  
29 under this subsection may not be considered an  
30 adjudication under 2 Pa.C.S. Chs. 5 Subch. A and 7 Subch.

1           A.

2           (3.4) The following apply:

3                 (i) Notwithstanding the provisions of paragraphs (2)  
4                 and (3), if a parole decision has been issued by the  
5                 board within three years of the date of the current  
6                 application, the board shall not be required to consider  
7                 nor dispose of an application by an inmate or an inmate's  
8                 attorney in the case of an inmate designated as a  
9                 sexually violent predator under 42 Pa.C.S. Ch. 97 Subch.  
10                H (relating to registration of sexual offenders) or I  
11                (relating to continued registration of sexual offenders).

12                (ii) Nothing under this section shall be interpreted  
13                as granting a right to be paroled to any person, and a  
14                decision by the board and its designees relating to a  
15                person designated as a sexually violent predator may not  
16                be considered an adjudication under 2 Pa.C.S. Chs. 5  
17                Subch. A and 7 Subch. A.

18           (4) HEARINGS OF APPLICATIONS SHALL BE HELD BY THE BOARD <--  
19           WHENEVER IN ITS JUDGMENT HEARINGS ARE NECESSARY. REASONABLE  
20           RULES AND REGULATIONS SHALL BE ADOPTED BY THE BOARD FOR THE  
21           PRESENTATION AND HEARING OF APPLICATIONS FOR PAROLE.

22           (5) WHENEVER AN INMATE IS PAROLED BY THE BOARD, WHETHER  
23           OF ITS OWN MOTION OR AFTER HEARING OF AN APPLICATION FOR  
24           PAROLE, OR WHENEVER AN APPLICATION FOR PAROLE IS REFUSED BY  
25           THE BOARD, A BRIEF STATEMENT OF THE REASONS FOR THE BOARD'S  
26           ACTION SHALL BE FILED OF RECORD IN THE OFFICES OF THE BOARD  
27           AND SHALL BE AT ALL REASONABLE TIMES OPEN TO PUBLIC  
28           INSPECTION.

29           (6) IN NO CASE SHALL A PAROLE BE GRANTED, OR AN  
30           APPLICATION FOR PAROLE BE DISMISSED, UNLESS A BOARD MEMBER,

1 HEARING EXAMINER OR OTHER PERSON SO DESIGNATED BY THE BOARD  
2 SHALL HAVE SEEN AND HEARD THE PAROLEE IN PERSON IN REGARD  
3 THERETO WITHIN SIX MONTHS PRIOR TO THE GRANTING OR DISMISSAL  
4 THEREOF. THIS REQUIREMENT DOES NOT APPLY TO PAROLES UNDER  
5 SECTION 6137.1 (RELATING TO SHORT SENTENCE PAROLE).

6 (7) THE BOARD SHALL DISPOSE OF THE APPLICATION WITHIN  
7 SIX MONTHS OF ITS FILING.

8 (B) RELIANCE ON REPORTS.--IN GRANTING AND REVOKING PAROLES  
9 AND IN DISCHARGING FROM PAROLE, THE MEMBERS OF THE BOARD ACTING  
10 THEREON SHALL NOT BE REQUIRED TO PERSONALLY HEAR OR SEE ALL THE  
11 WITNESSES AND EVIDENCE SUBMITTED TO THEM FOR THEIR ACTION, BUT  
12 THEY MAY ACT ON THE REPORT SUBMITTED TO THEM BY THEIR AGENTS AND  
13 EMPLOYEES, TOGETHER WITH ANY PERTINENT AND ADEQUATE INFORMATION  
14 FURNISHED TO THEM BY FELLOW MEMBERS OF THE BOARD OR BY OTHERS.  
15 IN GRANTING OR REVOKING PAROLE OR BRINGING AN ALLEGED PAROLE  
16 VIOLATOR BEFORE A HEARING EXAMINER, THE APPEARANCE MAY BE  
17 CONDUCTED VIA VIDEOCONFERENCING OR SIMILAR VIRTUAL PRESENCE  
18 TECHNOLOGY. [THIS SUBSECTION SHALL NOT APPLY TO VICTIM INPUT  
19 UNDER SECTION 6140 (RELATING TO VICTIM STATEMENTS, TESTIMONY AND  
20 PARTICIPATION IN HEARING).] NOTWITHSTANDING ANY OTHER PROVISION  
21 OF LAW TO THE CONTRARY, A HEARING EXAMINER, HEARING OFFICER OR  
22 MEMBER OF THE BOARD CHARGED WITH MAKING THE PAROLE RELEASE  
23 DECISION SHALL BE REQUIRED TO HEAR AND SEE IN PERSON, WITHOUT  
24 THE USE OF VIDEOCONFERENCING OR SIMILAR VIRTUAL PRESENCE  
25 TECHNOLOGY, ANY IN-PERSON VICTIM TESTIMONY UNDER SECTION 6140  
26 (RELATING TO VICTIM STATEMENTS, TESTIMONY AND PARTICIPATION IN  
27 HEARING) OR UNDER SECTION 502(B) OF THE ACT OF NOVEMBER 24, 1998  
28 (P.L.882, NO.111), KNOWN AS THE CRIME VICTIMS ACT. NOTHING IN  
29 THIS SECTION SHALL BE CONSTRUED TO LIMIT OR REDUCE THE RIGHTS OF  
30 VICTIMS UNDER SECTION 6140 OR UNDER SECTION 502(B) OF THE CRIME

1 VICTIMS ACT.

2 \* \* \*

3 Section 2. The addition of 61 Pa.C.S. § 6139(a)(3.3) and  
4 (3.4) shall apply to all of the following:

5 (1) Individuals convicted of an offense set forth in 61  
6 Pa.C.S. § 6139(a)(3.3) before the effective date of this  
7 section who remain under the jurisdiction of the Department  
8 of Corrections.

9 (2) Individuals who commit an offense set forth in 61  
10 Pa.C.S. § 6139(a)(3.3) on or after the effective date of this  
11 section.

12 (3) Individuals, before or after the effective date of  
13 this section, who:

14 (i) commit an offense subject to 42 Pa.C.S. Ch. 97  
15 Subch. H or I;

16 (ii) are designated as sexually violent predators;  
17 and

18 (iii) are under the jurisdiction of the Department  
19 of Corrections.

20 Section 3. This act shall take effect immediately.