

No. 2008-82

AN ACT

HB 5

Amending the act of July 11, 1923 (P.L.1044, No.425), entitled, as amended, "An act to authorize and provide for the transfer and retransfer of person or persons confined in any penitentiary, prison, workhouse, house of correction, or any other institution for adult prisoners, under sentence of law, convicted but awaiting sentence, awaiting trial, or confined for any other purpose to some other prison, penitentiary, workhouse, house of correction, or other institution for adult prisoners," further providing for transfer of inmates.

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

Section 1. Section 1 of the act of July 11, 1923 (P.L.1044, No.425), referred to as the Prisoner Transfer Law, amended December 14, 1992 (P.L.887, No.142), is amended to read:

Section 1. *(a) Transfers.*—At the request of the county correctional administrator, the Secretary of Corrections or designee is hereby authorized and empowered to transfer inmates located in county prisons to the State correctional system for such reasons and upon such terms and conditions as the secretary may determine. The secretary or designee may transfer inmates in the State correctional system to the jurisdiction of a county correctional system upon such terms and conditions that the secretary or designee and the county correctional administrator determine to be in the best interests of the Commonwealth. Inmates located in a county prison may be transferred to another county prison upon such terms and conditions as the counties may determine. The Department of Corrections and county correctional facilities may contract with the Federal Government for the housing of Federal inmates in State and county correctional facilities.

*(b) Temporary transfers.*—*The following shall apply to temporary transfers:*

*(1) The Department of Corrections shall temporarily transfer an inmate confined in the State correctional system to a State correctional institution determined by the Department of Corrections to be of an appropriate security level that is nearest to the location of the judicial proceeding. The Department of Corrections shall have the discretion to select an alternative and reasonably accessible State correctional institution if bed space limitations in the nearest State correctional institution prevent the temporary transfer to that institution.*

*(2) The Department of Corrections shall not be required to temporarily transfer any inmate under this subsection unless all of the following apply:*

*(i) A court order has been entered directing the presence of the inmate at a judicial proceeding.*

*(ii) The court has found that the inmate's presence is required at the judicial proceeding.*

*(iii) The Constitution of the United States or the Constitution of Pennsylvania does not permit the inmate's testimony or participation in the proceeding to be conducted by videoconferencing technology.*

*(3) The Department of Corrections shall establish regulations for the implementation of this subsection in accordance with all of the following:*

*(i) The regulations may require up to 14 days' notice prior to the entry of a temporary transfer order.*

*(ii) The regulations may require return of an inmate to the inmate's home correctional institution upon completion of the judicial proceeding.*

*(iii) The regulations may require that an inmate be removed from the State correctional institution by a government official authorized by the court directing the presence of the inmate for a judicial proceeding be detained in the county prison if the inmate has been temporarily transferred more than twice in the preceding six months or the judicial proceeding is scheduled to last more than one week.*

*(4) Pending implementation of the regulations required under paragraph (3), the Department of Corrections shall publish interim guidelines consistent with the provisions of paragraph (3). The provisions of this section shall be in full force and effect even if the Department of Corrections has not yet published interim guidelines or implemented the regulations required under this section.*

*(5) The Department of Corrections may presume that the judicial proceedings have concluded when the inmate is returned to the temporary correctional institution after a judicial proceeding unless a court otherwise notifies the Department of Corrections in the manner required by the Department of Corrections.*

*(6) The Department of Corrections may require a county to pay the reasonable cost of transportation between State correctional facilities if a court of that county has requested a temporary transfer under this section. The county reimbursements for transportation costs shall be automatically reappropriated to the Department of Corrections. Nothing in this section shall prohibit the use of alternative transportation methods authorized by law.*

*(7) This section shall not be construed to authorize a court to designate a particular place of confinement or the length of confinement in the temporary correctional institution.*

Section 2. This act shall take effect in 120 days.

APPROVED—The 25th day of September, A.D. 2008.

EDWARD G. RENDELL