

No. 1997-33

AN ACT

HB 87

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for presigned waiver of extradition; and further providing for post conviction relief.

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

Section 1. Title 42 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 9146.1. Presigned waiver of extradition.

Notwithstanding any other provision of law, a law enforcement agency in this Commonwealth holding a person who is alleged to have broken the terms of his probation, parole, bail or any other release in the demanding state shall immediately deliver that person to the duly authorized agent of the demanding state without the requirement of a Governor's warrant if all of the following apply:

(1) The person has signed a prior waiver of extradition as a term of his current probation, parole, bail or other release in the demanding state.

(2) The law enforcement agency holding the person has received an authenticated copy of the prior waiver of extradition signed by the person and photographs or fingerprints or other evidence properly identifying the person as the person who signed the waiver.

(3) All open criminal charges in this Commonwealth have been disposed of through trial and sentencing.

Section 2. Sections 9542, 9543(a)(1) and 9546(d) of Title 42 are amended to read:

§ 9542. Scope of subchapter.

This subchapter provides for an action by which persons convicted of crimes they did not commit and persons serving illegal sentences may obtain collateral relief. The action established in this subchapter shall be the sole means of obtaining collateral relief and encompasses all other common law and statutory remedies for the same purpose that exist when this subchapter takes effect, including habeas corpus and coram nobis. This subchapter is not intended to limit the availability of remedies in the trial court or on direct appeal from the judgment of sentence, [nor is this subchapter intended] to provide a means for raising issues waived in prior proceedings *or to provide*

relief from collateral consequences of a criminal conviction. Except as specifically provided otherwise, all provisions of this subchapter shall apply to capital and noncapital cases.

§ 9543. Eligibility for relief.

(a) General rule.—To be eligible for relief under this subchapter, the petitioner must plead and prove by a preponderance of the evidence all of the following:

(1) That the petitioner has been convicted of a crime under the laws of this Commonwealth and is *at the time relief is granted*:

(i) currently serving a sentence of imprisonment, probation or parole for the crime;

(ii) awaiting execution of a sentence of death for the crime; or

(iii) serving a sentence which must expire before the person may commence serving the disputed sentence.

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§ 9546. Relief and order.

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(d) Review of order in death penalty cases.—An order under this subchapter granting the petitioner final relief in a case in which the death penalty has been imposed shall be directly appealable by the Commonwealth to the Supreme Court pursuant to its rules. An order under this subchapter denying a petitioner final relief in a case in which the death penalty has been imposed shall *not be reviewable in the Superior Court but shall* be reviewable only by petition for allowance of appeal to the Supreme Court.

Section 3. This act shall take effect immediately.

APPROVED—The 25th day of June, A.D. 1997.

THOMAS J. RIDGE