

## No. 1995-15 (SS1)

## AN ACT

## HB 5

Amending the act of April 9, 1929 (P.L.177, No.175), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," further providing for the powers and duties of the Board of Pardons.

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

Section 1. Section 403 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, amended October 5, 1967 (P.L.353, No.153), is amended to read:

Section 403. Board of Pardons.—The Board of Pardons shall consist of the Lieutenant Governor who shall be chairman, the Attorney General, and three members appointed by the Governor **[with the consent of two-thirds of the members elected to the Senate] as provided in section 9 of Article IV of the Constitution of Pennsylvania**, one for two years, one for four years, and one for six years, and thereafter for full terms of six years. **[The three members appointed by the Governor shall be residents of Pennsylvania and shall be recognized leaders in their fields; one shall be a member of the bar, one a penologist, and the third a doctor of medicine, psychiatrist or psychologist.]** The board shall keep records of its actions, which shall at all times be open for public inspection.

Three members of the board shall constitute a quorum.

Section 2. Section 909 of the act, amended July 19, 1957 (P.L.1016, No.450) and repealed in part July 21, 1968 (P.L.769, No.240), is amended to read:

Section 909. Board of Pardons.—(a) The Board of Pardons shall have the power to hear applications for the remission of fines and forfeitures, and the granting of reprieves, commutations of sentence, and pardons, except in cases of impeachment, and to make recommendations in writing to the

Governor thereon, in the manner provided in and under and subject to Article IV, Section 9, of the Constitution of this Commonwealth.

**(b) Hearings relating to the granting of reprieves, commutations of sentences and pardons for prisoners serving life sentences or sentences for crimes of violence may only be granted upon approval by a vote of a majority of the members of the Board of Pardons.**

**(c) The Board of Pardons shall adopt rules and regulations governing its actions and no hearings or recommendations [except those involving applicants under sentence of death] shall be contrary thereto. In cases involving applicants under sentence of death, the application shall be filed within ten days of the Governor's issuance of a warrant specifying a week for execution.**

**(d) The Board of Pardons shall provide notice to victims as defined under section 479.1 registered with the Department of Corrections, the Pennsylvania Board of Probation and Parole or the Board of Pardons of the opportunity to offer prior comment on any application which has been granted a hearing by the board pertaining to their case. A victim's prior comment may be oral or written and shall be considered by the board as to the advisability of any pardon or related release and any conditions of release. The board shall provide notice to victims of the date, time and place of any hearing pertaining to their case.**

**(e) Where the Board of Pardons chooses to hear the application of an inmate serving a life sentence or a sentence of death or an inmate serving a sentence for murder of the third degree, voluntary manslaughter, attempt to commit murder of the third degree or attempt to commit voluntary manslaughter, each member of the Board of Pardons shall interview the inmate.**

**(f) Where the Board of Pardons recommends clemency for an applicant described under subsection (e), it shall place in the recommendation to the Governor the requirement that the inmate serve at least one year in a prerelease center prior to the inmate's release on parole unless transfer of the inmate to a prerelease center is not appropriate due to a certified terminal illness.**

**(g) A commutation order signed by the Governor for an inmate described under subsection (e) shall contain the requirement that the inmate serve at least one year in a prerelease center prior to the inmate's release on parole unless transfer of the inmate to a prerelease center is not appropriate due to a certified terminal illness.**

**(h) 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, aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) (relating to aggravated assault), robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery) or kidnapping.**

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

*(3) An offense committed while in visible possession of a firearm for which sentencing was imposed under 42 Pa.C.S. § 9712 (relating to sentences for offenses committed with firearms).*

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

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

THOMAS J. RIDGE